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Ill-Gotten Gains: The Inequity of Rising Medical Debt and How States Can Respond

April 28, 2022

@HealthValueHub

www.healthcarevaluehub.org



What is the Healthcare Value Hub?



With support from the Robert Wood Johnson Foundation and Arnold Ventures:

- The Healthcare Value Hub reviews evidence to identify the policies and practices that work best, providing free resources
- We provides technical assistance to support consumer advocates working at the state level to pass policies that make the healthcare system more **equitable, affordable, and patient-centered.**
- We support and connect consumer advocates across the U.S., providing comprehensive, fact-based information to help them advocate for change, and connect them to researchers and other resources.

Ill-Gotten Gains: The Inequity of Rising Medical Debt and How States Can Respond

April 28, 2022

Maanasa Kona, J.D.
Assistant Research Professor

Georgetown University Center on Health Insurance Reforms (CHIR)

Nationally recognized team of private insurance experts

- Part of McCourt School of Public Policy
- Legal & policy analysis
 - Federal and state regulation
 - Market trends
- Published reports, studies, blog posts
- Technical assistance

Housekeeping

- Webinar will be recorded and posted on the Altarum website along with the slides
- All lines except for the speakers' will be muted until the Q&A
- During Q&A, you will have to dial in on your phones to be heard because computer audio will be set to listen-only
- Please use the chat box to type in your questions at any time

Today's Panelists

- Nicolas Cordova – Health Attorney,
New Mexico Center on Law and Poverty
- Marceline White – Executive Director,
Maryland Consumer Rights Coalition
- Julia Char Gilbert – Connelly Policy Advocate,
Colorado Center on Law and Policy

The Extent of the Medical Debt Problem

- Half of the country is in medical debt
- One-fifth of the country is in collections for medical debt
- One of the leading causes of consumer bankruptcy
- 11 million Americans have medical debt above \$2,000, and 3 million owe more than \$10,000.

Medical Debt Doesn't Affect Everyone Equally

- Who is more likely to have medical debt?
 - Black and Hispanic/Latino households
 - Younger families
 - Families with a member with a disability or experiencing an illness
- Who is more likely to be sued for medical debt?
 - 17 years of Wisconsin court data shows that Black patients and those living in poorer/more remote regions

The Impact of Medical Debt

- Once medical debt goes into collections
 - Credit reporting and lower credit score
 - Harder to get loans, rentals, and jobs
- Once patient loses a medical debt lawsuit
 - Wage garnishing
 - Liens on homes
- Aggressive collections practices causes tremendous stress

Protecting Patients from Medical Debt

Improving health insurance coverage and affordability

Strengthening hospital financial assistance and charity care policies

Limiting the downstream effects of medical debt

Questions?

CHIR Publications:

www.chir.georgetown.edu

CHIRblog:

www.chirblog.org

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S.B. 71: Patients' Debt Collection Protection Act

Nicolas Cordova
Healthcare Attorney, New Mexico Center on Law and Poverty



Overview of Presentation

- New Mexico Together for Healthcare
- Linda's Story
- Medical Debt in New Mexico
- Overview of Medical Debt
- Overview of S.B. 71
- Implementation of S.B. 71

New Mexico Together for Healthcare Campaign



- New Mexico Together for Healthcare is a statewide, multiracial campaign of families and community organizations working together to advance Healthcare for All New Mexicans.
- Policy advocacy is guided by and empowers community priorities identified by our family leaders.



Linda's Story



Linda (left) and her medical bills (top)

Medical Debt in New Mexico



- Nearly 1 in 4 New Mexicans have medical debt in collections.
 - 20% of communities of color; 12% of white communities.
- Hospitals in New Mexico sue thousands of patients for unpaid medical bills-
-garnishing wages, placing liens on their homes, and pursuing other aggressive legal measures.
 - The worst actors are in our rural communities and are often the only options for residents.

Medical Debt in New Mexico



- On average, nearly 36% of NM non-profit hospitals' bad debt is attributable to patients who are low-income and would likely qualify for financial assistance.
- Over 200,000 New Mexicans are uninsured.
 - 165,000 uninsured New Mexicans are Black, Indigenous, & People of Color.
 - 57,000 New Mexicans are uninsured even though they qualify for Medicaid.

Overview of S.B. 71



Screening



Enrollment Assistance



Billing Clarity



Prohibition on Suing or sending low income patients to collections.



