



S.B. 71: Patients' Debt Collection Protection Act

Nicolas Cordova
Healthcare Attorney, New Mexico Center on Law and Poverty



Overview of Presentation

- New Mexico Together for Healthcare
- Linda's Story
- Medical Debt in New Mexico
- Overview of Medical Debt
- Overview of S.B. 71
- Implementation of S.B. 71

New Mexico Together for Healthcare Campaign

- New Mexico Together for Healthcare is a statewide, multiracial campaign of families and community organizations working together to advance Healthcare for All New Mexicans.
- Policy advocacy is guided by and empowers community priorities identified by our family leaders.





Linda's Story



Linda (left) and her medical bills (top)

Medical Debt in New Mexico



- Nearly 1 in 4 New Mexicans have medical debt in collections.
- 59% of all negative items on consumer credit reports are due to medical debt.
- Patients with medical bill problems are nearly 3 times more likely to postpone needed care.
- Hospitals in New Mexico sue thousands of patients for unpaid medical bills, garnishing wages, placing liens on their homes, and pursuing other aggressive legal measures.
 - New Mexicans need household incomes of at least 260% of the federal poverty level (FPL) to be able to afford basic costs of living and to start making payments toward healthcare.

Medical Debt in New Mexico



- On average, roughly 40% of NM nonprofit hospitals' bad debt is attributable to patients who are low-income and would likely qualify for financial assistance.
- 57,000 New Mexicans are uninsured even though they qualify for Medicaid.

Overview of Medical Debt

Medical Visit

Patient visits hospital and incurs medical expense not paid by insurance.

Bill Past Due

Hospital seeks payment from patient directly or through a debt collector.

Hospital considers the bill **bad debt** and writes the debt off as a business loss.

Debt In Collections

Hospital sells the debt to a debt buyer. The debt buyer seeks payment from the patient.

OR

Hospital seeks payment itself or through a debt collector.

Credit Report

Hospital or debt collector reports the debt to a credit bureau.

Lawsuit

Hospital or debt collector sues to recover the unpaid balance from the patient—garnishing their wages, placing liens on their home, and pursuing other aggressive measures.

Overview of S.B. 71



Screening



Enrollment Assistance



Billing Clarity



Prohibition on Suing or sending low income patients to collections.



Reporting on Use of Indigent Care Funds



Screening & Application Assistance



Facilities must offer and if requested:

- **Determine if a patient has insurance.**
- **Screen uninsured patient for all available public insurance**, any program that could help with healthcare costs, including facility financial assistance.
- **Send the results of the screening to any “third-party healthcare provider”** that will bill the patient.
- **Provide application assistance** with the programs identified in the screening.

Billing Requirements



All bills sent by facilities and third party healthcare providers must include:

- A complete and plain language description of the date, amount and nature of the charges
- If a screening has taken place,
- Whether insurance or public programs were billed.

Third Party healthcare providers may not bill a patient until they receive the results of the screening from a covered facility.

Medical creditors must provide receipts for payments within 30 days of payment that contain information.

Indigent Patients cannot be pursued through collection actions

Collections Action means selling medical debt and any action that requires a legal or judicial process.

Indigent means patients with household income below 200 percent of the federal poverty level .

Reporting Requirements for Indigent Care Funds



State and local funds go to hospitals and providers to help with uncompensated care cost through:

- 1) County indigent care funds
- 2) State Safety Net Care Pool Fund

New Reporting Requirements: Healthcare facilities and third-party healthcare providers must annually report to HSD how they use these funds, by reporting

- 1) The number of low-income patients whose healthcare costs were paid directly from these funds
- 2) The total amount of these funds used for low-income patients' healthcare costs; and
- 3) Hospitals must report how much of their bad debt is attributable to patients who should qualify for their financial assistance.

Implementation by OSI



- **The legislation requires OSI to issue rules:**
 - Establishing minimum standards regarding the screening and application assistance for uninsured patients.
 - Explaining how a patient is determined to have a low income and therefore be protected from lawsuits or collections for a medical bill.
- ***OSI has issued temporary rules and is finalizing its permanent rules.***
- **Strong proposed rules:**
 - Screening must take place early and application assistance required is robust.
 - Requires healthcare facilities to notify debt collectors/billing department if a patient is found low-income.
 - The rules provide a streamlined process for patients and facilities to demonstrate indigency without unnecessary burden.

Gaps in OSI's proposed rules



Low income patients are likely to sued or sent to collections in violation of the statute because:

- The low income determination **automatically** expires after 1 year. This places the burden on a patient to constantly update their income to avoid being sued.
- There is no affirmative requirement that medical creditors (like healthcare facilities) check if a patient is low income. This means that patients have to know about the protection and raise it **after** they are sent to collections or sued.

Implementation by HSD



The legislation also provides HSD will rulemaking authority:

- **HSD must receive reports** from healthcare facilities and third-party healthcare providers annually on how they use indigent care funds. To clarify the details of the form and timeline for this reporting, HSD should issue rules.
- **HSD must issue guidance** for healthcare facilities and third-party healthcare providers regarding how to maximize and prioritize federal, state, and other funding.

HSD has not proposed rules or provided new guidance.



Questions?

Nicolas Cordova - New Mexico Center on Law and Poverty

nicolas@nmpoertylaw.org