



SPONSOR: Sen. Mantzavinos & Rep. K. Williams
Sen. Hansen; Rep. Osienski

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 344

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO MEDICAL DEBT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 6 of the Delaware Code by adding a new Chapter 25G and by making deletions as shown
2 by strikethrough and insertions as shown by underline as follows:

3 § 2501G. Purpose.

4 This Chapter is known as the “Medical Debt Protection Act.” The purpose of this chapter is to reduce burdensome
5 medical debt and to protect patients in their dealings with medical creditors, medical debt buyers, and medical debt
6 collectors with respect to such debt. This chapter is to be construed as a consumer protection statute and must be liberally
7 and remedially construed to effectuate its purposes.

8 § 2502G. Definitions.

9 For purposes of this chapter:

10 (1) “Consumer” means an individual as defined

11 (2) “Consumer reporting agency” means any person, which, for monetary fees, dues, or on a cooperative nonprofit
12 basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other
13 information on consumers for the purpose of furnishing consumer reports to third parties. This includes the three large
14 nationwide providers of consumer reports, Equifax, TransUnion, and Experian.

15 (3) “External review” means a review of an adverse benefit determination (including a final internal adverse
16 benefit determination) conducted pursuant to any applicable state external review process, a federal external review process
17 as described at 42 U.S.C. § 300gg-19, a review pursuant to 29 U.S.C. 1133, a Medicare appeals process, a Medicaid
18 appeals process, or another applicable appeals process.

19 (4) “Extraordinary collection action” means any of the following:

20 a. Selling an individual’s debt to another party, except if, prior to the sale, the medical creditor has
21 entered into a legally binding written agreement with the medical debt buyer of the debt under which all of the
22 following apply:

- 23 1. The medical debt buyer or collector is prohibited from engaging in any extraordinary
24 collection actions to obtain payment for the care.
- 25 2. The medical debt buyer is prohibited from charging interest on the debt.
- 26 3. The debt is returnable to or recallable by the medical creditor upon a determination by the
27 medical creditor or medical debt buyer that the individual is eligible for financial assistance.
- 28 4. The medical debt buyer is required to adhere to procedures which must be specified in the
29 agreement that ensure that the individual does not pay, and has no obligation to pay, the medical debt
30 buyer and the medical creditor together more than they are personally responsible for paying in
31 compliance with this chapter.

32 b. Reporting adverse information about the patient to a consumer reporting agency.

33 c. Actions that require a legal or judicial process, including any of the following:

- 34 1. Placing a lien on an individual's property.
- 35 2. Attaching or seizing an individual's bank account or any other personal property.
- 36 3. Commencing a civil action against an individual.
- 37 4. Garnishing an individual's wages.

38 (7) "Financial assistance policy" means a written policy made pursuant to 26 U.S.C. § 401(r)(4) or its
39 implementing regulations, including 26 CFR § 1.501(r)-1.

40 (8) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a physical,
41 dental, behavioral, substance use disorder, or mental health condition, illness, injury, or disease. These services include any
42 procedures, products, devices, or medications.

43 (9) "Internal review or internal appeal" means review by a health insurance plan or other insurer of an adverse
44 benefit determination.

45 (10) "Large health care facility" means any of the following entities:

- 46 a. Any hospital licensed under Chapter 10 of this title, whether a nonprofit subject to 26 U.S.C. §
47 501(c)(3), or a for profit entity.
- 48 b. Any outpatient clinic or facility affiliated with a hospital or operating under the license of a hospital as
49 defined in Chapter 10 of this title.
- 50 c. Any ambulatory or surgical center.
- 51 d. Any practice which provides outpatient medical, behavioral, optical, radiology, laboratory, dental, or
52 other health care services with revenues of at least \$20,000,000 annually.

e. Any licensed health care professional who provides health care services in one or more of the settings listed in paragraphs (10)a.-d. of this section.

(11) “Medical creditor” means any entity that provides health care services and to whom the consumer owes money for health care services, or the entity that provided health care services and to whom the consumer owes money for health care services, or the entity that provided health care services and to whom the consumer previously owed money if the medical debt has been purchased by one or more debt buyers.

