

## A Pound of Flesh: Hospital Billing, Debt Collection, And Patients' Rights

---

For more and more families across America, paying for health care is becoming increasingly difficult. Fewer workers receive health coverage through their jobs. And those who do have employer-based coverage must pay ever-increasing cost-sharing amounts out of pocket.

What's more, in an ironic twist, the uninsured, and sometimes the underinsured, are charged full price for their medical services—a price that is significantly higher than what insured patients are charged. In the current health care system, insurance companies negotiate with health care providers for lower prices. These insurance companies can obtain discounts that are, in some cases, up to 40 to 60 percent off the full price, in exchange for patient referrals. Uninsured and underinsured patients, who do not have the same negotiating power, usually must pay full price for their health care.

Not surprisingly, more and more families must go into debt to pay for the health care services they need.

State lawmakers and advocates have recognized this alarming trend and have started to take action to ensure that low-income, uninsured, and underinsured Americans are charged fair prices for their care and are protected from aggressive debt collection practices.

This issue brief provides an overview of some of the progressive reform measures that state policymakers have implemented to aid families struggling with medical debt.

## California

### Consumer Protections for Hospital Practices

In 2006, California passed AB 774, a law that addresses hospital billing and fair pricing policies. This bill requires hospitals to make three major reforms:

1. Hospitals must charge fair prices to uninsured and underinsured families with incomes less than 350 percent of the federal poverty level (\$60,095 for a family of three in 2007). Hospitals cannot charge these patients more than the public price set by Medi-Cal, Medicare, or worker's compensation.
2. Hospitals must provide patients with notice of their consumer rights and financial options, including informing them of their right to apply for public health coverage and other forms of assistance.
3. Hospitals must provide uninsured and underinsured families with a 150-day period during which they can negotiate their hospital payments before their medical bills are sent to collections agencies.

The text of the law is available online at [http://info.sen.ca.gov/pub/05-06/bill/asm/ab\\_0751-0800/ab\\_774\\_bill\\_20060929\\_chaptered.pdf](http://info.sen.ca.gov/pub/05-06/bill/asm/ab_0751-0800/ab_774_bill_20060929_chaptered.pdf).

For more information, read the Health Access California fact sheet, *Uninsured and Overcharged: New Consumer Protections for Hospital Patients*, available online at [www.health-access.org](http://www.health-access.org).

## Colorado

### Billing by “Out-of-Network Providers” Who Practice in “Network Facilities”

A 2006 Colorado law addresses a different hospital billing problem: Many insured patients who enter the hospital are treated by specialists and ancillary providers, such as anesthesiologists, who are not in their health plan's network. The patients usually do not realize that they are seeing out-of-network providers until they get a bill.

Colorado's new law requires that “covered services or treatment rendered at a network facility, including ancillary services or treatment rendered by an out-of-network provider performing the services or treatment at a network facility, shall be covered at no greater cost to the covered person than if the services or treatment were obtained from an in-network provider.”

The full text of the law is available online at <http://www.leg.state.co.us/Clics2006A/csl.nsf/MainBills?openFrameset> under bill SB 06-213.

## Connecticut

### Protections for People with Medical Debt

In 2003, Connecticut passed Public Act 03-266, "An Act Concerning Hospital Billing Practices." This act strengthens an existing state law that requires hospitals to notify patients about the availability of free and discounted care.

Public Act 03-266 ensures that:

- Patients are notified of free and discounted care policies. All hospital billing and collection agents, whether internal or external to the particular hospital, have to include notice of the available charity programs in every collection notice sent to patients.
- Patients indebted to a hospital are assessed by the hospital to determine whether they are eligible for charity care assistance. These assessments must be conducted before the hospital can sue the patient for the debt. If a collector learns that a debtor may qualify for charity care, the collector must cease collection activities, even if a lawsuit is in progress or the collector has won a lawsuit.
- Medical debt is recognized as involuntary debt and not subject to the same kind of punitive debt collection tactics that Connecticut law normally allows.
- The interest rates that hospitals are allowed to charge to patients are capped. The maximum monetary judgment interest on hospital debt is now set at 5 percent. For other debts, the maximum judgment can be 10 percent. Until this law was passed, hospitals had been able to collect 10 percent interest.
- Special hearings are held before wage garnishment or bank execution (when the hospital or collection agency takes money out the patient's bank account) is permitted.

