

117TH CONGRESS
2D SESSION

S. 5150

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

NOVEMBER 30 (legislative day, NOVEMBER 29), 2022

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, emergency departments, and
7 urgent care centers;

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

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

13 “(E) nursing home, skilled nursing and
14 long-term care facilities;

15 “(F) any health care agent of an entity de-
16 scribed in this paragraph; and

17 “(G) other entities as specified by the Sec-
18 retary.

19 “(b) REQUIREMENTS AND PROHIBITIONS.—

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

1 “(2) DETERMINATION OF ELIGIBILITY FOR AS-
2 SISTANCE.—A health care entity, or its debt col-
3 lector, shall not commence any extraordinary collec-
4 tion actions with respect to a patient until the entity
5 determines whether the patient qualifies for assist-
6 ance, either through enrollment in a Federal or
7 State program or through the entity’s charity care
8 or financial assistance policy, with respect to such
9 debt. The entity shall refer such patient to any such
10 assistance where available.

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

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

24 “(A) an easy-to-understand itemized state-
25 ment of the medical debt owed by the patient

1 to the health care entity prior to such entity, or
2 the debt collector acting on behalf of the entity,
3 commencing collection activities relating to such
4 debt;

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

10 “(C) information about the availability of
11 language-assistance services for individuals with
12 limited English proficiency (LEP).

13 “(5) LIMITATION ON RECOVERY BY NONPROFIT
14 ENTITIES.—A health care entity that is a nonprofit
15 entity, or its debt collector, shall not collect amounts
16 for the medical debt of a patient who is not enrolled
17 in health insurance coverage, that are in excess of
18 the amount generally billed, as described in sections
19 1.501(r)–1(b)(1) and 1.501(r)–5(b) of title 26, Code
20 of Federal Regulations.

21 “(6) REQUIREMENT OF HEALTH CARE ENTITY
22 OR ITS DEBT COLLECTOR.—Prior to commencing
23 any debt collection activity with respect to a medical
24 debt, the health care entity or its debt collector shall

1 make all reasonable efforts to confirm the identity of
2 the debtor.

3 “(7) LIMIT ON MEDICAL DEBT INTEREST.—The
4 interest rate growth applied with respect to any
5 medical debt collected under this section shall be set
6 forth on the initial medical bill, but shall not exceed
7 5 percent annually or the annual rate set forth
8 under section 1961 of title 28, United States Code,
9 for the calendar week preceding the date of the ini-
10 tial medical bill plus 2 percent, whichever is lower.
11 This subsection shall not be construed to limit as-
12 sistance or a lower interest rate for a patient who
13 is otherwise eligible for financial assistance.

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

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

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

22 “(A) by an individual, any additional dam-
23 ages as the court may permit, but not to exceed
24 \$1,000 for each failure to comply; or

25 “(B) by a class of patients—

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

4 “(ii) such amount as the court may
5 allow for all other class members, without
6 regard to a minimum individual recovery,
7 not to exceed the lesser of \$2,000,000 or
8 1 percent of the annual net income of the
9 covered provider; and

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

14 “(d) ESTABLISHMENT OF DATABASE.—

15 “(1) IN GENERAL.—The Secretary shall estab-
16 lish and regularly update a medical debt collection
17 public database.

18 “(2) REQUIRED INFORMATION.—Not later than
19 12 months after the date of enactment of this sec-
20 tion, and annually thereafter, a health care entity
21 shall submit to the database a debt collection report
22 that shall include—

23 “(A) the name and contact information of
24 any debt collector owned, utilized, or retained

1 by the entity or to which the entity assigned or
2 sold medical debt during the year;

3 “(B) a description, or link to such descrip-
4 tion, of the processes and policies of the entity
5 for assigning a medical debt to the debt col-
6 lector and for compensating such collector for
7 services provided to the entity;

8 “(C) the type and number of extraordinary
9 collection practices the entity, or debt collector
10 reported by the entity pursuant to subpara-
11 graph (A), undertakes or seeks to undertake,
12 such as wage garnishment, bank account at-
13 tachments, liens, arrest warrants, reporting to a
14 consumer reporting agency, and lawsuits;

15 “(D) the breakdown, by race and ethnicity,
16 gender, and ZIP Code of residence, of medical
17 debt collection accounts referred to a debt col-
18 lector;

19 “(E) the breakdown, by race or ethnicity,
20 gender, and ZIP Code of residence, against
21 whom the health entity, or a debt collector used
22 by the health entity, filed an action to collect a
23 debt owed on a medical bill;

24 “(F) the breakdown, by race or ethnicity,
25 gender, and ZIP Code of residence, of medical

1 debt collection accounts the health entity has
2 and has not reported or classified as bad debt;

3 “(G) the total dollar amount of the cost of
4 charges for health care services provided to pa-
5 tients but not collected by the health entity for
6 patients covered by insurance, including the
7 out-of-pocket costs for patients covered by in-
8 surance, and patients without insurance;

9 “(H) the recovery rate on medical debt col-
10 lection cases assigned to the debt collector, as
11 defined by the Secretary;

12 “(I) the number of bills paid using a credit
13 card; and

14 “(J) any other information determined ap-
15 propriate by the Secretary.

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

23 “(4) CFPB REPORT.—Not later than 12
24 months after the expiration of two annual reporting
25 periods under paragraph (2), the Director of the

1 Consumer Financial Protection Bureau shall submit
2 to Congress a report containing an analysis of the
3 reports submitted under that paragraph and an ex-
4 planation of whether the findings based on the data-
5 base under this subsection are a useful tool for the
6 agency’s Supervision of Nondepository Covered Per-
7 sons, including the Risk-Based Supervision Program
8 (under section 1024 of Public Law 111–203). Such
9 report shall include recommendations to improve the
10 disclosures by health care entities for the purposes
11 of supervising the medical debt industry, including
12 for predictive analytics, machine learning, or other
13 analysis techniques used in its Risk-Based Super-
14 vision Program.”.

15 (b) CFPB REPORT.—Not later than 12 months after
16 the date of enactment of this Act, and every 2 years there-
17 after, the Consumer Financial Protection Bureau shall
18 publicly report on medical debt collections, incorporating
19 data from the medical debt collection public database es-
20 tablished pursuant to section 2795(a) of the Public Health
21 Service Act, anonymized data from the three largest credit
22 bureaus, the Consumer Financial Protection Bureau data-
23 base of consumer complaints, information from the Con-
24 sumer Financial Protection Bureau’s Supervision of Non-
25 depository Covered Persons program including the Risk-

- 1 Based Supervision Program, and relevant complaints and
- 2 information from other sources as available.

