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SYNOPSIS
"Louisa Carman Medical Debt Relief Act."

CURRENT VERSION OF TEXT
As reported by the Assembly Financial Institutions and Insurance
Committee on June 13, 2024, with amendments.

AN ACT concerning the report and collection of medical debt and supplementing ²[Title 56 of the Revised Statutes] P.L.1997, c.172 (C.56:11-28 et seq.).².

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "Louisa Carman Medical Debt Relief Act."

2. As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Collection action" means any ¹[of the following] action ²[or inaction]² on the part of a medical creditor with respect to a medical debt, and includes, but is not limited to¹:

- (1) selling ²[an individual's] a patient's² debt to another party;
- (2) reporting ¹[adverse]¹ information about the patient to a consumer reporting agency; or
- (3) actions related to the collection of ²[an individual's] a patient's² debt to another party that require a legal or judicial process, including but not limited to placing a lien on ²[an individual's] a patient's² property, attaching or seizing ²[an individual's] a patient's² bank account or any other personal property, commencing a civil action against ²[an individual] a patient², or garnishing ²[an individual's] a patient's² wages.

²[¹The term "collection"] "Collection² action" shall not include: reasonable attempts by a medical creditor to send an invoice or bill to ²[an individual] a patient², ²[which shall include sending an invoice or bill and one reminder] or reminders² to pay an invoice or bill; ²or² collecting a copayment ², coinsurance, deductible, or payment² from the ²[individual] patient² at the point of service²; or, in the case of a nursing home that is providing health care services to a patient, placing a lien on the patient's primary residence or personal property to collect medical debt]².¹

"Consumer reporting agency" means any person ¹or entity¹ which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility for the purpose of preparing or furnishing consumer reports.

²¹"Essential living expenses" means expenses for any of the following: rent or house payment and maintenance; food and household supplies; utilities and telephone; clothing; medical and dental payments; insurance; school or child care; child or spousal support; transportation and auto expenses, including insurance, gas, and repairs; laundry and cleaning; and other similar expenses.]

"Cosmetic medical procedure" means any medical procedure performed on a patient that is primarily directed at improving the procedure subject's appearance and that does not meaningfully promote the proper function of the body or prevent or treat illness or disease and any other cosmetic procedure or service not deemed to be medically necessary, as that term is defined pursuant to section 4 of P.L.2023, c.296 (C.17B:30-55.3). "Cosmetic medical procedure" does not include reconstructive surgery or dentistry.²

"Health care facility" means health care facility as defined in section 2 of P.L.1971, c.136 (C.26:2H-2).

"Health care provider" means a person or entity which, acting within the scope of its licensure or certification, provides a health care service. Health care provider includes, but is not limited to, a physician, dentist and other health care professionals licensed pursuant to Title 45 of the Revised Statutes, and a hospital and other health care facilities licensed pursuant to Title 26 of the Revised Statutes.¹

"Health care service" means the preadmission, outpatient, inpatient, and post discharge care provided ¹[in or]¹ by a health care facility ¹or a health care provider¹, and such other items or services as are necessary for such care, including but not limited to medical devices, which are provided for the purpose of health maintenance, diagnosis, or treatment of human disease, pain, injury, disability, deformity, or physical condition, including, but not limited to, nursing service, home care nursing, and other paramedical service, ambulance ¹[service] and other medical transport services¹, dental and vision services, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board, including services provided by a health care professional in private practice. ²"Health care service" shall not include cosmetic medical procedures.²

²¹"Household income" means the combined income of all household members determined by the most recent State income tax returns.¹²

"Medical creditor" means any ¹person or¹ entity that provides health care services and to whom a patient owes money for health

care services, or the entity that provided health care services and to whom the patient previously owed money if the medical debt has been purchased by one or more debt buyers.

"Medical debt" means a debt arising from the receipt of health care services. "Medical debt" ²[does] shall² not include¹:¹ debt charged to a credit card unless the credit card is issued under an open-end or closed-end credit plan offered ¹[specifically] solely¹ for the payment of health care services ¹[or goods] ²or goods²; debt arising from services provided by a veterinarian; debt charged to a home equity or general purpose line of credit; ²debt arising from an insurance payment for the health care provider's services but retained by the subscriber;² or secured debt¹.