Reporting on Use of Indigent Care Funds



Screening & Application Assistance



Facilities must offer and if requested:

- Determine if a patient has insurance.
- Screen uninsured patient for all available public insurance, any program that could help with healthcare costs, including facility financial assistance.
- Send the results of the screening to any “third-party healthcare provider” that will bill the patient.
- Provide application assistance with the programs identified in the screening.

Billing Requirements



All bills sent by facilities and third party healthcare providers must include:

- A complete and plain language description of the date, amount and nature of the charges
- If a screening has taken place,
- Whether insurance or public programs were billed.

Third Party healthcare providers may not bill a patient until they receive the results of the screening from a covered facility.

Medical creditors must provide receipts for payments within 30 days of payment that contain information.

Indigent Patients cannot be pursued through collection actions

Collections Action means selling medical debt and any action that requires a legal or judicial process.

Indigent means patients with **household income below 200 percent of the federal poverty level.**

Implementation by the Office of the Superintendent of Insurance (OSI)

- **The legislation requires OSI to issue rules:**
 - Establishing minimum standards regarding the screening and application assistance for uninsured patients.
- ***OSI has issued strong rules for the “screening requirement”:***
 - Screening must take place early and application assistance required is robust.
 - Requires healthcare facilities to notify debt collectors/billing department if a patient is found low-income.
 - The rules provide a streamlined process for patients and facilities to demonstrate indigency without unnecessary burden.

Implementation by the Office of the Superintendent of Insurance (OSI)



- **The legislation requires OSI to issue rules:**
 - Explaining how a patient is determined to have a low income and therefore be protected from lawsuits or collections for a medical bill.
- ***OSI has issued strong rules:***
 - Medical creditors and debt collectors must check whether someone has a low income, prior to suing them or sending them to collections.
 - Debt collectors must verify with the creditor for whom it's pursuing medical debt recovery whether the patient has a low income.
 - A determination of someone's low-income status must be honored for at least 2 years, after which point the entity must re-determine the patient's income before pursuing a collection action.



Questions?

Nicolas Cordova - New Mexico Center on Law and Poverty

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Maryland's Medical Debt Crisis and the Movement to Stop It

Marceline White, Executive Director,
Maryland Consumer Rights Coalition

April 28, 2022 -Healthcare Value Hub

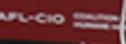


HEY HOPKINS ▶
STOP SUING
PATIENTS & FAMILIES

HEY HOPKINS ▶
STOP SUING
PATIENTS & FAMILIES

 National Nurses Organizing Committee  National Nurses United  AFL-CIO  COALITION FOR A HUMANE HOPKINS

HEY HOPKINS ▶
RESPECT RNS'
RIGHT TO ORGANIZE

 National Nurses Organizing Committee  National Nurses United  AFL-CIO  COALITION FOR A HUMANE HOPKINS

History of Work on Medical Debt Protection Act

Marylanders have been suffering for far too long in a for-profit health care system that puts money before patient care. Too often the system pushes people who need care into desperation and even into bankruptcy. In the past few years, efforts to create a more just health care system have taken off in Maryland and nationally.

In 2018, MCRC released a report [No Exit: How Maryland's Debt Collection Policies Deepen Poverty & Widen the Racial Wealth Gap](#) which looked at a number of issues around debt collection. MCRC in 2018 & 2019 worked on debt collection legislation including: ending debtors prisons, increasing amount people can protect from wage garnishment, eliminating fines & fees that criminalize poverty etc.

History of Work on Medical Debt Protection Act

In 2018/2019 registered nurses at Johns Hopkins Hospital were organizing to join National Nurses United (NNU) to protect patients. Among their concerns were how Hopkins' financial policies impacted patients generally and how Hopkins sued patients in particular.

These nurses and NNU joined together with community partners to form the Coalition for a Humane Hopkins to bring together nurses, doctors, patients, and other members of the community to demand that Hopkins truly prioritize the needs of patients and the community, and to create change around labor practices and medical debt.

June 2019-MCRC and NNU connected and decided to work together to bring legislation to end medical debt.