For the full text of Public Act 03-266, see <http://www.cga.ct.gov/2003/act/Pa/2003PA-00266-R00SB-00568-PA.htm>.

For more information on patients' rights, see *A Know Your Rights Handbook on Hospital Debt in Connecticut*, available online at <http://www.hospitaldebtjustice.org/rights.pdf>.

## Illinois

### Hospital Fair Billing and Collections

In July 2006, Illinois passed the Hospital Fair Billing and Collection Practices Act (HB 4999). This law ensures that Illinois patients, both the uninsured and the insured, are protected from unfair hospital billing and collection practices. The bill established required hospital billing practices, as well as uniform debt collection procedures for collection agencies. The law also strictly prohibits collection agencies and hospital attorneys from using abusive, harassing, oppressive, false, deceptive, or misleading language during the debt collection process. This law went into effect on January 1, 2007.

The Act requires that:

- There are uniform standards and procedures for hospitals and collection agencies involved in the billing process. For example, no legal action may be taken against uninsured patients for uncollected hospital bills if they have demonstrated that they cannot meet their financial obligations because of insufficient income and assets.
- Patients are given the right to inquire about or dispute a bill.
- Hospitals must post patient notifications regarding the availability of financial assistance in the admission and registration areas of the hospital. Information must be posted in languages other than English if such languages are spoken in the community.
- Hospital boards must adopt fair billing and collection policies, and any external collection agencies used by a hospital must also abide by its policies. These boards are also expected to approve any post-judgment collection action, for example, wage garnishment or liens on property.
- Hospitals must provide patients with timely, clear, and accessible information regarding their bills, as well as information on financial assistance available from the hospital or other public institutions.

The full text of the law is available online at <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=094-0885>.

For more information on HB 4999 from the Illinois Attorney General's Office, go to [http://www.illinoisattorneygeneral.gov/press-room/2006\\_03/20060303.html](http://www.illinoisattorneygeneral.gov/press-room/2006_03/20060303.html).

## Minnesota

### Agreement on Discounted Care and Hospital Debt Collection

In 2005, the Minnesota Attorney General's office forged an agreement with more than 50 hospitals from across the state regarding their debt collection practices for the uninsured. The hospitals agreed to charge a fair price for care and to be less aggressive in their debt collection practices.

Under the agreement, uninsured patients who make less than \$125,000 a year receive the same discounts that insurance companies receive from the hospitals. This can mean a 40-60 percent price reduction for services.

Hospital debt collection practices also changed in a number of other ways:

- Before filing lawsuits against patients, hospital administrators have to screen patient records to ensure that insurance companies have been contacted and that payment plans, as well as any free or discounted care, have been offered to eligible patients.
- Hospitals are not allowed to withdraw any money from patients' bank accounts without a legal judgment authorizing them to do so.
- A "zero tolerance" policy was implemented to prevent debt collectors from partaking in abusive collection practices. Hospital boards must review their debt collection practices frequently.
- A clear process was developed for patients to dispute or challenge bills from hospitals or clinics, and no judgments may be made against patients until they are given a fair chance to respond.

For more information, see *Minnesota: Discounted Care to Uninsured*, available online at [http://www.cmwf.org/tools/tools\\_show.htm?doc\\_id=305357](http://www.cmwf.org/tools/tools_show.htm?doc_id=305357).

## New York

### Law on Hospital Discounted Care

In April 2006, Governor Pataki joined consumer advocates and New York's hospital industry to support bipartisan legislation that enhances New York hospitals' charity care policies. The law (NY State Public Health Law, Section 2807-K amendment, adding subsection 9-a) went into effect on January 1, 2007.