(12) “Medical debt buyer” means an individual or entity that is engaged in the business of purchasing medical debts for collection purposes, whether it collects the debt itself or hires a third party for collection or an attorney for litigation in order to collect such debt.

(13) “Medical debt collector” means any person that regularly collects or attempts to collect, directly or indirectly, medical debts originally owed or due or asserted to be owed or due another. A medical debt buyer is a medical debt collector.

(14) “Patient” means the individual who received health care services, and for the purposes of this chapter, includes a parent if the patient is a minor or a legal guardian if the patient is an adult under guardianship.

§ 2503G. Interest and payment plans.

(a) Large health care facilities and medical debt collectors may not charge any interest or late fees to patients.

(b) Large health care facilities and medical debt collectors must offer to any patient a payment plan of not less than 24 months and may not require the patient to make monthly payments that exceed 5% of the patient’s gross monthly income. Prepayment or early payment penalties or fees are prohibited.

(c) No initial payment on a monthly payment plan may be due within the first 90 days after the health care services were provided.

§ 2504G. Billing and collections rules; limits on creditors.

(a) The following extraordinary collections actions may not be used by any medical creditor or medical debt collector to collect debts owed for health care services:

(1) Causing an individual’s arrest.

(2) Causing an individual to be subject to a writ of body attachment or capias.

(3) Foreclosing on an individual’s real property.

(4) Garnishing the wages or state income tax refund of a patient.

(5) Garnishing or attaching a bank account of a patient.

(b) No medical creditor or medical debt collector may engage in any permissible extraordinary collection actions

83 until 180 days after the first bill for a medical debt has been sent.

84 (c) At least 30 days before taking any extraordinary collection actions, a medical creditor or medical debt collector
85 must provide to the patient a notice containing all of the following:

86 (1) In the case of large health care facilities and medical debt collectors collecting debt for health care
87 services provided by such facilities, stating whether financial assistance is available for eligible individuals and
88 providing a plain-language summary of any such financial policy.

89 (2) Identifying the extraordinary collection actions that will be initiated in order to obtain payment.

90 (3) Providing a deadline after which such extraordinary collection actions will be initiated which may be
91 no earlier than thirty days after the date of the notice.

92 (d) A large health care facility or a medical debt collector collecting the debt for health care services provided by
93 such a facility may not use any extraordinary collection actions unless these actions are described in the large health care
94 facility's billing and collections policy.

95 (e) If the patient has paid any part of the medical debt in excess of the amount the patient owes after any financial
96 assistance or charity care offered by the large health care facility, the large health care facility or medical debt collector
97 must refund any excess amount to the patient within 30 days.

98 § 2505G. Liability for medical debt.

99 (a) Parents are jointly liable for any medical debts incurred by children under the age of 18.

100 (b) No spouse or other person may be liable for the medical debt or nursing home debt of any other person age 18
101 or older. A spouse may voluntarily consent to assume liability, but such consent:

102 (1) Must be on a separate standalone document signed by the person.

103 (2) May not be solicited in an emergency room or during an emergency situation.

104 (3) May not be required as a condition of providing any emergency or non-emergency health care
105 services.

106 § 2506G. Medical debt and consumer reporting agencies.

107 (a) During the 1 year period beginning on the date when the consumer was first given a bill for the medical debt,
108 no medical creditor or medical debt collector may communicate with or report any information to any consumer reporting
109 agency regarding such medical debt.

110 (b) After the 1 year period described in subsection (a) of this section, medical creditors and medical debt collectors
111 must give consumers at least one additional bill before reporting a medical debt to any consumer reporting agency. The
112 amount reported to the consumer reporting agency must be the same as the amount state in this bill, and such bill must state

that the debt is being reported to a consumer reporting agency. Medical debt collectors must also provide the notice required by 15 U.S.C. § 1692g before reporting a debt to a consumer reporting agency.

§ 2507G. Prohibition against collection of medical debt during health insurance appeals.

