



pulse

The State of Medical Collections

ACA SearchPoint provides information on state collection laws for medical debt.

Medical debt accounts for one of the largest markets in collections. While the Fair Debt Collection Practices Act regulates debt collection in general, the American Hospital Association (AHA), the national organization that represents and serves hospitals, health care networks and their patients, created a set of guidelines for member hospitals to follow regarding their billing and collection practices. Other state hospital associations have implemented their own guidelines as well. ACA members who collect medical debt should be aware of both state and federal guidelines for hospital billing and collections.

The guidelines introduced by AHA include several objectives member hospitals are to set into practice to better serve their patients. The guidelines include substantive criteria under the following headlines:

- Communicating Effectively
- Helping Patients Qualify for Coverage
- Ensuring Hospital Policies are Applied Accurately and Consistently
- Making Care More Affordable for Patients with Limited Means
- Ensuring Fair Billing and Collection Practices

In addition to the AHA guidelines, state hospital associations have adopted their own guidelines for their members

to follow. While the state association guidelines tend to mirror those of the AHA, each has added its own specific language or requirements. Not to be left out, some states have even enacted legislation governing hospital billing practices.

A few states have robust legislation concerning hospital billing. One state's hospital billing act requires each hospital in the state to establish a written policy about when and under whose authority patient debt is advanced for recovery efforts. Any debt collectors who contract with the hospital must follow its policy. Among other things, debt collectors in this particular state must have a written agreement with the hospital for which they are collecting. The law also limits the ability of the hospital and its agents to use wage garnishments or liens on primary residences as a means of collecting unpaid hospital bills.

Other states with hospital billing requirements are not as robust as the one previously mentioned. These states have requirements that can include things such as giving notice to the patient as to whether the hospital deems her to be insured or uninsured, and the reason for such determination; not employing a



third-party to use physical or legal means to compel the patient or responsible party to appear in court; and not furnishing a negative consumer report or filing suit until 120 days have passed.

It's imperative that debt collectors who collect medical debt ensure they are aware of the state laws concerning hospital billing. ACA SearchPoint document #2805, State Hospital Billing and Collection Practices, provides an analysis of state and federal laws that deal with state medical billing and collection practices.

Have you checked out ACA's member-only SearchPoint library? ACA SearchPoint is filled with documents that put important compliance information related to the FDCPA, FCRA, TCPA, state laws and many other topics at your fingertips. To access ACA SearchPoint, visit acainternational.org/searchpoint.

BACK TO THE STATES

As Health Care Premiums Increase, States Look for Solutions

Some experts say that by 2014 health care spending will represent a fifth of the economy—and the government may get hit with the bill.

Editor's Note: In this article, "ACA" references the Affordable Care Act.

While the Affordable Care Act (ACA) may have been intended to provide Americans with affordable health insurance, premiums in many of the marketplaces (exchanges), have increased to the point that some states have stepped in to identify ways of lowering the cost.

An issue brief, titled "State Actions to Improve the Affordability of Health Insurance in the Individual Market," published in June by the Henry J. Kaiser Family Foundation, looks at a few state programs established to resolve the problem that largely impacts middle income Americans.

Even though premium increases moderated in 2019, the cost of coverage remains unaffordable for many, said issue brief writers [Jennifer Tolbert](#), [Maria Diaz](#), [Cornelia Hall](#), and Salem Mengistu, noting that consumers who qualify for premium tax credits are protected from high costs. Indeed, the number of unsubsidized enrollees in plans that comply with the ACA insurance market rules fell sharply from 6.8 million in 2016 to 3.9 million in 2018.

In response to policy decisions by the Trump administration to eliminate payments to insurers for required cost-sharing subsidies and reduce funding for outreach and enrollment assistance, the report indicates that some insurers increased the average benchmark premiums by 33% for 2018.

