

First Student Loans, Now Medical Debt? What You Need to Know about the Newly Proposed Medical Debt Cancellation Act

05/24/24

On May 8th, a group of legislators introduced the Medical Debt Cancellation Act (S.4289) (the “Act”), a far-reaching piece of legislation whereby, among other things, the federal government would pay-off all current medical-related debt in the United States, provided certain conditions are met. As further discussed below, the legislation has multiple parts, some of which would phase in over time, with the ultimate goal of eliminating all current medical debt and limiting the ways in which consumers may incur future medical debt. The Act remains in draft form and is, therefore, subject to amendment and further clarification prior to being moved to a vote in Congress.

Establish Grant Program to Fund Medical Debt Forgiveness by Providers

If passed, the Act would amend the Public Health Services Act to create a federal grant program administered by the Department of Health and Human Services (“HHS”), first to fund payment (or “cancellation,” as described in the Act) of medical debt of United States residents held by hospitals. For medical debt to be subject to “cancellation” – meaning the Federal government would in effect assume and pay off the debt – it must be an “out-of-pocket, unpaid amount” owed by a US resident for items or services furnished to such resident by a hospital on or before the date of enactment of the Act. “Eligible medical debt” excludes, among other things, any amount paid or payable by a Federal health care program and any amounts “in excess of the sum reimbursable by a Federal health care program or other payer and copayment amounts under such program or other health insurance plan.”

To receive funds from the Federal government to pay off patient debt, a hospital would submit an application (with the application requirements to be later determined by HHS), and HHS would prioritize awarding grants first to safety net hospitals that agree, at a minimum, to “cancel” debt that is fifteen (15) months old or less, owed by low-income and vulnerable patient populations, and which resulted from emergency and non-elective medical care. Within two (2) years of enactment of the Act, the grant program would be expanded to allow “providers and health care facilities other than hospitals” to apply for grants, and would also allow “individuals” to apply as well. It is currently unclear how this grant program in return for debt cancellation would apply to “individuals”.

Separately, within one (1) year of enactment of the Act, HHS would direct all federally funded health care programs to “eliminate medical debt collections”. Again, the Act as currently drafted does not further expand on what this would exactly entail. HHS would also have annual reporting requirements to update Congress on implementation and progress of the debt forgiveness program. Once HHS was able to certify that “all eligible medical debt in the United States has been canceled”, the operative debt “cancellation” provisions of the Act would sunset.

Additionally, the Act would amend the Fair Debt Collection Practices Act to prohibit debt collectors or other creditors from collecting medical debt incurred prior to the date of enactment of the Act, and a new private right of action would be created to allow claims to be brought by individuals harmed by violations of this new statutory prohibition.

New Billing and Debt Collection Requirements for Providers

While the Act, if passed, would “cancel” existing medical debt, it would not outright ban the imposition of future medical debt incurred after the date of enactment of the Act. Rather, the Act would impose various restrictions on how such debt may be incurred. The Act would impose certain billing-related requirements on all healthcare providers. At least forty-five (45) days before the payment due date for any medical item or service, providers would be required to determine whether a person was eligible for charity care or other financial assistance from the provider, and if so, provide the person with information concerning such assistance and a copy of a list of federal and state financial assistance programs. The Act would require HHS to publish and update this list annually. If payment became past due, within thirty (30) days following the due date, a provider would be required to send a person a notice that includes, among other things, the amount due and a description of the provider’s process for determining whether the individual was eligible for financial assistance. If payment was made, a provider would then be required to send a receipt within thirty (30) days.

Further, 501(c)(3) qualified hospitals would be prohibited from charging uninsured patients any amount “greater than the amounts generally billed,” and all providers would be barred from imposing interest on outstanding payments. All debt collection agencies would be required to abide by the same restrictions imposed on facilities and providers themselves.

Finally, the Fair Credit Reporting Act would be modified to prevent credit reporting agencies from reporting information related to medical debt and would require the agencies to remove any medical debt-related information then already reported. Agencies would also have to notify individuals about any such removals.

Conclusion: Can this actually become law?

This Act is currently only proposed legislation. Similar, but much less far-reaching, pieces of legislation have been proposed throughout recent years by Federal and state legislators, with most all failing to gain any traction with legislators. However, besides its expansive impact, what is unique about this legislation is the timing; the Biden-Harris Administration has just forgiven \$153 Billion in student loan debt. The estimated current \$220 Billion in medical debt (per a February 2024 report from the Kaiser Family Foundation) is not far off from this student loan amount. While the likelihood of enactment is uncertain, Wilentz, Goldman & Spitzer, P.A. will continue to monitor and provide updates on any developments. If you have any questions on the Medical Debt Cancellation Act, contact [John D. Barry](#) and [Nicolette LaSalvia](#) from the [Healthcare Team](#).

Attorney

- John D. Barry

Practice

- Health Law