(a) No medical creditor or medical debt collector that knows or should know about an internal review, external review, or other appeal of a health insurance decision that is pending or was pending within the previous 60 days may do any of the following:

(1) Provide information relative to unpaid charges for health care services to a consumer reporting agency.

(2) Communicate with the consumer regarding the unpaid charges for health care services for the purpose of seeking to collect the charges.

(3) Initiate a lawsuit or arbitration proceeding against the consumer relative to unpaid charges for health care services.

(b) If a medical debt has already been reported to a consumer reporting agency and the medical creditor or medical debt collector who reported the information learns of an internal review, external review, or other appeal of a health insurance decision that is pending or was pending within the previous 60 days, that person shall instruct the consumer reporting agency to delete the information about the debt.

(c) No medical creditor that knows or should have known about an internal review, external review, or other appeal of a health insurance decision that is pending or was pending within the previous 60 days may refer, place, or send the unpaid charges for health care services to a medical debt collector including by selling the debt to a medical debt buyer.

§ 2508G. Interest on medical debt.

(a) Patients may not be charged interest or late fees on medical debt, regardless of any agreements to the contrary.

(b) Subsection (a) of this section also applies to any judgments resulting from medical debt, regardless of any agreements to the contrary.

§ 2509G. Receipts for payments.

Within 10 business days of receipt of a payment on a medical debt, the medical creditor or medical debt collector, or any of their agents receiving the payment, shall furnish a receipt to the person that made the payment. All receipts must show all of the following:

(1) The amount paid.

(2) The date payment was received.

(3) The account's balance before the most recent payment.

(4) The new balance after the application of the payment.

(5) The interest rate and interest accrued since the consumer's last payment.

(6) The consumer's account number.

(7) The name of the current owner of the debt and, if different, the name of the medical creditor.

(8) Whether the payment is accepted as payment in full of the debt.

§ 2510G. Private remedy.

(a) Any violation of this chapter is a violation of §§ 2531 – 2536 of title 6, the Uniform Deceptive Trade Practices Act.

(b) Any consumer may sue for injunctive or other appropriate equitable relief to enforce this chapter.

(c) The remedies provided in this section are not intended to be the exclusive remedies available to a consumer nor must the consumer exhaust any administrative remedies provided under this chapter or any other applicable law.

(d) No agreement between the patient and a large health care provider or medical debt collector may contain a provision that, prior to a dispute arising, waives or has the practical effect of waiving any rights under this chapter or the rights of a patient to resolve that dispute by obtaining any of the following:

(1) Injunctive, declaratory, or other equitable relief.

(2) Multiple or minimum damages as specified by statute.

(3) Attorney's fees and costs as specified by statute or as available at common law.

(4) A hearing at which that party can present evidence.

(e) Any provision in a written agreement violating subsection (d) of this section or any other provision of this chapter is void and unenforceable. A court may refuse to enforce any written agreement as equity may require.

Section 2. Amend Title 6 Chapter 25 by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 2583. Cause of action; enhanced penalties.

(a) An elder person or person with a disability who suffers damage or injury as a result of an offense or violation described in this chapter or Chapter 25G of this title has a cause of action to recover actual damages, court costs, and reasonable attorney's fees.

(b) If a private cause of action is brought by the victim of a violation of this subchapter, subchapter or of Chapter 25G of this title, and said victim was 65 years of age or older or a person with a disability when the violation occurred, the victim shall be is entitled to recover 3 times the amount of the victim's compensatory damages if a violation of this

172 subchapter or of Chapter 25G of this title is established. Such treble damages ~~shall be~~ are in addition to any other damages
173 to which the victim is entitled pursuant to common law or other provisions of the Delaware Code.

SYNOPSIS

This Act protects patients from unfair debt collection practices for medical debt, including prohibiting large health care facilities from charging interest and late fees, requiring facilities to offer reasonable payment plans, limiting the sale of debt to debt collectors unless an agreement is made to keep protections in place, providing minimum time before certain collections actions may be taken, limiting liability for the medical debt of others, and preventing the reporting of medical debt to consumer credit reporting agencies for at least one year after the debt was incurred. Violations of the provisions of this Act are considered violations of the Uniform Deceptive Trade Practices Act.

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