



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

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# 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

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- 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

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- 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?

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