Research: Building the Case for Change

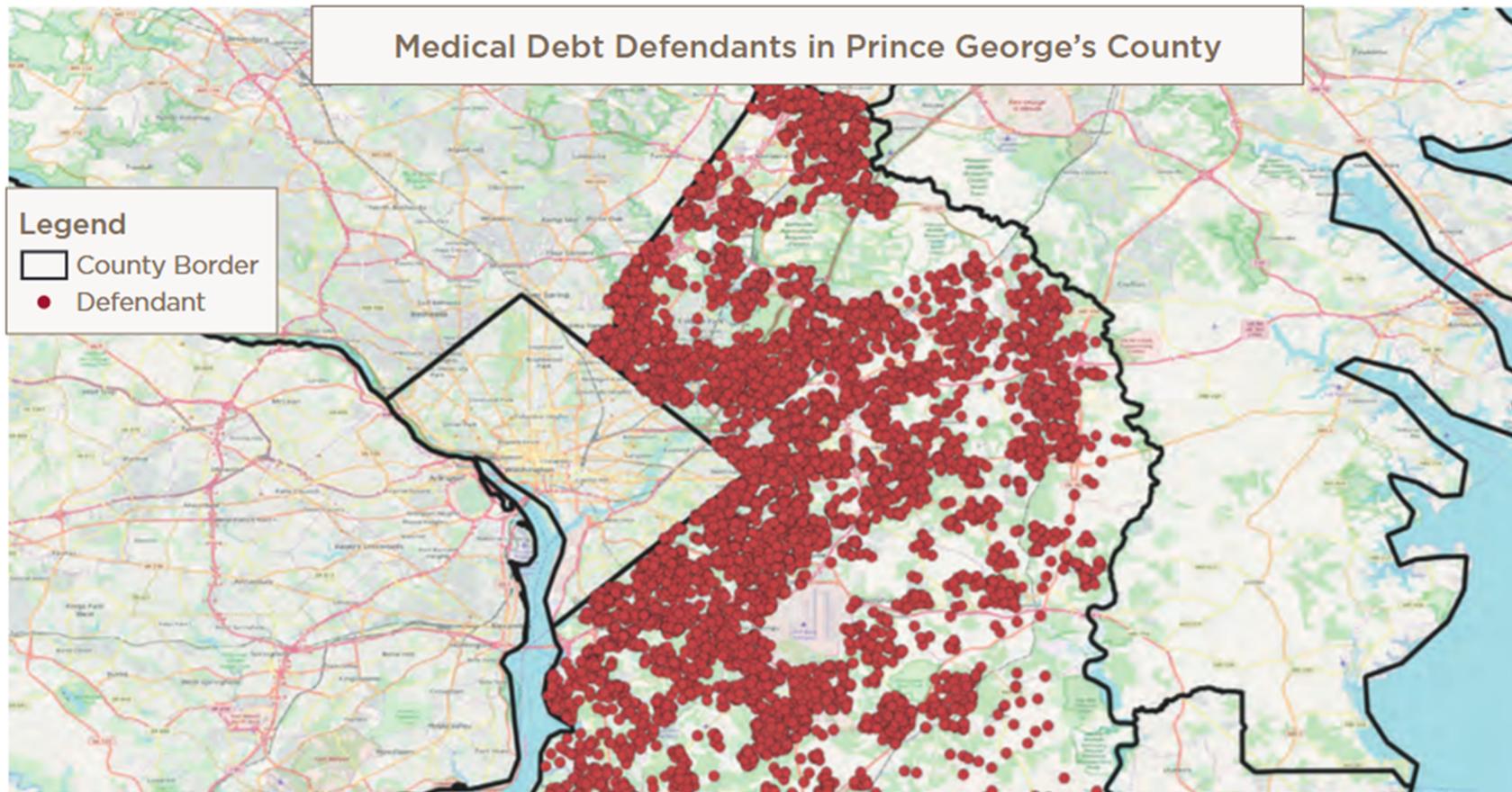
NNU, AFL-CIO, & MCRC collaborated on the research report “Preying on Patients” which documented more than 145,000 hospital debt lawsuits in a ten year period across Maryland.

Preying On Patients

Maryland’s Not-for-Profit Hospitals
and Medical Debt Lawsuits



Where Medical Debt Lawsuit Defendants Live



What our research showed

- Maryland nonprofit hospitals sued 145,000 patients in our state over a 9 year period
- The median amount pursued in a lawsuit was \$944
- 37,370 wage and bank account garnishments
- 4,432 liens
- 3,278 bankruptcies
- lawsuits were 3x as likely to take place in low-income, communities of color

Media-Getting a spotlight on the issue



INDEPENDENT.
NONPARTISAN.
NONPROFIT.

