HB 1081

Department of Legislative Services

Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1081 (Delegate Charkoudian, *et al.*)
Health and Government Operations

Health Facilities - Hospitals - Medical Debt Protection

This bill outlines requirements relating to hospital debt collection policies and payment plans, and it prohibits a hospital from taking specified actions when collecting debt. A hospital must submit an annual report to the Health Services Cost Review Commission (HSCRC) including (1) the number of patients against whom the hospital has filed an action to collect debt owed; (2) the number of patients the hospital has and has not reported or classified a bad debt; and (3) the dollar amount of the cost of the hospital services provided to patients but not collected by the hospital. Each report must be posted on the HSCRC website. HSCRC must prepare a specified annual medical debt collection report, submit the report to the Senate Finance Committee and the House Health and Government Operations Committee, and make the report available to the public free of charge.

Fiscal Summary

State Effect: HSCRC can handle the bill's changes with existing resources. To the extent hospital rates increase from additional uncompensated care, Medicaid expenditures (63% federal funds, 37% general funds) and associated federal matching fund revenues increase beginning in FY 2021, as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Debt Collection Policy

Each hospital's debt collection policy must provide a mechanism for a patient to modify the terms of a payment plan offered or entered into and prohibit the hospital from collecting debt owed on a bill for a patient eligible for free or reduced-cost care under the hospital's financial assistance policy in an amount that exceeds the cost of hospital services provided.

If a hospital charges interest fees on a hospital bill, the hospital may not (1) charge interest in excess of an effective rate of simple interest of 1.5% per annum on the unpaid portion of a hospital bill; (2) charge interest or fees on any debt incurred by a patient who is eligible for free or reduced-cost care; or (3) begin accrual of interest or late payment charges until 180 days after the end of each regular billing period or the patient's discharge, whichever occurs later.

Payment Plan

Before a patient is discharged, with the hospital bill, on request, and in each written communication regarding collection of hospital debt, the hospital must offer a patient, the patient's family, or the patient's authorized representative an installment payment plan for any debt owed. The payment plan may not (1) require the patient to make monthly payments that exceed 5% of the individual patient's federal or State adjusted gross monthly income or (2) impose penalties or fees for prepayment or early payment. If the patient does not have specified tax documentation, a hospital must determine a patient's adjusted gross monthly income according to standards adopted by HSCRC in regulations. A payment plan must have a repayment period of at least 36 months or, to ensure that payments are greater than accrued interest, a longer period.

Collections and Adverse Payments

A hospital may not report adverse information to a consumer reporting agency regarding a patient who was uninsured or eligible for free or reduced-cost care at the time of service.

A hospital may not report adverse information about a patient to a consumer reporting agency, commence a civil action against a patient for nonpayment, or delegate collection activity to an outside collection agency if the patient had pending, within the past 60 days, an appeal or review of a health insurance decision or a request that the hospital reconsider the denial of free or reduced-cost care. If adverse information about a patient is reported to a consumer reporting agency, the hospital must instruct the agency to delete the information if the hospital becomes aware that the patient meets these criteria.

In an attempt to collect debt owed on a hospital bill, a hospital may not, among other things:

- request a lien against a patient's primary residence;
- request the issuance or take action causing a court to issue a body attachment or an arrest warrant against a patient;
- request a writ of garnishment of wages or file action resulting in an attachment of wages if the patient is eligible for free or reduced-cost care;
- make a claim against the estate of a deceased patient;
- file an action against a patient or give notice to a patient until after 180 days of nonpayment have elapsed;
- file an action against a patient or delegate to an outside collection agency to collect debt in an amount of $5,000 or less; or
- file an action against a patient who was uninsured at the time service was provided or until the hospital determines whether the patient is eligible for free or reduced-cost care.

A spouse or another individual may not be held liable for the debt owed on a hospital bill of an individual who is at least 18 years old. However, an individual may voluntarily consent to assume liability for the debt owed, under specified circumstances.

At least 45 days before filing an action against a patient to collect on the debt owed, a hospital must send the patient written notice of the *intent* to file an action. The notice required must (1) be sent to the patient by certified mail and first-class mail; (2) be in simplified language; (3) include specified contact and procedural information; and (4) be provided in the patient's preferred language or another language, as specified. The notice must be accompanied by an application for financial assistance under the hospital's financial assistance policy and any payment plans, instructions for completing the application, and the telephone number to call to confirm receipt of the application.

A complaint by a hospital in an action to collect a debt must include (1) an affidavit with specified information; (2) a copy of the original and most recent hospital bill; (3) a statement of the amount due; (4) a copy of the notice of intent to file an action; and (5) documentation that the hospital has provided and the patient has received written and oral notice of the hospital's financial assistance policy.

If a hospital delegates collection activity to an outside collection agency, the hospital must require the collection agency to, along with the hospital, be jointly and severally responsible for meet the hospital debt collection requirements.

Current Law/Background:

Hospital Financial Assistance and Hardship Policies

HSCRC requires each hospital to develop a financial assistance policy for providing free and reduced-cost care to patients who lack health care coverage or whose health care coverage does not pay the full cost of the hospital bill. Hospital financial assistance policies must, at a minimum, provide free medically necessary care to patients with family income at or below 150% of the federal poverty level (FPL) and reduced-cost medically necessary care to patients with family income above 150% FPL.

HSCRC may establish higher income thresholds for financial assistance, but financial assistance policies must provide reduced-cost medically necessary care to patients with family income less than 500% FPL who have a financial hardship. For patients eligible for reduced-cost medically necessary care, the hospital must apply the reduction that is most favorable to the patient, whether that is the reduced-cost policy or financial hardship policy.