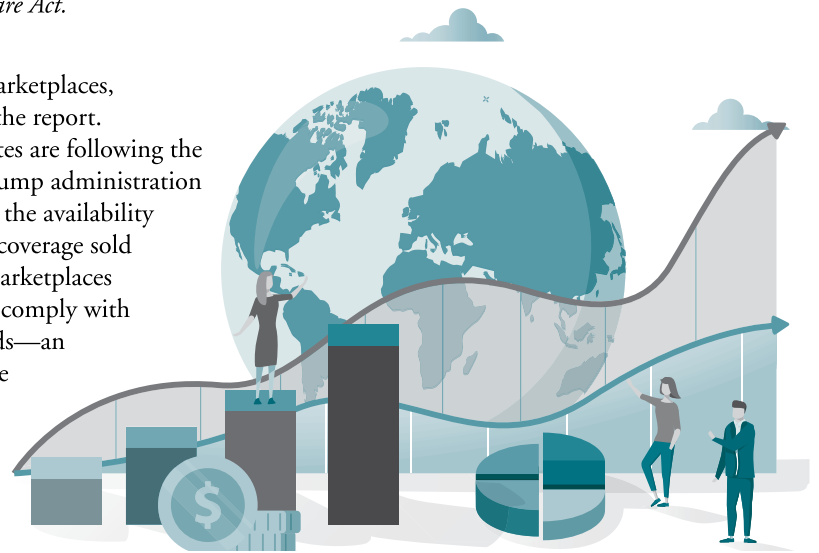
States are working on options like reinsurance programs designed to address costs by partially reimbursing insurers for certain expensive claims enabling insurers to lower premiums for all ACA-compliant plans inside and outside the marketplace, the issue brief reported. Data from Alaska, Minnesota and Oregon indicate that the implementation of the reinsurance programs led to lower premium increases than had been expected and prevented insurers from

exiting the marketplaces, according to the report.

Other states are following the lead of the Trump administration by expanding the availability of lower cost coverage sold outside the marketplaces that does not comply with ACA standards—an approach issue brief authors believe could increase marketplace premiums further, the report stated.

With the passage of the tax law at the end of 2017, Congress eliminated the penalty for not having health insurance beginning in 2019. Without the penalty, it is anticipated that some people, primarily healthier individuals, will choose not to purchase coverage, potentially driving up premiums for those who remain in the marketplaces. In November 2017, the Congressional Budget Office estimated that eliminating the penalty would lead to four million fewer people with health insurance in 2019 and 13 million fewer people with health insurance in 2027. Nearly 40% of the coverage losses would come from five million fewer people enrolling in non-group coverage in 2027, the report stated.

To stem this expected loss of coverage, three states (Massachusetts, New Jersey, and Vermont) and the District of Columbia adopted state individual mandate requirements. The individual mandate in Massachusetts predates the ACA mandate, while the mandate requirements in DC and New Jersey reinstate the ACA penalties, though each tie the maximum penalty to the lowest-cost plans in their states. The individual mandate provisions in Vermont are



being developed and are scheduled for implementation in 2020. Recently enacted legislation in California and Rhode Island establishes a state individual mandate. In some cases, states have earmarked funds expected to be raised from the individual mandate to fund reinsurance programs or other initiatives, according to the report.

Importantly, state decisions over whether or how to regulate non-ACA-compliant plans will have significant implications for moderate-income consumers with pre-existing conditions. In states that allow non-ACA-compliant policies to proliferate as lower cost alternatives to qualified health plans for people who are currently healthy, adverse selection in the marketplaces will likely continue to drive up premiums. While consumers with lower incomes who are eligible for subsidies will be insulated from any premium increases, consumers with health conditions who do not qualify for subsidies may end up without any affordable coverage options, the report stated.

To read the issue brief in its entirety, visit Henry J Kaiser Family Foundation website at www.kff.org or click here <https://tinyurl.com/y43op34q>

Texas Enacts Healthcare Measures Impacting Credit Reporting and “Surprise” Medical Billing

An active Texas legislature recently enacted new laws regarding medical billing and credit reporting for out-of-network healthcare debts.

The state of Texas recently enacted new healthcare measures related to medical billing and credit reporting of out-of-network care. While neither of the bills are specifically targeted at collection agencies, there are some implications regarding the billing of consumers for out-of-network care as well as the reporting of debts related to out-of-network care.

[Senate Bill 1037](#) prohibits a consumer reporting agency from furnishing consumer report information related to “a collection account with a medical industry code, if the consumer was covered by a health benefit plan at the time of the event giving rise to the collection and the collection is for an outstanding balance, after copayments, deductibles, and coinsurance, owed to an emergency care provider or a facility-based provider for an out-of-network benefit claim. . .” Though the bill does not technically prohibit a data furnisher from reporting debts arising from out-of-network care, debt collector’s may nevertheless want to consider refraining from reporting such debts in order to avoid claims by devious consumer attorneys that even furnishing such information to a CRA violates the FDCPA or state law. Senate Bill 1037 is effective immediately.

