

## **Medical Debt Protection**

### ***Modernizing the Hospital Fair Pricing Act***

#### **Problem:**

Medical debt is a significant driver of bankruptcy, poverty, and racial inequities. Over a third (38%) of Californians report having medical debt, which disproportionately impacts Black, Latino/x, and low-income people.<sup>1</sup> Hospital debt makes up over 70% of medical debt, and hospital bills are generally much larger than other types of medical bills.<sup>2</sup>

Despite qualifying for financial assistance, patients are still getting large medical bills from hospitals. Non-profit hospitals, in particular, are underdelivering on their community benefit obligations.<sup>3</sup> This highlights the need to modernize the Hospital Fair Pricing Act.

To start, hospitals should be required to provide a minimum level of charity care—or free care—in addition to discounted care. While most hospitals have a charity care program, some hospitals continue to charge even the lowest income uninsured patients.

Hospitals also have inconsistent practices in accepting financial assistance applications. While the law requires hospitals to process applications at any time, many hospitals impose arbitrary deadlines. As a result, hospitals disqualify eligible patients from financial assistance to expedite collections. The Department of Health Care Access and Information interprets this provision of the law to prohibit deadlines for applications, which should finally be made clear in statute.

Existing law falls short of protecting low- and moderate-income patients who own homes. For many Californians, their homes are their greatest asset, and often the main way that families build generational wealth.<sup>4</sup> However, a loophole allows debt collectors to place liens on patients' homes to collect unpaid hospital bills. Home liens should be completely prohibited in the collection of unpaid hospital bills from financially qualified patients.

Finally, two eligibility rules should be clarified and changed. The law should be clarified that hospitals must consider all cost-sharing (including Medi-Cal share of cost and Medicare co-pays) as part of a patient's out-of-pocket costs as they are considered for financial assistance. Some hospitals waive these co-pays while

others refuse based on a misunderstanding of federal law. The law should also eliminate the consideration of assets in determining charity care eligibility. The Medi-Cal program recently eliminated the consideration of assets, and other states are looking to bar assets as well. The state's hospital financial assistance rules should do so too.

#### **Background:**

Hospitals in California must provide charity and discounted care to patients who receive hospital care and are uninsured or underinsured. The Hospital Fair Pricing Act, Health and Safety Code §127400 *et seq.* sets the minimum guidelines that hospitals must follow in offering charity or discounted care.

There have been several updates to the Hospital Fair Pricing Act since it was implemented in 2007, including setting requirements for emergency physicians and debt collectors, raising income eligibility for financial assistance, and improving oversight and enforcement.

Since then, California's uninsured rate has been reduced by more than half with passage of the Affordable Care Act, which expanded Medi-Cal and created Covered California, as well as other Medi-Cal expansions. These policies have relieved much of the burden on hospitals to cover the cost of uninsured care. Therefore, hospitals can and should provide greater financial assistance to relieve the harmful impacts of medical debt.

#### **This bill modernizes the Hospital Fair Pricing Act by:**

- Defining “charity care” as free care, distinguishing it from discounted care;
- Clarifying hospitals must review financial assistance eligibility at any time;
- Prohibiting the use of home lien to collect unpaid medical bills from financially eligible patients;
- Clarifying all cost sharing amounts may be deducted under financial assistance policies;
- Eliminating the consideration of assets from charity care eligibility; and
- Other technical changes.

*Contact: Linda Nguy, Associate Director of Policy Advocacy • 916.282.5117 • l nguy@wclp.org*

<sup>1</sup> California Health Care Foundation, The 2024 CHCF California Health Policy Survey, <https://www.chcf.org/publication/2024-chcf-california-health-policy-survey/>.

<sup>2</sup> Urban Institute, Most Adults with Past-Due Medical Debt Owe Money to Hospitals, pp. 5, 6 (2023), <http://bit.ly/496yhVA>.

<sup>3</sup> Lowin Institute, Fair Share Spending, <https://lowinhospitalsindex.org/2023-fair-share-spending/>.

<sup>4</sup> Public Policy Institute of California, California's Housing Divide (2022), <https://www.pplic.org/blog/californias-housing-divide/>.