"Medical debt buyer" means a person or entity that is engaged in the business of purchasing medical debts for collection purposes, whether it collects the debt itself or hires a third party ¹billing entity¹ for collection or an attorney-at-law for litigation in order to collect such debt.

"Medical debt collector" means any person ¹or entity¹ that regularly collects or attempts to collect, directly or indirectly, medical debts originally owed or due or asserted to be owed or due to another. A medical debt buyer is considered to be a medical debt collector for all purposes.

"Patient" means the person who received health care services, and for the purposes of P.L. , c. (C.) (pending before the Legislature as this bill) includes a parent or legal guardian if the patient is a minor, or a legal guardian if the patient is an adult under guardianship ¹or any other person liable or allegedly liable for any financial obligation incurred for health care services.

"Personal property" means real property and movable property not affixed to land, and includes, but is not limited to, bank accounts, motor vehicles, goods, merchandise, and household items.

"Reasonable payment plan" means ²[monthly payments that are not more than five percent of a patient's household income for a month, excluding deductions for essential living expenses] a structured repayment arrangement that satisfies the following:

(1) monthly payment amounts shall be set at a level that the patient can reasonably afford or not more than three percent of the patient's monthly income, if known by the medical creditor or medical debt collector;

(2) the duration shall allow the patient to repay the debt in full within a reasonable timeframe, which shall include, but not be limited to, a timeframe that is between six months and five years in length, based on the total amount owed and the patient's financial capacity;

(3) the plan shall include provisions for adjusting the payment amounts and duration in response to significant changes in the patient's financial circumstances;

(4) the terms of the payment plan shall be clearly documented in a written agreement provided to the patient, including the total amount owed, the monthly payment amount, the payment schedule, and any interest;

(5) the plan shall provide a grace period of at least 60 days for late payments; and

(6) the plan shall not charge an interest rate on a medical debt of more than three percent per annum².

"Third party billing entity" means a person or entity that is paid by a health care provider or medical debt buyer to process claims or claims payments on behalf of the health care provider¹.

¹[3. No consumer reporting agency may make any consumer report containing a patient's paid medical debt or a medical debt of less than \$500 regardless of the date it was incurred. A medical creditor or medical debt collector shall not report a patient's medical debt to any consumer reporting agency for health care services performed on and after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).]¹

¹3. a. A medical creditor or medical debt collector shall not report a patient's medical debt to any consumer reporting agency for health care services performed on and after the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

b. A consumer reporting agency shall not make any consumer report containing a patient's paid medical debt or a medical debt of less than \$500 regardless of the date it was incurred.¹

4. a. Notwithstanding any provision of law or regulation to the contrary, except as otherwise provided in subsection c. of this section, a medical creditor or medical debt collector shall not engage in any ²[permissible]² collection actions until ¹[180] ¹120¹ days after the first bill for a medical debt has been sent ¹and the creditor or debt collector has offered the ²[individual] patient² who owes the medical debt a reasonable payment plan¹.

b. At least 30 days before taking any collection actions, a medical creditor or medical debt collector shall provide to the patient at least one additional bill and a notice containing the following:

(1) identifying the collection actions that will be initiated in order to obtain payment; and

(2) providing a deadline after which such collection actions will be initiated, which date is no earlier than 30 days after the date of the notice.

c. ¹Any communication made by a medical creditor or medical debt collector to a patient in the course of trying to collect a medical debt shall include a statement, in at least 14-point boldface font, that the medical creditor or medical debt collector has not reported the debt to a consumer reporting agency and that if the debt, or any part of it, has been reported to a consumer reporting agency, the portion reported is void.

d. ¹A medical ¹[debtor may] creditor shall not¹ sell ²[an individual's] a patient's² debt to another party unless, prior to the sale, the medical creditor has entered into a legally binding written agreement with the medical debt buyer of the debt pursuant to which the medical debt buyer or collector is prohibited from engaging in any actions in paragraphs (2) and (3) of the definition of "collection action" in section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) and from otherwise seeking to obtain payment for the health care service.

