

SENATE BILL NO. 952

June 26, 2024, Introduced by Senators LINDSEY, DALEY, BELLINO, RUNESTAD and DAMOOSE and referred to the Committee on Finance, Insurance, and Consumer Protection.

A bill to prohibit hospitals from attempting to collect debts incurred when not in compliance with price transparency laws; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "hospital price
2 transparency act".

3 Sec. 2. As used in this act:

4 (a) "Centers for Medicare and Medicaid Services" means the

1 Centers for Medicare and Medicaid Services in the United States
2 Department of Health and Human Services.

3 (b) "Collection action" means any of the following actions
4 taken with respect to a debt for items and services that were
5 purchased from, or provided to a patient by, a hospital on a date
6 during which the hospital was not in material compliance with
7 hospital price transparency laws:

8 (i) An attempt to collect a debt from a patient or patient
9 guarantor by referring the debt, directly or indirectly, to a debt
10 collector, a collection agency, or another third party retained by
11 or on behalf of the hospital.

12 (ii) Suing the patient or patient guarantor or enforcing an
13 arbitration or mediation clause in any hospital documents,
14 including contracts, agreements, statements, or bills.

15 (iii) Directly or indirectly having a report made to a consumer
16 reporting agency.

17 (c) "Collection agency" means, subject to subdivision (d), a
18 person that does any of the following:

19 (i) Engages in a business, the principal purpose of which is
20 the collection of debts.

21 (ii) Regularly collects or attempts to collect, directly or
22 indirectly, debts owed or due or asserted to be owed or due to
23 another.

24 (iii) Takes assignment of debts for collection purposes.

25 (iv) Directly or indirectly solicits for the collection of
26 debts owed or due or asserted to be owed or due to another.

27 (d) Collection agency does not include any of the following,
28 except as provided in subdivision (e):

29 (i) An officer or employee of a creditor while, in the name of

1 the creditor, the officer or employee is collecting debts for the
2 creditor.

3 (ii) A person while acting as a collection agency for another
4 person, both of whom are related by common ownership or affiliated
5 by corporate control, if the person acting as a collection agency
6 does so only for creditors to whom it is so related or affiliated
7 and if the principal business of the person is not the collection
8 of debts.

9 (iii) An officer or employee of the United States or any state
10 to the extent that collecting or attempting to collect a debt is in
11 the performance of the officer's or employee's official duties.

12 (iv) A person while serving or attempting to serve legal
13 process on another person in connection with the judicial
14 enforcement of a debt.

15 (v) A person licensed to provide debt management services
16 under the debt management act, 1975 PA 148, MCL 451.411 to 451.437.

17 (vi) A person that is collecting or attempting to collect a
18 debt owed or due or asserted to be owed or due to another person to
19 the extent that any of the following apply:

20 (A) The activity is incidental to a bona fide fiduciary
21 obligation or a bona fide escrow arrangement.

22 (B) The activity concerns a debt that was extended by the
23 person attempting to collect the debt.

24 (C) The activity concerns a debt that was not in default at
25 the time it was obtained by the person attempting to collect the
26 debt.

27 (D) The activity concerns a debt obtained by the person
28 attempting to collect the debt as a secured party in a commercial
29 credit transaction involving the creditor.

1 (vii) A person whose principal business is the making of loans
2 or the servicing of debt not in default and that acts as a loan
3 correspondent, seller and servicer for the owner, or holder of a
4 debt that is secured by a deed of trust on real property,
5 regardless of whether the debt is also secured by an interest in
6 personal property.

7 (viii) A licensee under any of the following acts:

8 (A) The horse racing law of 1995, 1995 PA 279, MCL 431.301 to
9 431.336.

10 (B) The McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972
11 PA 239, MCL 432.1 to 432.47.

12 (C) The Traxler-McCauley-Law-Bowman bingo act, 1972 PA 382,
13 MCL 432.101 to 432.152.

14 (D) The Michigan Gaming Control and Revenue Act, 1996 IL 1,
15 MCL 432.201 to 432.226.

16 (E) The lawful sports betting act, 2019 PA 149, MCL 432.401 to
17 432.419.