[Senate Bill 1246](#) prohibits a non-network physician, provider “or a person asserting a claim as an agent” from billing a patient covered out of network and receiving emergency care in any amount greater than the patient’s responsibility under the patient’s health care plan, including applicable copayment, coinsurance, or deductible. The new law also requires a health maintenance organization to provide written notice of billing prohibitions in each explanation of benefits provided to an enrollee or



physician or provider in connection with a health care service that is subject to the prohibitions. Notably, the bill allows the attorney general to bring a civil action against any individual or entity believed to be violating a law prohibiting balance billing. Senate Bill 1246 takes effect on Sept. 1, 2019.

Other Debt Collection Measures

ACA members should also be aware that Texas recently enacted [House Bill 996](#), which requires certain notices to be provided when collecting debts that are beyond the applicable state statute of limitations. Bill 996 takes effect on Sept. 1, 2019. For more information on those requirements, members can review ACA SearchPoint #1119, Statute of Limitations: Collecting Out-of-Statute Debts.

ACA recommends members review these measures with clients and their own legal counsel to determine if any changes are required to current billing or credit reporting practices.

To track legislation in Texas, visit <https://capitol.texas.gov/>

NEWS & NOTES

Mark Your Calendars: Pelosi Expects Drug Pricing Bill in September

A top aide to Speaker Nancy Pelosi (D-Calif.) said House Democrats will unveil their long-awaited bill to lower drug prices in September. Wendell Primus, Pelosi’s top health care adviser, in July said House leadership was almost ready to release the proposal but opted to hold off so that drug companies could not attack it during the August recess, according to a news report published by Kaiser Health News. To read more Kaiser Health News, visit <https://khn.org/> or click here: <https://tinyurl.com/y4ocquwp>

Senate Health Committee Continues to Work on Lower Healthcare Costs

Senate health committee Chairman Lamar Alexander (R-Tenn.) and Ranking Member Patty Murray (D-Wash.) in late July released the following statement on the bipartisan Lower Health Care Costs Act of 2019: “The Senate does not have time before the August recess to consider the bipartisan Lower Health Care Costs Act, which the Senate’s health committee approved 20-3 on June 26, and includes proposals from 74 of our colleagues—35 Republican and 39 Democratic Senators.” To read more from the Senate Health, Education, Labor and Pensions Committee, visit its website at <https://www.help.senate.gov/>

For more health care collections news, visit ACA’s Health Care Collections page at www.acainternational.org/pulse.

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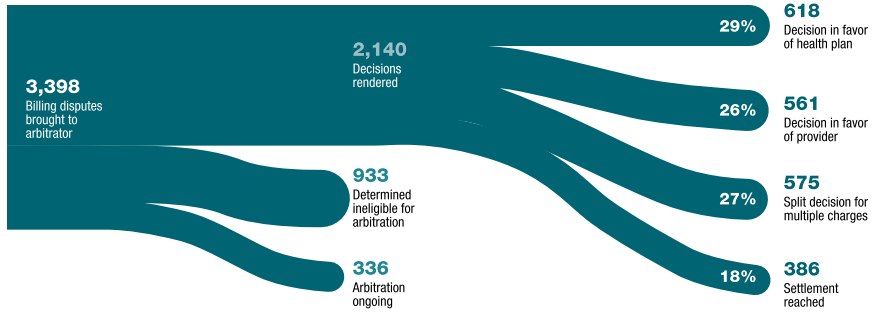
is a monthly bulletin that contains information important to health care credit and collection personnel. Readers are invited to send comments and contributions to:

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New York's Arbitration-focused surprised billing law touted as model

An analysis of New York's medical claims by researchers at the National Bureau of Economic Research found that the state's arbitration-focused law on surprise billing reduced out-of-network billing by 34 percent compared to neighboring states.

Cases brought since March 2015, status as of October 2019



Source: Politico Pro, National Bureau of Economic Research, Georgetown University Health Policy Institute.

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