

HOUSE BILL NO. 273

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A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING COLLECTION ACTIONS FOR A PATIENT'S DEBT OWED FOR HEALTH CARE SERVICES; REQUIRING A WAIT TIME AND NOTICE BEFORE ENGAGING IN AN EXTRAORDINARY COLLECTION ACTION; PROHIBITING CERTAIN COLLECTION ACTIONS; LIMITING COLLECTION ACTIONS WHEN A HEALTH INSURANCE DECISION IS APPEALED; PROVIDING DEFINITIONS; AMENDING SECTION 25-13-609, MCA; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, rising health care costs have made medical debt a significant problem for working Montanans, with one in three Americans burdened with medical debt; and

WHEREAS, increasing delay and denial of insurance claims, as well as increasing uncovered out-of-pocket costs, have left patients who thought they had adequate insurance coverage without coverage for particular circumstances, resulting in debt to cover the uninsured expenses; and

WHEREAS, medical debt incurred for necessary medical treatment is unlike other debt because it usually results from an emergency caused by an unexpected sickness or accident and the debtor has little choice but to incur the debt; and

WHEREAS, in 2022, 10% of Montanans had medical debt sent to collections, with the median debt in collections being \$713, forcing Montana families to choose between paying rent, buying groceries, or skipping medical care; and

WHEREAS, the federal Consumer Financial Protection Bureau recently found that longstanding policies in Indian Health Services have resulted in people in Native American majority communities, due to no fault of their own, being twice as likely to have medical debt in collections compared to the national average and in significantly higher amounts; and

WHEREAS, medical debt can push patients to make hard choices that often harm their physical and emotional health; and

WHEREAS, despite good faith efforts by some Montana health care providers to assist their patients with unforeseen debt through charity and other programs, many Montanans refrain from getting needed medical treatment because they cannot afford it, and reducing the burden of medical debt allows patients to focus on their health instead of worrying about losing their homes or cars or negatively affecting their well-being; and

WHEREFORE, the Legislature enacts the "Montana Medical Debt Patient Protection Act" to provide important protections for patients by eliminating wage garnishment to pay medical debt, creating a waiting period before medical bills can be sent to collections, providing patients with the opportunity to appeal insurance decisions before a bill goes to collections, and protecting bank accounts from being seized to pay medical debt.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in [sections 1 and 2], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Advanced beneficiary notice" means a form as defined and under the allowed circumstances as regulated by the centers for medicare and medicaid services from a health care provider informing a medicare beneficiary that a particular health care service may not be covered by medicare. The notice must be signed by the patient and include:

(a) details about the health care service;

(b) the reasons medicare may not cover the health care service;

(c) the estimated cost to the beneficiary; and

(d) a statement that the patient will be responsible for covering the costs of the health care service that are not covered by medicare if the patient chooses to proceed with the health care service.

(2) "Consumer reporting agency" has the same meaning as provided in 31-3-102.

(3) "Extraordinary collection action" means any of the following:

(a) selling a patient's debt owed for health care services to a third party or otherwise authorizing a third party to collect the debt in a name other than the name of the health care provider, except if, prior to the sale or authorization, the health care provider has entered into a legally binding written agreement with the third party pursuant to which:

(i) the third party complies with the requirements in [section 2] for a health care provider to collect a patient's debt for the health care services provided; and

(ii) the third party is prohibited from charging interest on the debt in excess of that described in 31-1-107;

(b) filing a debt collection lawsuit; or

(c) placing a lien on a patient's bank account.

(4) (a) "Health care facility" mean any person, entity, or institution operating a physical or virtual location that holds itself out to the public as providing health care services through itself, through its employees, or through third-party health care providers.

(b) The term includes but is not limited to:

(i) hospitals and other licensed inpatient centers;

(ii) ambulatory surgical or treatment centers;

(iii) skilled nursing centers;

(iv) residential treatment centers;

(v) urgent care centers;

(vi) diagnostic, laboratory, and imaging centers; and

(vii) rehabilitation and other therapeutic health settings.