The law requires the following:

- Hospitals must reduce what they charge low-income patients who are uninsured or underinsured or who can demonstrate an inability to pay the hospital's full charge. Hospitals may also choose to reduce or discount their collection of copayments or deductibles from insured patients who can demonstrate an inability to pay.
- Hospitals must implement a sliding scale payment system for patients with incomes near or below the federal poverty level (\$10,210 for an individual in 2007). All patients with incomes below 300 percent of poverty (\$30,630 for an individual) are deemed "presumptively eligible" for one of the payment reductions listed below:
  - For uninsured individuals with incomes at or below poverty, there is a nominal hospital fee (to be determined by the Commissioner for Health).
  - For uninsured patients with incomes between 100 and 150 percent of poverty (\$10,210-\$15,315 for an individual), there is a sliding scale fee where the maximum charge is no more than 20 percent of what the hospital would have been paid by its highest-volume payer, Medicare, or Medicaid, whichever payment is highest.
  - For uninsured patients with incomes between 150 and 250 percent of poverty (\$15,315-\$25,525 for an individual), sliding scale fees are set at between 20 and 100 percent of what the hospital would have been paid by its highest-volume payer, Medicare, or Medicaid.
  - For all uninsured patients with incomes between 250 and 300 percent of poverty (\$25,525-\$30,630 for an individual), hospitals can charge no more than the highest-volume payer, Medicare, or Medicaid.

- Hospitals must allow patients to pay in installments, and the law limits the interest that hospitals can charge on outstanding balances.
- Hospitals and their collectors cannot foreclose on a patient's home or force sale of a home in order to collect on a bill.
- No collection is permitted against people eligible for Medicaid at the time of service.
- Collection agencies must obtain hospitals' written consent prior to commencing legal action.
- Hospitals must file reports about the financial assistance they provide to patients.

For the full text of the law, see <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>.

For more detailed information on the history of the bill and its components, see the Empire Justice Center's piece on medical debt protections, available online at <http://www.empirejustice.org/library/MedicalDebtProtection.pdf>.

## Wisconsin

### Agreement on Discounted Care

In 2005, state Attorney General Peg Lautenschlager filed complaints (No. 05C52, 05C53) before the Department of Agriculture and the Department of Trade and Consumer Protection against Wheaton Franciscan Health Care. The complaints stated that two of its hospitals, the St. Joseph Medical Center and the Wisconsin Heart Hospital, overcharged uninsured patients. In response, the Wheaton Franciscan Health Care System revised its billing rates for uninsured (or "self-pay") patients and their voluntary charity care policies for low-income self-pay patients. Subsequently, Lautenschlager dismissed the charges.

As of May 2006, the Wheaton Franciscan Health Care System now provides self-pay patients and patients who demonstrate financial need with discounts equal to the average percentage discount offered to the three largest managed care providers. In the Milwaukee area, this discount is estimated to be about 45 percent.

In addition to these discounts, other significant changes were made to Wheaton Franciscan Health Care System's charity care policy. To qualify for charity care:

- A patient's income must be at or below 400 percent of the federal poverty level (\$40,840 for an individual in 2007). Previously, only patients with incomes below 300 percent of poverty were eligible for charitable care discounts.
  - Patients with incomes at or below 200 percent of poverty (\$20,420 for an individual) receive free care.
  - All patients receiving charitable care discounts also have a cap on their out-of-pocket expenses of 15 percent of gross income.
- A patient's assets must not exceed \$50,000 (the previous limit was \$20,000). Assets are defined as savings, checking accounts, CDs, stocks, bonds, IRAs, 401(k)s, 403(b)s, and property that generates rental income.
- A patient's home equity must not exceed \$150,000 (the previous limit was \$100,000).

The full text of the agreement is available online at <http://www.doj.state.wi.us/docs/14648.pdf>.

In December 2006, a similar agreement was reached with Mercy Health System Corporation, another hospital system in Wisconsin. Under this agreement, Mercy Health will provide an automatic discount to uninsured patients that is equal to the average percentage discount offered to insured patients.

For the full text of this agreement, see <http://www.doj.state.wi.us/news/files/MercyHealthSystemCorpAgreement.pdf>.