If a patient has received reduced-cost medically necessary care due to financial hardship, the patient (or any immediate family member living in the same household) remains eligible for reduced-cost care when seeking further care at the same hospital for 12 months following the initial care. The patient or family member must inform the hospital of his or her eligibility.

Hospital Debt Collection

A hospital must reasonably attempt to collect charges owed for care provided before writing the charges off as bad debt. A hospital will pursue payments from patients that do not apply or qualify for financial assistance or receive free or reduced-cost care and do not pay the remaining balance owed. Currently, there are no limits to the actions hospitals may take to collect debt owed.

Each hospital must develop and submit a debt collection policy to HSCRC. The debt collection policy must (1) provide for active oversight of any contract for collection of debts on behalf of the hospital; (2) prohibit the hospital from selling any debt; (3) prohibit the charging of interest on bills incurred by self-pay patients before a court judgment is obtained; (4) describe in detail the consideration by the hospital of patient income, assets, and other criteria; (5) describe the hospital's procedures for collecting a debt; (6) describe the circumstances in which the hospital will seek a judgment against a patient; (7) provide for a refund of amounts collected from a patient who was later found to be eligible for free care; and (8) require the hospital to vacate the judgment or strike the adverse information reported if a patient is later found to be eligible for free care.

The policy must also provide a mechanism for a patient to (1) request the hospital to reconsider the denial of free or reduced-cost care and (2) file with the hospital a complaint against the hospital or an outside collection agency regarding the handling of the patient's bill.

A hospital must provide a refund of amounts exceeding $25 collected from a patient (or the patient's guarantor) who, within a two-year period after the date of service, was found to be eligible for free care on the date of service. A hospital may reduce the two-year period to no less than 30 days after the date the hospital determines the patient's eligibility for free care, if the hospital documents the lack of cooperation of the patient in providing the requested information.

Health Services Cost Review Commission

HSCRC is an independent State agency charged with constraining hospital growth and establishing hospital rates to promote cost containment, access to care, equity, financial stability, and hospital accountability. The commission works to ensure efficient, high-quality health care services are provided to individuals receiving care at a hospital in the State. HSCRC oversees acute and chronic care hospitals; the commission does not regulate physician fees.

HSCRC may review costs and rates and make any investigation it considers necessary to assure each purchaser of health care facility services that (1) the total costs of all hospital services are reasonable; (2) the aggregate rates of the facility are related reasonably to the aggregate costs of the facility; and (3) the rates are set equitably among all purchasers. HSCRC may review and approve or disapprove the reasonableness of any rate that a facility sets or requests. Consistent with Maryland's all-payer model contract, HSCRC may establish hospital rate levels and rate increases in the aggregate or on a hospital-specific basis and promote and approve alternate methods of rate determination and payment that are of an experimental nature.

Under the Total Cost of Care Model (TCOC), the successor to the Maryland All-Payer Model Contract, hospital population-based revenues (commonly referred to as global budgets) are regulated by HSCRC. TCOC is designed to (1) improve population health; (2) improve care outcomes for individuals; and (3) control growth in the total cost of care for Medicare beneficiaries. Maryland commits to reaching a compounded annual Medicare savings target of $300 million through the end of calendar 2023 in Medicare Part A (*i.e.*, hospital services) and Part B (*i.e.*, doctor visits, preventive services, and other nonhospital services) under TCOC. Net TCOC savings are estimated to be $1.065 billion. Prior to the end of calendar 2022, the federal Center for Medicare and Medicaid Innovation will assess the State's progress and determine if TCOC is on track to meet its savings goal.

Uncompensated Care

Any medical debt incurred by patients and not collected by a hospital will result in uncompensated care provided by the hospital. Uncompensated care is care provided for which no compensation is received, typically a combination of charity care, financial assistance, and bad debt. HSCRC must factor the cost of uncompensated care into the State's hospital rate setting structure. Each year, HSCRC determines the total amount of uncompensated care that will be placed in hospital rates for the year, and the amount of funding available for the uncompensated care pool. Regulated hospitals draw funds from the pool if they experience greater-than-average levels of uncompensated care, and pay into the pool if they experience a below average level of uncompensated care, ensuring the total cost of uncompensated care is shared equally across all hospitals within the State.

According to the Maryland Department of Health, uncompensated care has decreased due to coverage expansions implemented in 2014 under the federal Patient Protection and Affordable Care Act, which included expansion of Medicaid eligibility to 138% FPL. The uninsured rate has decreased from 10.2% in 2013, to 6.0% in 2017. As a result, the uncompensated care provision included in rate setting has remained relatively stable in recent years.

State Fiscal Effect: The bill restricts the actions hospitals may take to recover medical debt owed by patients, which in turn increases uncompensated care, by a potentially significant amount, and hospital rates from which uncompensated care is funded. Hospital rates are paid by all payers in the State. As such, expenditures for health insurers, Medicaid, and self-pay patients will increase. However, the amount of any such impact cannot be reliably estimated without knowing the total balance of medical debt owed by each patient in the State and the impact of the bill on each hospital's ability to collect such debt.

To the extent hospital rates increase, Medicaid expenditures (63% federal funds, 37% general funds) increase beginning in fiscal 2021. Federal fund revenues increase accordingly; the match is expected to decrease to 61% in fiscal 2022. Any impact of the bill on TCOC savings is also indeterminate and is not reflected in this analysis.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 873 (Senator Feldman, *et al.*) - Finance.

Information Source(s): Judiciary (Administrative Office of the Courts); University of Maryland Medical System; Maryland Department of Health; Maryland Department of Labor; Maryland Insurance Administration; Department of Legislative Services

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