

116TH CONGRESS
2D SESSION

S. 4697

To amend the Public Health Service Act to provide additional transparency and consumer protections relating to medical debt collection practices.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24, 2020

Mr. MURPHY (for himself and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act to provide additional transparency and consumer protections relating to medical debt collection practices.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Strengthening Con-
5 sumer Protections and Medical Debt Transparency Act”.

6 **SEC. 2. MEDICAL DEBT COLLECTIONS.**

7 (a) IN GENERAL.—Part C of title XXVII of the Pub-
8 lic Health Service Act (42 U.S.C. 300gg–91 et seq.) is
9 amended by adding at the end the following:

1 **“SEC. 2795. MEDICAL DEBT COLLECTIONS.**

2 “(a) DEFINITIONS.—

3 “(1) IN GENERAL.—In this section:

4 “(A) DATABASE.—The term ‘database’
5 means the medical debt collection database es-
6 tablished under subsection (e).

7 “(B) DEBT COLLECTOR.—The term ‘debt
8 collector’ has the meaning as defined under the
9 Fair Debt Collection Practices Act.

10 “(C) EXTRAORDINARY COLLECTION AC-
11 TION.—The term ‘extraordinary collection ac-
12 tion’ is as defined for purposes of section
13 501(r) of the Internal Revenue Code of 1986
14 (as in effect on the date of enactment of this
15 section).

16 “(D) HEALTH CARE ENTITY.—The term
17 ‘health care entity’ means an entity defined
18 pursuant to paragraph (2).

19 “(E) MEDICAL DEBT.—The term ‘medical
20 debt’ means debt arising from a patient’s re-
21 ceipt of medical services, products, or devices.

22 “(2) HEALTH CARE ENTITY.—For purposes of
23 this section, the Secretary shall develop a definition
24 of the term ‘health care entity’ that shall include—

1 “(A) nonprofit, for-profit, critical access,
2 and cancer hospitals, including hospital-owned
3 facilities;

4 “(B) independently licensed outpatient,
5 ambulatory, behavioral, optical, radiology, lab-
6 oratory, dental, and emergency departments;

7 “(C) physician group practices, with an ex-
8 emption for small practices, as determined by
9 the Secretary;

10 “(D) physician staffing firms or physician
11 services companies;

12 “(E) any health care agent of an entity de-
13 scribed in this paragraph; and

14 “(F) other entities as specified by the Sec-
15 retary.

16 “(b) REQUIREMENTS AND PROHIBITIONS.—

17 “(1) DEBT COLLECTION.—A health care entity,
18 or its debt collector, shall not commence, or shall
19 halt, an extraordinary collection action with respect
20 to a patient if the entity or its designee is notified
21 by any party that a health insurance appeal is pend-
22 ing.

23 “(2) DETERMINATION OF ELIGIBILITY FOR AS-
24 SISTANCE.—A health care entity, or its debt col-
25 lector, shall not commence any extraordinary collec-

1 tion actions with respect to a patient until the entity
2 determines whether the patient qualifies for assist-
3 ance, either through enrollment in a Federal or
4 State program or through the entity's charity care
5 or financial assistance policy, with respect to such
6 debt. The entity shall refer such patient to any such
7 assistance where available.

8 “(3) PROHIBITION ON EXTRAORDINARY COL-
9 LECTION.—With respect to medical debt collection
10 relating to a patient, a health care entity, or its debt
11 collector, shall not take any extraordinary collection
12 actions (including an action described in sections
13 1.501(r)–6(a)(2) of title 26, Code of Federal Regu-
14 lations (as in effect on the date of enactment of this
15 section)) until the expiration of the 180-day period
16 beginning on the date on which the initial bill is sent
17 to the patient, or a later date if applicable.

18 “(4) PROVIDING INFORMATION TO PATIENTS.—
19 A health care entity or its debt collector shall pro-
20 vide a patient with—

21 “(A) an easy-to-understand itemized state-
22 ment of the medical debt owed by the patient
23 to the health care entity prior to such entity, or
24 the debt collector acting on behalf of the entity,

1 commencing collection activities relating to such
2 debt; and

3 “(B) a copy of the detailed receipts of any
4 payments made to the entity or its debt col-
5 lector by the patient relating to the medical
6 debt involved within 30 days of such payments.

7 “(5) LIMITATION ON RECOVERY BY NONPROFIT
8 ENTITIES.—A health care entity that is a nonprofit
9 entity, or its debt collector, shall not collect amounts
10 for the medical debt of a patient who is not enrolled
11 in health insurance coverage, that are in excess of
12 the amount generally billed, as described in sections
13 1.501(r)–1(b)(1) and 1.501(r)–5(b) of title 26, Code
14 of Federal Regulations.

15 “(6) REQUIREMENT OF HEALTH CARE ENTITY
16 OR ITS DEBT COLLECTOR.—Prior to commencing
17 any debt collection activity with respect to a medical
18 debt, the health care entity or its debt collector shall
19 make all reasonable efforts to confirm the identity of
20 the debtor.