The premier site for
news about Maryland
government and politics.

Lawmakers Propose Bills to Crush Instances of Medical Debt

By **Hannah Gaskill** - February 29, 2020



Del. Robbyn T. Lewis (D-Baltimore City) and Del. Lorig Charkoudian (D-Montgomery) at a news conference in support of bills that would protect consumers from medical debt. Photo by Hannah Gaskill

What HB1420 Does

- Raises threshold for free care from 150% FPL to 200% FPL
- Creates payment plan for patients with income 200-500% FPL
- Greater notice to patients of availability of financial assistance in preferred language
- Prohibits use of citizenship or immigration status to receive financial assistance
- HSCRC must establish a process for a patient to complain about hospital financial assistance policy and/or debt collection policy
- Violation may include fine up to \$50k by HSCRC, fines/penalties under MDCPA

Work to Pass Medical Debt Protection Act 2021

In 2020, we reintroduced the Medical Debt Protection Act which had failed in 2020. One goal was to ban medical debt lawsuits under \$5000. As a compromise, we lowered the threshold to only ban medical debt lawsuits \$1000 or less.

MCRC raised funds and worked on several projects to build support: 1) statewide poll on medical debt; 2) oversight of BU health economists modeling project; 3) creation of Medical Debt Freedom Fund as solidarity/ mutual aid project.

Strategic Use of Resources

MCRC 's projects accomplished several key goals to advance our legislation

- 1) Statewide poll-demonstrated racial gap in awareness of financial assistance, racial gap in ability to cover an unexpected \$500 bill, and racial gap in whether to forego care because of medical debt. It also showed widespread, bipartisan support for many aspects of our legislation.
- 2) Economic modeling directly refuted hospitals contention that banning medical debt would be devastating for MD cost-of-care model.
- 3) Mutual aid project directly assisted those with med debt, built support, and some folks who directly testified

Launch of End Medical Debt MD Coalition

End Medical Debt Coalition

1199SEIU United Healthcare Workers East | Accessible Resources for Independence | AFSCME Council 3 | ATU Local 689 | ATU Local 1300 | Baltimore Teachers Union | Baltimore Women United | CASA in Action | CASH Campaign of Maryland | Communications Workers of America Local 2107 | DoTheMostGood | FreeState Justice | Greater Baltimore Democratic Socialists of America | Healthcare NOW of Maryland | Housing Our Neighbors | IBEW Local 24 | IBEW Local 26 | IMAGE Center of Maryland | Independence Now | Integrated Living Opportunities | IUOE Local 37 | Labor Campaign for Single Payer | Lower Shore Progressive Caucus | Maryland Center on Economic Policy | Maryland Consumer Rights Coalition | Maryland/DC Alliance for Retired Americans | Marylanders for Patient's Rights | Maryland Legislative Coalition | Maryland NAACP | Maryland Poor People's Campaign | Maryland Professional Employees Council | Maryland State and DC AFL-CIO | Maryland State Education Association | Maryland Volunteer Lawyers Service | #MEAction | Metro DC Democratic Socialists of America | Metropolitan Washington Council AFL-CIO | MICA Organizers and Activists (MOA) | Montgomery County Democratic Socialists of America | National Nurses United | North Avenue Mission | Not Without Black Women | Our Revolution Maryland | Patient Providers, LLC | Peer Wellness and Recovery Services | Progressive Maryland | Public Justice Center | SEIU 32BJ | SEIU Local 500 | SEIU Maryland/DC State Council | Special Needs Navigator | Sunrise Movement Baltimore | The Freedom Center | UFCW Local 1994 MCGEO | UFCW Local 400 | UNITE HERE Local 7 | Unitarian Universalist Legislative Ministry of Maryland | Women's Democratic Club of Montgomery County

Testifying in the Maryland General Assembly



Richard Alexander, RN, CMSRN, NNU

FIN Committee Session, 2/25/2021 #2

What the Medical Debt Protection Act Does

Expands timeline to qualify for free & reduced-cost care-240 days after initial bill if circumstances change for patient/family

Annual report by each hospital on debt collection activity publicly posted

Prohibits reporting to consumer reporting agency for 180 days after initial bill

No interest or fees on debt for patients who qualify for free & reduced-cost care

HSCRC established workgroup to develop guidelines for hospitals' income-based repayment plan -plan will be installment plan no more than .5% of patient's gross monthly income. Required for all hospitals.