²[¹d.] e. ²(1) A medical creditor or medical debt collector shall not engage in any ²[permissible]² collection actions against a patient who accepts and complies with the terms of a reasonable payment plan offered by the medical creditor or medical debt collector pursuant to this section. A medical creditor or medical debt collector shall not charge an interest rate of more than three percent per annum on late payments to a medical debt subject to a reasonable payment plan and shall provide a grace period of at least ²[90] 60² days for late payments.

(2) Acceptance of a reasonable payment plan pursuant to this section by a patient shall not constitute an admission that the debt is valid. A patient who accepts a reasonable payment plan shall retain any legal defenses that would otherwise be available in a ²[permissible]² collection action.¹

¹5. A medical creditor or medical debt collector shall not:

a. charge an interest rate on a medical debt of more than three percent per annum. The interest rate that shall apply to any judgment on medical debt shall be calculated pursuant to applicable court rules but shall not exceed three percent; ²or²

b. garnish the wages of ²[an individual] a patient with annual income less than 600 percent of the federal poverty level² to collect medical debt owed by that ²[individual; or

c. place a lien on an individual's primary residence or personal property to collect medical debt owed by that individual. This subsection shall not apply to any nursing home providing health care services and to whom a patient owes money for health care services] patient^{2 1}

¹[5.] 6.¹ a. A medical creditor or medical debt collector that knows ²[or reasonably should know]² that an internal review, external review, or other appeal of a health insurance decision which provides the basis for a medical debt is pending ²[now or was pending within the previous 60 days]² shall not:

(1) communicate with the patient regarding the unpaid charges for health care services for the purpose of seeking to collect the charges; or

(2) initiate a lawsuit or arbitration proceeding against the patient relative to unpaid charges for health care services.

b. If a medical debt has already been reported to a consumer reporting agency and the medical creditor or medical debt collector who reported the information learns of an internal review, external review, or other appeal of a health insurance decision which provides the basis for a medical debt is pending ²[now or was pending within the previous 60 days]², or learns that the medical debt has been paid, the medical creditor or medical debt collector shall instruct the consumer reporting agency to delete the information about the debt.

c. A medical creditor that knows ²[or reasonably should know]² about an internal review, external review, or other appeal of a health insurance decision that is pending ²[now or was pending within the previous 60 days]² shall not refer, place, or send the unpaid charges for health care services to a medical debt collector, including by selling the debt to a medical debt buyer.

¹[6.] 7.¹ a. Any portion of a medical debt that is furnished to a consumer reporting agency in violation of the provisions of P.L. , c. (C.) (pending before the Legislature as this bill) shall be void.

b. It shall be ²[an unlawful practice and]² a violation of ²[P.L.1960, c.39 (C.56:8-1 et seq.)] P.L.1997, c.172 (C.56:11-28 et seq.)² for a medical creditor or medical debt collector to undertake a collection action in violation of the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

²c. In addition to the assessment of civil penalties, the Attorney General or the Attorney General's designee may, after a hearing and

upon a finding of a practice in violation of P.L. __, c. __ (C. __) (pending before the Legislature as this bill), order that any moneys or property, real or personal, which have been acquired by means of the practice in violation of P.L. __, c. __ (C. __) (pending before the Legislature as this bill) be restored to any person in interest.

d. Notwithstanding any provision of P.L.1997, c.172 (C.56:11-28 et seq.) to the contrary, the Office of the Attorney General shall have sole and exclusive authority to enforce a violation of P.L. __, c. __ (C. __) (pending before the Legislature as this bill) and nothing in P.L. __, c. __ (C. __) (pending before the Legislature as this bill) shall be construed as providing the basis for a private right of action arising solely from a violation of P.L. __, c. __ (C. __) (pending before the Legislature as this bill).

e. In any instance where the provisions of this section conflict with the provision of P.L.1997, c.172 (C.56:11-28 et seq.), the provisions of this section shall prevail.²

¹[7.] 8.¹ The provisions of this act shall be severable; and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of this act shall be enforceable. The provisions of this act shall be liberally construed to effectuate its purposes.

¹[8.] 9.¹ ²[This] Sections 3 and 7 of this² act shall take effect ¹[immediately] ²[on the 180th day] immediately and the remainder of this act shall take effect one year² following the date of enactment¹.