21 “(7) LIMIT ON MEDICAL DEBT INTEREST.—The
22 interest rate growth applied with respect to any
23 medical debt collected under this section shall be set
24 forth on the initial medical bill, but shall not exceed
25 5 percent annually or the annual rate set forth

1 under section 1961 of title 28, United States Code,
 2 for the calendar week preceding the date of the ini-
 3 tial medical bill plus 2 percent, whichever is lower.

4 This subsection shall not be construed to limit as-
 5 sistance or a lower interest rate for a patient who
 6 is otherwise eligible for financial assistance.

7 “(c) PENALTIES.—Except as provided in this section,
 8 a health care entity, or its debt collector, that fails to com-
 9 ply with any provision of this section with respect to a
 10 patient shall be liable to such patient for damages in an
 11 amount equal to the sum of—

12 “(1) any actual damages sustained by such pa-
 13 tient as a result of such failure to comply;

14 “(2) in the case of an action commenced—

15 “(A) by an individual, any additional dam-
 16 ages as the court may permit, but not to exceed
 17 \$1,000 for each failure to comply; or

18 “(B) by a class of patients—

19 “(i) such amount for each named
 20 plaintiff as could be recovered under para-
 21 graph (1) and subparagraph (A); and

22 “(ii) such amount as the court may
 23 allow for all other class members, without
 24 regard to a minimum individual recovery,
 25 not to exceed the lesser of \$2,000,000 or

1 1 percent of the annual net income of the
2 covered provider; and

3 “(3) in the case of any successful action under
4 this section, the costs of the action, together with a
5 reasonable attorney’s fee as determined appropriate
6 by the court.

7 “(d) ESTABLISHMENT OF DATABASE.—

8 “(1) IN GENERAL.—The Secretary shall estab-
9 lish and regularly update a medical debt collection
10 public database.

11 “(2) REQUIRED INFORMATION.—Not later than
12 12 months after the date of enactment of this sec-
13 tion, and annually thereafter, a health care entity
14 shall submit to the database a debt collection report
15 that shall include—

16 “(A) the name and contact information of
17 any debt collector owned, utilized, or retained
18 by the entity or to which the entity assigned or
19 sold medical debt during the year;

20 “(B) a description, or link to such descrip-
21 tion, of the processes and policies of the entity
22 for assigning a medical debt to the debt col-
23 lector and for compensating such collector for
24 services provided to the entity;

1 “(C) the type and number of extraordinary
2 collection practices the entity, or debt collector
3 reported by the entity pursuant to subpara-
4 graph (A), undertakes or seeks to undertake,
5 such as wage garnishment, bank account at-
6 tachments, liens, arrest warrants, reporting to a
7 consumer reporting agency, and lawsuits;

8 “(D) the breakdown, by zip code, of med-
9 ical debt collection accounts referred to a debt
10 collector;

11 “(E) the recovery rate on medical debt col-
12 lection cases assigned to the debt collector, as
13 defined by the Secretary;

14 “(F) the number of bills paid using a cred-
15 it card; and

16 “(G) any other information determined ap-
17 propriate by the Secretary.

18 “(3) AVAILABILITY OF INFORMATION.—The in-
19 formation contained in the database shall be avail-
20 able on a public, searchable internet website regu-
21 larly updated by the Secretary. The Secretary shall
22 annually publish a public list on HHS.gov of any
23 health care entity that fails to submit such required
24 information.

1 “(4) CFPB REPORT.—Not later than 12
2 months after the expiration of two annual reporting
3 periods under paragraph (2), the Director of the
4 Consumer Financial Protection Bureau shall submit
5 to Congress a report containing an analysis of the
6 reports submitted under that paragraph and an ex-
7 planation of whether the findings based on the data-
8 base under this subsection are a useful tool for the
9 agency’s Supervision of Nondepository Covered Per-
10 sons, including the Risk-Based Supervision Program
11 (under section 1024 of Public Law 111–203). Such
12 report shall include recommendations to improve the
13 disclosures by health care entities for the purposes
14 of supervising the medical debt industry, including
15 for predictive analytics, machine learning, or other
16 analysis techniques used in its Risk-Based Super-
17 vision Program.”.

18 (b) CFPB REPORT.—Not later than 12 months after
19 the date of enactment of this Act, and every 2 years there-
20 after, the Consumer Financial Protection Bureau shall
21 publicly report on medical debt collections, incorporating
22 data from the medical debt collection public database es-
23 tablished pursuant to section 2795(a) of the Public Health
24 Service Act, anonymized data from the three largest credit
25 bureaus, the Consumer Financial Protection Bureau data-

1 base of consumer complaints, information from the Con-
2 sumer Financial Protection Bureau's Supervision of Non-
3 depository Covered Persons program including the Risk-
4 Based Supervision Program, and relevant complaints and
5 information from other sources as available.