What Medical Debt Protection Act Does

Affidavit from hospital prior to initiating debt collection action or delegating debt to debt collector that 'good faith' effort was made on payment plans

Report adverse information-no reporting if patient was eligible for free or reduced-cost care

Adverse information-not allowed if appeal underway

No liens on patient's primary residence but can pursue estate

No body attachments -cannot be requested for medical debts

No wage garnishment-for patients eligible for free or reduced-cost care

Medical Debt Reimbursement Act 2022

Because of a report required in the 2020 legislation we passed-HB 1420, the state oversight body released a new report that found-

60% of patients that qualified for free care were sent to debt collection

Of those, about 1% who should have received free care paid MD nonprofit hospitals because of debt collection activities-paid estimated \$120 million over two year period

HB 694 passed on April 11 and requires MD hospitals to work with state agencies & the Comptroller's office to 1) identify patients that overpaid, and 2) pay them back. Will cover 2017-2021.

Strategies for Success

Movement Building:

- educate, organize and mobilize Marylanders to end medical debt
- expand End Medical Debt MD coalition to districts where key legislators reside
- engaging labor, civil rights groups were key to success

Politics:

- pick your champions wisely
- meet with committee before and after bill hearings, prep friends with questions
- plan for strategies to gain media attention
- timely-we highlighted pandemic, disparate impact of pandemic, and Long COVID as factors

Research:

- new research on issues, research the opposition, know your committees

2022- Grow Our Movement & Prepare for 2023

Questions?

Thanks!

marceline@mar...

Marceline White,





HOUSE BILL 21-1198

Advancing the Fight Against Medical Debt in Colorado

Julia Char Gilbert, Connelly Policy Advocate

Colorado Center on Law and Policy

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April 28, 2022

OVERVIEW

Understanding the problem

By the numbers

Community insights

Responding to the problem

House Bill 21-1198



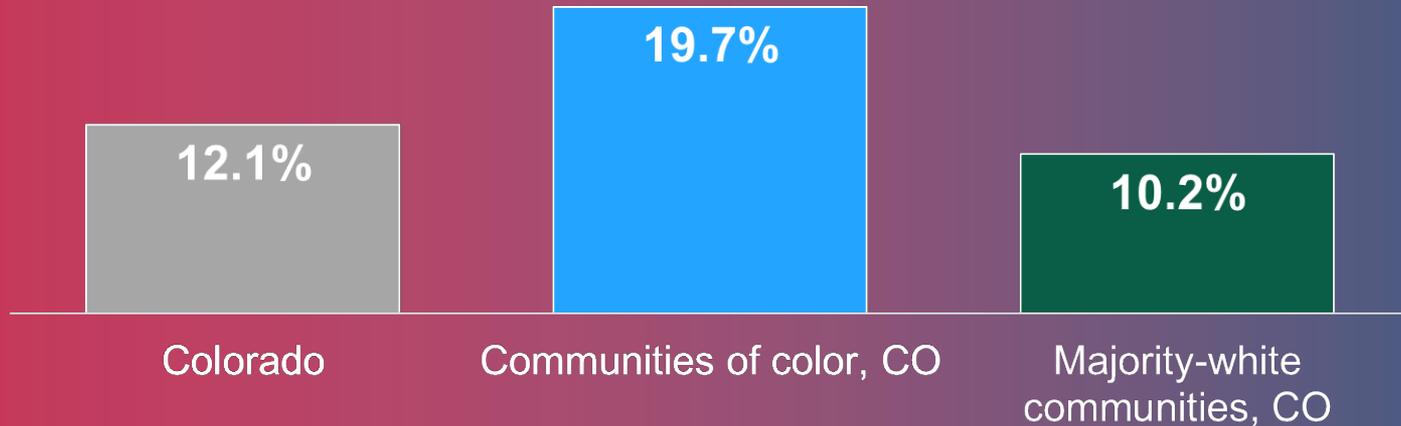
UNDERSTANDING THE PROBLEM

Learning from the Community and the Data

BY THE NUMBERS

Racial inequity & medical debt

Proportion of Population with Medical Debt
in Collections, 2021



BY THE NUMBERS

Racial inequity & affordability

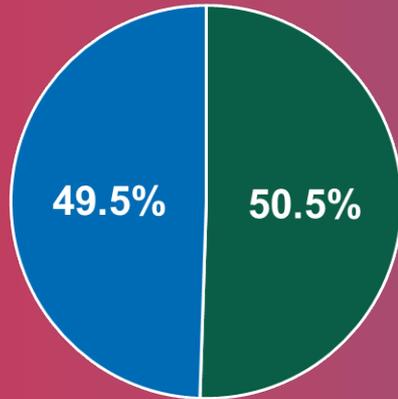
Difficulty paying or inability to pay
medical bills in past year, 2021