(5) "Health care provider" means:

(a) a physician or other health care practitioner licensed, accredited, or certified to perform health care services consistent with state law or any agent or third-party representative of the physician or other health care practitioner; or

(b) a health care facility or its agent.

(6) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease, including the provision of pharmaceutical products or services or

1 durable medical equipment.

2 (7) "Medical debt" means any obligation for the payment of money arising out of any agreement or
3 contract, express or implied, for the provision of health care services from a health care provider.

4 (8) "Patient" means a person who seeks or receives services from a health care provider. For the
5 purposes of [sections 1 and 2], "patient" includes a parent if the patient is a minor, a legal guardian if the patient
6 is an adult under guardianship, or any person contractually or otherwise liable for the financial obligations of the
7 person receiving goods or services from the health care provider.

8 (9) "Prohibited collection action" means any of the following actions done to collect a patient's debt
9 owed for health care services:

10 (a) causing or threatening a patient's arrest;

11 (b) placing or threatening to place a lien on a patient's primary residence, except as required under
12 42 U.S.C. 1396p to participate in the Montana medicaid program;

13 (c) foreclosing or threatening to foreclose on a patient's primary residence, except as required
14 under 42 U.S.C. 1396p to participate in the Montana medicaid program;

15 (d) garnishing or threatening to garnish wages or a state income tax refund; or

16 (e) reporting or threatening to report adverse information about the patient to a consumer reporting
17 agency.

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19 **NEW SECTION. Section 2. Limitations on health care collection actions.** (1) A person may not
20 engage in a prohibited collection action to collect a patient's debt owed for health care services.

21 (2) A person may not engage in an extraordinary collection action until ~~480~~ 120 days after a health
22 care provider sends a patient the first bill for the health care services provided.

23 (3) At least 30 days before engaging in an extraordinary collection action, a health care provider
24 shall provide the patient with a notice containing the following:

25 (a) the extraordinary collection action that will be initiated to obtain payment; and

26 (b) the deadline after which the health care provider will initiate the extraordinary collection action.

27 (4) A person may not engage in an extraordinary collection action to collect a patient's debt owed
28 for health care services during a state or federally declared state of emergency or a public health emergency.

(5) A person that knows or should have known about an internal review, external review, or other appeal of a health insurance decision that is pending now or was pending within the previous 180 days may not:

(a) communicate with the patient regarding the patient's debt owed for health care services for the purpose of seeking to collect the debt;

(b) file a debt collection lawsuit or arbitration proceeding to collect the patient's debt owed for health care services; or

(c) authorize a third party to collect the debt in a name other than the name of the health care provider or sell the patient's debt to a third party.

(6) A patient's debt is void and unenforceable if a person willfully violates this section.

(7) A patient is entitled to exemption from execution of the patient's interest, not to exceed \$3,000 in aggregate value, in any bank account, savings and loan accounts, stocks, bonds, or other securities. The amount of \$3,000 in value must be automatically protected. The maximum exemption under this subsection may not exceed \$3,000, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

~~————(8)The provisions of this section do not apply if a patient signed an advance beneficiary notice before receiving the health care service.~~

(8) (A) EXCEPT AS PROVIDED IN SUBSECTION (8)(B), NOTHING IN THIS SECTION MAY BE CONSTRUED AS PROHIBITING A HEALTH CARE PROVIDER FROM PROVIDING A PATIENT WITH AN ADVANCE BENEFICIARY NOTICE PRIOR TO PROVIDING HEALTH CARE SERVICES UNDER THE MANDATORY CIRCUMSTANCES AS REQUIRED BY 42 U.S.C. 1395PP.

(B) A HEALTH CARE SERVICE PROVIDED FOLLOWING PATIENT RECEIPT OR SIGNATURE OF A MANDATORY ADVANCE BENEFICIARY NOTICE IS SUBJECT TO THE PROVISIONS OF THIS SECTION.

Section 3. Section 25-13-609, MCA, is amended to read:

"25-13-609. Personal property exempt subject to value limitations. A judgment debtor is entitled to exemption from execution of the following:

