

ASSOCIATED
COLLECTION
AGENCIES

--- COLORADO / WYOMING UNITS ---

Oppose**HB19-1089: NO WAGE GARNISHMENTS ON MEDICAL DEBTS**

The Associated Collection Agencies of Colorado (ACA) opposes this bill because of its impact on the cost of health care, the violation of equal protection under the law, and the negative economic impacts on small businesses in Colorado.

Impacts of the Cost of Healthcare

Within the bill, medical debt is defined so broadly that it includes any and all medical debt including radiology, dental and optometric services, plastic surgery in addition to hospital bills etc. With no legal remedy to recover costs owed, health care costs will increase and result in higher premiums to cover the costs that can't be recovered through garnishment any longer. Providers will require upfront payment for services rendered for long term and expensive treatment, which will limit the accessibility of these services.

Equal Protection Under the Law

ACA's legal team believes the bill, as drafted, violates the Constitutional right to equal protection under the law. The bill deprives medical professionals of a legal remedy available to all other classes, leaving such professionals without a way to recover the money necessary to sustain their businesses. This may also leave the bill open to valid legal challenges on Constitutional grounds, leading to lengthy and expensive litigation.

Economic Impacts on Colorado's Small Businesses

Collection agencies in Colorado recover over \$2 billion of stagnant and unpaid debts in the State of Colorado and cost not paid by those that owe are redistributed to all Coloradans in the form of increased cost or reduced services. The majority of private collection agencies in Colorado are small family owned businesses and passage of this bill will cause numerous layoffs in the collection profession. Colorado's collection agencies follow strict state and federal regulations and take great care in providing services with the upmost professionalism, training our collectors to work with consumers to find solution to their debt issues.

Bottom Line

Collection agencies contact consumers several times, offer payment arrangements, settlement on the balance, offer to work with their insurance companies, find hardship waivers, and more. Garnishment of wages is a last resort in a very long process in dealing with debt. Medical providers contact the consumer multiple times before referring to us and then we contact them multiple times before moving to legal remedies. Professional collection agencies do their best to work with consumers *long before getting to garnishment*. Agencies do not garnish people who don't have the ability to pay their bill.

For more information please contact Tom Romola, Legislative Chairman of the Associated Collection Agencies of Colorado (ACA), 303-239-9100, tom@alpinecredit.com or Jeannie Vanderburg, Lobbyist for ACA, 303-249-8150, jvanderburg@capstonegroupllc.com.

Current Consumer/Patient Protections on Medical Bills in Colorado

FINANCIAL ASSISTANCE POLICY (FAP) - Federal - 501(r): (abbreviated)

Hospital must provide patient its "widely publicized" written FAP to include:

- Eligibility criteria.
- Basis for calculating charges (**Also required under C.R.S. 6-20-101**)
- Method for financial assistance application
- Limitation on charges to FAP qualified patients to amount generally billed (AGB) to patients with insurance covering such care.
- Billing and Collections policy in the event of non-payment
 - Must make reasonable efforts to determine patient eligibility for any assistance programs **BEFORE** engaging in extraordinary collection actions.
 - Any actions the facility or collection agency may take related to obtaining payment – including any extraordinary collection actions.
 - Extraordinary Collection Actions include: ***Liens on property, Foreclosure proceedings, bank levy, filing a civil action for payment, garnishment of wages***
 - Process and time frames used in taking such actions
 - Must provide **written notice at least 30 days** prior to initiating any Extraordinary Collection Actions.
- List of any other providers delivering emergency or other medically necessary care in the hospital that specifies which providers are covered under the FAP and which are not.

Available Assistance Programs in Colorado

- CICP – Colorado Indigent Care Program
- CRDP – Colorado Resident Discount Program
- Medicaid
- Many Colorado Hospitals offer patients hospital guaranteed loans through various local banks for payment of large balances.
- Hospitals typically have designated Patient Advocates to assist in any billing/charge or payment matters.

Protections Under Colorado Law

C.R.S. 6-20-102

Medical provider **MUST** provide patient with written notice at least 30 days prior to debts placement with a collection agency.

C.R.S. 10-16-704 – Network Adequacy rules

Requires health insurance companies to pay out of network providers at in-network facilities at a rate sufficient to prevent any financial responsibility of the patient beyond their in-network liability for such services.



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Credit Reporting

- No credit reporting of medical debt until the debt is at least 180 days past due.

CFDCPA & FDCPA – Colorado Fair Debt Collection Practices Act, Federal Fair Debt Collection Practices Act

- Must provide consumer/patient with written notice of debts placement with the collection agency giving the patient no less than 30 days to dispute or respond before any law suit or other civil action can commence.
- No credit reporting within 30 days of the initial notice.



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Typical Medical Bill Collection Cycle

Medical Provider

- 1) Patient receives medical care.
- 2) Patient provides insurance information at time of service and is asked to pay any noted co-payment pursuant to the policy.
 - If patient is uninsured, patient is asked to pay the charges at the time of service.
- 3) Provider submits claim to patient's insurance.
- 4) Within 30 days of service, provider mails patient an invoice for the balance due.
- 5) If insured, patient is generally notified by his/her insurance company how the claim for the services was processed, what was paid, what was adjusted off pursuant to the insurance contract with the provider, what was applied to the patient's policy deductible or co-insurance limits, and what if any amount remains due the provider by the patient.
- 6) Provider will typically mail the patient 1 invoice per month for at least 3 months after the services were provided.
- 7) Provider will typically attempt to contact the patient by telephone to discuss payment options during this cycle.
- 8) Provider mails the patient the "final" notice required under C.R.S. 6-20-102.
- 9) Absent any other arrangements, provider assigns the outstanding balance for collections with a third-party collection agency.

Collection Agency

- 10) Collection agency mails patient required notice of debts assignment for collection – including the patient's rights under federal and state collection laws. Colorado third-party collection agencies are regulated by the Federal Fair Debt Collection Practice Act and the Colorado Fair Debt Collection Practice Act.
- 11) After 30 days, collection agency begins attempting to contact the patient by telephone.
- 12) Collection agency continues to attempt contact by telephone and or additional invoices for an appropriate period of time based on the agencies internal policies and or those of its client, the medical provider.

- 13) Absent any response or payment from the patient, the agency may file a civil suit for payment of the debt if the balance is sufficient, and the agency believes the patient has sufficient employment or other assets to secure payment.
- 14) The patient is served a summons to appear in court under the Colorado Rules of Civil Procedure.
- 15) If the patient fails to appear, pay or reach an agreement with the agency, the agency will motion the court for entry of judgment.
- 16) Many agencies (and some courts) will then notify the patient in writing and or by telephone of the entry of judgment with the hope of setting up a reasonable payment arrangement.
- 17) If the patient refuses to pay or agree to set up and then honor any sort of reasonable payment plan on their judgment, the agency may prepare a garnishment to be issued by the Court and served.

*** Patients are typically provided no less than 4 written notices or invoices for these bills over a period of at least 120 days from the date the bill was due.

*** Multiple attempts to contact the patient for payment or arrangements for payment are made over several months.

*** Patients are rarely if ever actually sued for payment until the bill is at least 180 days past due.

*** Patients are given numerous opportunities by BOTH the medial provider and the collection agency to work something out with the bill before the bill could ever reach the point of a garnishment.

*** Garnishment is ALWAYS an action of last resort, and rarely occurs when the patient is willing to positively respond and communicate in any meaningful way with the agency.

*** Most garnishments occur because the patient refuses to even respond at all to any of the notices, telephone calls or even being served a summons.