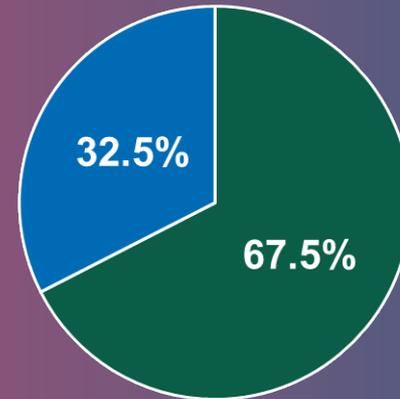
BY THE NUMBERS

Racial inequity & enrollment

Eligible but Not Enrolled in
Medicaid or CHP+ Population, 2019



Population of Colorado, 2019



- Non-Hispanic White
- People of Color

COMMUNITY INSIGHTS

Top issues identified by partners

- Unmanageable hospital bills and collection actions
- Inadequate referrals to Medicaid and other programs
- Noncompliance with existing state hospital financial assistance laws
- Payment plans not offered or unaffordable
- Information not available in languages other than English

COMMUNITY INSIGHTS

Ongoing partnership

Before session

- Identifying the problem
- Designing policy solutions

During session

- Advocating in support
- Making key policy decisions

After session

- Engaging in implementation process

RESPONDING TO THE PROBLEM

House Bill 21-1198

What does HB21-1198 do?

**Discounts on hospital bills
for low-income patients**

Households $\leq 250\%$ Federal Poverty Level,
regardless of insurance status, residency,
citizenship or immigration status.

What does HB21-1198 do?

Discounts on hospital bills for low-income patients

1) Rate caps

- Maximum amount that hospitals can charge qualified patients for a service
- Rates posted publicly

2) Monthly payment plans

- Patients can be billed no more than a small percentage of their income each month (4% for hospital bills, 2% for provider bills).
- No more than 36 payments

What does HB21-1198 do?

Screening for likely eligibility for public coverage and discounts

- Hospitals must screen all uninsured patients (unless they opt out) and all insured patients who request screening.

Standardized process for patients

- Uniform application

What does HB21-1198 do?

Protections from collections actions

- Hospitals must take required steps before sending a patient to collections.

What does HB21-1198 do?

Enforcement mechanisms

- Patients' rights information in primary language
- Complaint process
- Corrective action plans and fines
- Legal remedy for patients sent to collections in violation of their rights
- Disaggregated data reporting requirements

THANK YOU

Julia Char Gilbert

jgilbert@cclponline.org

Resources

- **House Bill 21-1198.**
https://leg.colorado.gov/sites/default/files/2021a_1198_signed.pdf
- **Hospital Discounted Care state webpage,** CO Dept. of Health Care Policy & Financing. <https://hcpf.colorado.gov/hospital-discounted-care>
- **House Bill 21-1198 Case Study.** Community Catalyst & CCLP.
<https://cclponline.org/resource/case-study-experiences-battling-debt-drive-reform-of-hospital-financial-assistance-laws-in-colorado/>
- **Urban Institute.** Credit Health During the Pandemic. (2022)
<https://apps.urban.org/features/credit-health-during-pandemic/>
- **Colorado Health Institute.** Eligible But Not Enrolled 2019. (2021)
<https://www.coloradohealthinstitute.org/research/eligible-not-enrolled-2019>
- **U.S. Census Bureau.** American Community Survey. (2019)
<https://data.census.gov/cedsci/>

Questions for our Speakers?



- Use the chat box or to unmute, press *6
- Please do not put us on hold!



Many thanks to...



- Our moderator, Maanasa Kona!
- Our speakers: Nicolas Cordova, Marceline White, and Julia Char Gilbert!
- The Robert Wood Johnson Foundation, for making this event possible!

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HealthcareValueHub.org/events*