

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021

# A Bill

SENATE BILL 198

4  
5 By: Senator K. Hammer  
6 By: Representative Gonzales

## For An Act To Be Entitled

9 AN ACT TO ESTABLISH THE PATIENT CREDIT PROTECTION  
10 ACT; AND FOR OTHER PURPOSES.

### Subtitle

14 TO ESTABLISH THE PATIENT CREDIT  
15 PROTECTION ACT.

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19  
20 SECTION 1. TEMPORARY LANGUAGE. DO NOT CODIFY. Legislative findings.

21 The General Assembly finds that:

22 (1) Almost twenty percent (20%) of individuals receiving  
23 emergency healthcare services receive a balanced bill;

24 (2) Many individuals have received a medical bill for healthcare  
25 services that is higher than expected because the individual receiving those  
26 healthcare services did not know the full price ahead of time;

27 (3) Prices for the same healthcare services received from  
28 different healthcare providers may differ by thousands of dollars;

29 (4) A healthcare provider often has no idea that a patient is  
30 struggling with the high costs of healthcare services;

31 (5) A patient has few options to contest an unreasonably high  
32 medical bill;

33 (6) An individual's credit can be impaired as a result of an  
34 unpaid balance bill, even if the individual did everything right such as  
35 receiving healthcare services through an in-network facility and paying the  
36 associated out-of-pocket obligations under a health benefit plan;



1           (7) In 2014, at least forty-three million (43,000,000) Americans  
2 had overdue medical debt on their consumer reports, and for fifteen million  
3 (15,000,000) of those Americans, medical debt was the only impairment on  
4 their consumer report;

5           (8) Credit impairments may remain on a consumer report even  
6 after an individual has paid off a bill; and

7           (9) Credit impairment due to medical debt can significantly  
8 impact the economic future of individuals in Arkansas and the state’s economy  
9 as individuals continue to struggle economically for years as a result.

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11           SECTION 2. Arkansas Code Title 4, Chapter 93, is amended to add an  
12 additional subchapter to read as follows:

13                   Subchapter 2 – Patient Credit Protection Act

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15           4-93-201. Title.

16           This subchapter shall be known and may be cited as the "Patient Credit  
17 Protection Act".

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19           4-93-202. Definitions.

20           As used in this subchapter:

21                   (1)(A) "Covered person" means a person who is and continues to  
22 remain eligible for coverage under a health benefit plan and is covered under  
23 the health benefit plan.

24                   (B) "Covered person" includes a policyholder, subscriber,  
25 participant, or other individual covered by a health benefit plan;

26                   (2)(A) "Health benefit plan" means an individual, blanket, or  
27 any group plan, policy, or contract for healthcare services issued, renewed,  
28 or extended in this state by a healthcare insurer, health maintenance  
29 organization, hospital medical service corporation, or self-insured  
30 governmental or church plan in this state.

31                   (B) "Health benefit plan" includes:

32                           (i) Indemnity or managed care plans; and

33                           (ii) Plans providing health benefits to state and  
34 public school employees under § 21-5-401 et seq.

35                   (C) "Health benefit plan" does not include:

36                           (i) A disability income plan;

- 1                   (ii) A credit insurance plan;
- 2                   (iii) Insurance coverage issued as a supplement to
- 3 liability insurance;
- 4                   (iv) Coverage for medical expenses under an
- 5 automobile or homeowners insurance plan;
- 6                   (v) Coverage or payments provided under Arkansas
- 7 Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et
- 8 seq., and the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;
- 9                   (vi) A plan that provides only indemnity for
- 10 hospital confinement;
- 11                   (vii) An accident-only plan; or
- 12                   (viii) A specified disease plan;

13           (3)(A) "Healthcare provider" means a person or entity that is

14 licensed, certified, or otherwise authorized by the laws of this state to

15 provide healthcare services.