18 (F) The fantasy contests consumer protection act, 2019 PA 157,
19 MCL 432.501 to 432.516.

20 (G) The lawful internet gaming act, 2019 PA 152, MCL 432.301
21 to 432.322.

22 (e) Collection agency includes a person that, in the process
23 of collecting the person's own debts, uses another name that would
24 indicate that a third person is collecting or attempting to collect
25 the debts.

26 (f) "Consumer reporting agency" means a person that, for
27 monetary fees or dues or on a cooperative nonprofit basis,
28 regularly engages, in whole or in part, in the practice of
29 assembling or evaluating consumer credit information or other

1 information on consumers for the purpose of furnishing consumer
2 reports to third parties. Consumer reporting agency includes a
3 person defined in 15 USC 1681a(f). Consumer reporting agency does
4 not include a person that provides check verification or check
5 guarantee services only.

6 (g) "Debt" means an obligation or alleged obligation of a
7 consumer to pay money arising out of a transaction, regardless of
8 whether the obligation has been reduced to judgment. Debt does not
9 include a debt for business, investment, commercial, or
10 agricultural purposes or a debt incurred by a person engaged in
11 business.

12 (h) "Debt collector" means any person employed or engaged by a
13 collection agency to perform the collection of debts owed or due or
14 asserted to be owed or due to another person.

15 (i) "Hospital" means, consistent with 45 CFR 180.20, a
16 hospital licensed under article 17 of the public health code, 1978
17 PA 368, MCL 333.20101 to 333.22260.

18 (j) "Hospital price transparency laws" means 42 USC 300gg-
19 18(e) and regulations adopted by the United States Department of
20 Health and Human Services implementing 42 USC 300gg-18(e).

21 (k) "Items and services" means that term as defined in 45 CFR
22 180.20.

23 (l) "Person" means an individual or a partnership, corporation,
24 limited liability company, association, governmental entity, or
25 other legal entity.

26 Sec. 3. (1) Subject to subsection (2), after the effective
27 date of this act, a hospital that is not in material compliance
28 with hospital price transparency laws on the date that items and
29 services are purchased from, or provided to a patient by, the

1 hospital shall not initiate or pursue a collection action against
2 the patient or patient guarantor for a debt owed for the items and
3 services.

4 (2) After 6 months after the effective date of this act, this
5 act applies to critical access hospitals licensed and certified by
6 the department of health and human services under 42 CFR 485
7 subpart F.

8 (3) If a patient believes that a hospital was not in material
9 compliance with hospital price transparency laws on a date after
10 the effective date of this act and that items and services were
11 purchased by or provided to the patient on that date, and if the
12 hospital takes a collection action against the patient or patient
13 guarantor regarding the items and services, the patient or patient
14 guarantor may file a civil action to determine if the hospital was
15 materially out of compliance with the hospital price transparency
16 laws on the date of service and if the noncompliance is related to
17 the items and services. The hospital shall not take a collection
18 action against the patient or patient guarantor while the civil
19 action is pending.

20 (4) If the judge or a jury in a civil action under this act,
21 considering compliance standards issued by the Centers for Medicare
22 and Medicaid Services, determines that a hospital was materially
23 out of compliance with hospital price transparency laws, the
24 hospital shall do all of the following:

25 (a) Refund the payer any amount of the debt the payer has paid
26 and pay a penalty to the patient or patient guarantor an amount
27 equal to the total amount of the debt.

28 (b) Dismiss or move to dismiss with prejudice any court action
29 based on the debt and pay any attorney fees and costs incurred by

1 the patient or patient guarantor relating to the action.

2 (c) Remove or have removed from the patient's or patient
3 guarantor's credit record any report made to a consumer reporting
4 agency relating to the debt.

5 (5) This act does not do any of the following:

6 (a) Prohibit a hospital from billing a patient, patient
7 guarantor, or third-party payer, including a health insurer, for
8 items and services provided to the patient.

9 (b) Require a hospital to refund any payment made to the
10 hospital for items and services provided to the patient, if no
11 collection action is taken in violation of this act.