



FAQ: Does the ACA Help Families with Hospital Bills?

The Affordable Care Act (ACA) includes new rules that govern how non-profit hospitals handle financial assistance, billing, and collections, including how much they charge certain patients for care.¹ Medical debt has been tied to home foreclosure, bankruptcy, and poor credit ratings by researchers. In one CDC survey, 10 percent of Americans reported having a medical bill they couldn't pay, and 20 percent were struggling to pay a bill—including families with insurance. Families with kids and low-income, Latino and black families have been hit disproportionately hard. Other studies have shown that the uninsured, in particular, can afford only a fraction of what hospital care costs. Recently, the IRS released final rules that further regulate hospital billing and collections. This FAQ answers some common questions about the law.

Q: What types of collection activity does the law address? The law focuses on “extraordinary collection actions” (ECAs), collection activities that some hospitals and debt collectors have been using that often have long-lasting consequences for patients. Before a hospital uses one of these approaches, it has to make a “reasonable effort” to notify and inform the patient about financial help. The IRS defines “extraordinary collection actions” to include:

- Selling a patient's debt to a third party
- Reporting negative information about a patient to credit reporting agencies or credit bureaus
- Delaying, denying, or requiring a payment before providing, medically necessary care because a patient hasn't paid for services already received²
- Actions that require a legal or judicial process, such as property liens and foreclosures, seizing patients' bank accounts or garnishing wages, suing a patient in a collections action, or arrests

Q: Does the IRS say non-profit hospitals can never take these steps against a patient? No. So long as a hospital follows the other rules, they can still use these collection tactics.

Q: So, if hospitals can still use these tactics, what exactly are the new protections? There are three big developments in the law to help protect patients.

- 1) **Transparent, easy-to-find information about financial help.** First, hospitals have to have written policies on financial assistance, billing and collections—and they have to make sure patients and the public have plenty of opportunities to find out about them (for example, by including information on every bill and making all of the relevant information—policies, application forms, and easy-to-read summaries—available in person and online). Hospitals also have to provide a way for patients to get assistance with the application process, either through their own staff or a non-profit or government

¹ See Section 2007 of the Affordable Care Act and Section 501(r) of the Internal Revenue Code.

² Situations that trigger the rules occur when a hospital refuses to see a patient that day unless he or she pays an outstanding bill for *previous* care. Hospitals can still request an upfront payment for care the patient is seeking that day.

agency. Historically, patients have had difficulty getting timely information about financial assistance. These rules should help by shifting some of the burden back to hospitals.

- 2) **Fairer prices for patients who qualify for financial assistance.** Hospitals use a “chargemaster,” a master list of prices for all of the services and products they provide, to negotiate payments from insurance companies. The chargemaster often includes very high mark-ups, well over the cost of providing care. Ironically, uninsured patients are usually the only people asked to pay these higher prices, making care even more unaffordable. Under the law, any person who qualifies for financial assistance gets an additional protection: he or she can only be charged the same amount as a person with insurance would be charged. The rules go into greater detail, but the bottom line is that low- and moderate-income uninsured people should be getting a fairer price that’s similar to what a person with insurance would be asked to pay.
- 3) **A timeline and process hospitals must follow before they can use extraordinary collection actions.** Once a hospital sees a patient, they must make “reasonable efforts” to notify the patient about financial assistance. At a minimum, they must wait at least 120 days (roughly 4 months) after the first post-discharge bill before they can begin extraordinary collection actions. The law also gives patients a minimum of up to 240 days, or 8 months, to submit a financial aid application. Hospitals must suspend extraordinary collection actions during this time and determine whether the patient is eligible for help.

Q: What steps do hospitals have to take to notify patients about financial assistance?

Hospitals have to make it easy for members of the public who are likely to need financial help to find out about financial assistance. At a minimum, they have to post the policy, application form, and a summary online and have them available in the ER and admissions areas. Patients get special attention. Every patient must be offered a “plain language summary” of the financial assistance policy either at intake or discharge. And, every bill must include a “conspicuous” written notice with contact information and a URL to the policy itself, as well as the application form and summary.

Q: Say a hospital wants to take the next step to collect on a bill after the 120-day window.

What happens next? It depends on the context. For example, if a patient submits an application with missing information or supporting documentation, hospitals have to let them know what’s missing and give them time to correct the error. Say, however, the patient hasn’t submitted an application, and the 120-day window is almost up. Hospitals that want to use an extraordinary collection action against this patient have to make an extra effort to notify the person about financial help. This includes providing a plain language summary and written notice at least 30 days in advance that includes a notice of financial assistance, the extraordinary collection action the hospital intends to use, and a deadline to respond. The hospital must also try to orally inform the patient about financial assistance and how to get help completing the application.

Q: What happens if a patient submits a late application? Are they still going to be subject to things like property liens and foreclosures? What about patients who only find out about financial assistance after they have paid part of the bill? The rules give patients some leeway. So long as a patient submits a completed application for financial assistance up to 8 months after

receiving the first bill, the hospital must stop using ECAs until it's determined whether the patient is eligible for financial help. If the patient is eligible, the rules say that the hospital must give the patient a detailed explanation of what they owe, refund any money owed the patient, *and* take steps to reverse any harm caused by using an ECA.

Q: My friend told me she got financial help from a hospital without ever submitting an application. How does this happen? Some hospitals use third-party data to make an initial determination about whether a patient is eligible for financial assistance. This is called “presumptive eligibility.” For example, the hospital might use a patient’s prior financial aid application, Medicaid or CHIP eligibility, credit score, or other third-party analytics and decide to offer a patient financial assistance without requesting any other information. While this can streamline the process and save everyone time and effort, it can potentially be abused. Under the rules, hospitals can use any method to determine presumptive eligibility. If the findings show the patient qualifies for a complete write-off of the bill, no further steps are necessary. But if the findings show the patient is not eligible or would only qualify for a partial discount, the hospital must go back to the patient and give him or her an opportunity to provide additional information that might help make the case for more generous help.

Q: I’ve heard that some hospitals use law firms and collection agencies to collect bills. Some even sell really old debts to third parties. Do these rules apply to them? Yes. Third-party contractors and debt purchasers are bound by the same rules that apply to hospitals.

Q: Okay, final question. What’s the catch?

The catch is this: hospitals still have flexibility to decide the details that determine who will benefit from the new rules. They decide who is eligible for financial help, whether their policies will go beyond the federally mandated minimums, what collection tactics they will use, and the specific strategies they will use to conduct outreach in the community. Furthermore, the rules only apply to non-profit hospitals. For-profit hospitals and other medical providers could adopt similar policies, but they are currently not required to do so. Hospitals can always add additional protections for their patients, however, and some states have stronger protections in place. It’s important for advocates and patients to know what the laws are in their community and to work with hospitals to improve their policies.