16                   (B) "Healthcare provider" includes any third-party entity

17 employed to collect medical debt owed by a covered person on behalf of a

18 healthcare provider for healthcare services;

19           (4) "Healthcare services" means services or goods provided for

20 the purpose of or related to the purpose of preventing, diagnosing, or

21 treating a human illness, disease, condition, disability, or injury;

22           (5) "Medical debt" means the outstanding balance owed to a

23 healthcare provider for healthcare services;

24           (6) "Original healthcare provider" means the initial healthcare

25 provider that provided healthcare services to a covered person;

26           (7) "Outstanding balance" means the amount owed by a covered

27 person for healthcare services after payment of a covered person's

28 copayments, deductibles, and coinsurance, or as part of a payment plan; and

29           (8) "Periodic payment plan" means an arrangement between a

30 consumer and a healthcare provider to settle an outstanding balance owed for

31 medical debt.

32

33    4-93-203. Credit protection for covered persons – Right of action.

34    (a) Negative financial information shall not be reported by a

35 healthcare provider to a consumer reporting agency or published for a

36 consumer if the collection process or billing is for:

1           (1) A patient who is a covered person at the time healthcare  
2 services are provided; and

3           (2) An outstanding balance for a medical debt after the  
4 consumer's share of copayments, deductibles, and coinsurance owed for  
5 healthcare services have been paid or are being paid as part of a periodic  
6 payment plan.

7           (b) An outstanding balance for a medical debt for a covered person  
8 shall not be reported by a healthcare provider to a consumer reporting agency  
9 without the express written consent of the original healthcare provider, or  
10 another healthcare provider at that location if the original healthcare  
11 provider no longer works at that location.

12           (c) When notified that a medical debt incurred by an individual for  
13 payment for healthcare services has been paid in full or that the consumer is  
14 actively participating in a periodic payment plan, any impairment on a  
15 consumer report resulting from that medical debt shall be removed within  
16 thirty (30) days.

17  
18           4-93-204. Penalties – Civil.

19           (a)(1) A healthcare provider that provides healthcare services to a  
20 covered person is subject to a private right of action by a covered person if  
21 the healthcare provider purposely:

22                   (A) Charges an unconscionably excessive amount of money  
23 for healthcare services to a covered person under a health benefit plan; and

24                   (B) The covered person suffers a loss as a result of a  
25 violation of this subchapter.

26           (2)(A) A covered person may initiate a civil action to remove  
27 any resulting credit impairment and recover actual damages or one thousand  
28 five hundred dollars (\$1,500), whichever is greater.

29                   (B)(i) All parties may agree upon an arbitrator to resolve  
30 the medical debt dispute.

31                           (ii) If an arbitrator finds that a violation of this  
32 subchapter was willful, then the arbitrator may increase the damages to an  
33 amount that does not exceed three (3) times the actual damages sustained or  
34 five thousand dollars (\$5,000), whichever is greater.

35           (b) A violation of this subchapter constitutes an unfair and deceptive  
36 act or practice, as defined by the Deceptive Trade Practices Act, § 4-88-101

1 et seq.

2 (c) The Attorney General may bring a civil cause of action under this  
3 subchapter on behalf of a covered person who has been charged an  
4 unconscionable excessive amount of money for healthcare services by a  
5 healthcare provider.

6 (d) Notwithstanding any other law, in addition to any damages awarded  
7 under subsections (a) and (b) of this section, a prevailing party in a cause  
8 of action under this subchapter is entitled to reasonable costs and  
9 attorney’s fees, not to exceed five (5) times the damages awarded and court  
10 costs.

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12 4-93-205. Action.

13 A legal action brought under this subchapter shall commence within two  
14 (2) years from the date the covered person challenges the validity of the  
15 debt for healthcare services.

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17 4-93-206. Rules.

18 The Insurance Commissioner shall promulgate rules necessary to  
19 implement this subchapter.

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21 SECTION 3. DO NOT CODIFY. Effective date.

22 This subchapter is effective on and after January 1, 2022.

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24 SECTION 4. DO NOT CODIFY. Rules.

25 (a) When adopting the initial rules required under this act, the  
26 Insurance Commissioner shall file the final rules with the Secretary of State  
27 for adoption under § 25-15-204(f):

28 (1) On or before January 1, 2022; or

29 (2) If approval under § 10-3-309 has not occurred by January 1,  
30 2022, as soon as practicable after approval under § 10-3-309.

31 (b) The commissioner shall file the proposed rules with the  
32 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,  
33 2022, so that the Legislative Council may consider the rules for approval  
34 before January 1, 2022.