HOUSE . . . . . No. 4274

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, January 25, 2024.

The committee on Consumer Protection and Professional Licensure to whom was referred the petition (accompanied by bill, Senate, No. 189) of Liz Miranda for legislation to ease the burden of medical debt, the petition (accompanied by bill, House, No. 284) of Kip A. Diggs and Jon Santiago relative to medical debt consumer credit reports, the petition (accompanied by bill, House, No. 347) of John J. Lawn, Jr., and others relative to alleviating the burden of medical debt for patients and families, and the petition (accompanied by bill, House, No. 3564) of Bud L. Williams relative to medical debt exclusion from creditor, reports recommending that the accompanying bill (House, No. 4274) ought to pass.

For the committee,

TACKEY CHAN.

FILED ON: 1/22/2024

HOUSE . . . . . No. 4274

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act alleviating the burden of medical debt for patients and families.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 93L the following chapter:-

CHAPTER 93M.

MEDICAL DEBT PROTECTION ACT.

Section 1. As used in this chapter, the following words shall have the following meanings unless the context clearly requires otherwise:

"Commissioner", the commissioner of banks.

"Consumer", an individual or patient obligated or allegedly obligated to pay any debt.

"Consumer reporting agency", a person as defined in section 50 of chapter 93.

"Disposable earnings", the remaining portion of a consumer's wages, salary or compensation for personal services, including bonuses and commissions, or otherwise, and

includes payments pursuant to a pension or retirement program or deferred compensation plan, after deducting from such earnings those amounts required by law to be withheld.

"External review" means a review of an adverse benefit determination, including a final internal adverse benefit determination, and any applicable state external review process, conducted pursuant to section 16 of chapter 6D and chapter 176O, a federal external review process as described at 42 U.S.C. § 300gg-19, a review pursuant to 29 U.S.C. 1133, a Medicare appeals process, a Medicaid appeals process conducted pursuant to chapter 118E and the provisions of 103 CMR 613.00, or another applicable appeals process.

"Extraordinary collection action" means any of the following:

(a) selling a consumer's debt to another party, except if, prior to the sale, the medical creditor has entered into a legally binding written agreement with the medical debt buyer of the debt under which all of the following apply: (1) the medical debt buyer or collector is prohibited from engaging in any extraordinary collection actions to obtain payment for the care; (2) the medical debt buyer is prohibited from charging interest on the debt; (3) the debt is returnable to or recallable by the medical creditor upon a determination by the medical creditor or medical debt buyer that the consumer is eligible for financial assistance; and (4) the medical debt buyer is required to adhere to procedures which must be specified in the agreement that ensure that the consumer does not pay, and has no obligation to pay, the medical debt buyer and the medical creditor together more than they are personally responsible for paying in compliance with this chapter.

(b) reporting adverse information about the consumer to a consumer reporting agency.

(c) actions that require a legal or judicial process, including any of the following: (1) placing a lien on an consumer's property; (2) attaching or seizing an consumer's bank account or any other personal property; (3) commencing a civil action against an consumer; or (4) garnishing an consumer's wages.

"Health care entity", as defined in section 1 of 6D.

"Health care professional", as defined in section 1 of 176O.

"Health care provider", as defined in section 1 of 176O.

"Health care services", as defined in section 1 of 6D. For the purposes of this chapter, these services shall include, but not be limited to, any care, procedures, products, supplies, devices or medications.

"Medical creditor" means any entity that provides health care services and to whom the consumer owes money for health care services, or the entity that provided health care services and to whom the consumer owes money for health care services, or the entity that provided health care services and to whom the consumer previously owed money if the medical debt has been purchased by one or more debt buyers.

"Medical debt", any obligation owed directly to a medical facility, a provider of health care or a provider of emergency services for the payment of money arising out of any agreement or contract, express or implied, for the provision of health care services.

"Medical debt buyer" means an individual or entity that is engaged in the business of purchasing medical debts for collection purposes, whether it collects the debt itself or hires a third party for collection or an attorney for litigation in order to collect such debt.

"Medical debt collector" means any person that regularly collects or attempts to collect, directly or indirectly, medical debts originally owed or due or asserted to be owed or due another. A medical debt buyer is a medical debt collector.

"Patient", a individual who received health care services, provided, that "patient" shall include a parent if the patient is a minor, or a legal guardian if the patient is an adult under guardianship.

"Person", an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or combination of the foregoing.

Section 2. (a) Notwithstanding any general or special law to the contrary, the following extraordinary collections actions shall not be used by any medical creditor or medical debt collector to collect debts owed for health care services: (1) causing an consumer's arrest; (2) causing an consumer to be subject to a writ of body attachment or capias; (3) foreclosing on an consumer's real property.

(b) No medical creditor or medical debt collector shall engage in any permissible extraordinary collection actions until 180 days after the first bill for a medical debt has been sent.

(c) At least 30 days before taking any extraordinary collection actions, a medical creditor or medical debt collector must provide to the patient a notice: (1) identifying the extraordinary collection actions that will be initiated in order to obtain payment; and (2) providing a deadline after which such extraordinary collection actions will be initiated which may be no earlier than thirty days after the date of the notice.

Section 3. (a) No medical creditor or medical debt collector that knows or should have known about an internal review, external review, or other appeal of a health insurance decision that is pending now or was pending within the previous 60 days shall: (1) provide information relative to unpaid charges for health care services to a consumer reporting agency; (2) communicate with the consumer regarding the unpaid charges for health care services for the purpose of seeking to collect the charges; or (3) initiate a lawsuit or arbitration proceeding against the consumer relative to unpaid charges for health care services.

(b) If a medical debt has already been reported to a consumer reporting agency and the medical creditor or medical debt collector who reported the information learns of an internal review, external review, or other appeal of a health insurance decision that is pending now or was pending within the previous 60 days, that person shall instruct the consumer reporting agency to delete the information about the debt.

(c) No medical creditor that knows or should have known about an internal review, external review, or other appeal of a health insurance decision that is pending now or was pending within the previous 60 days shall refer, place or send the unpaid charges for health care services to a medical debt collector, including by selling the debt to a medical debt buyer.

Section 4. (a) Notwithstanding any general or special law to the contrary, interest on medical debt shall be limited to the lesser of 3 per cent or an annual rate equal to the weekly average one-year constant maturity treasury yield, as published by the Federal Reserve Board, for the calendar week preceding the date when the consumer was first provided with a bill for a medical debt.

(b) The maximum rate of interest established in subsection (a) shall also apply to any judgments on medical debt, notwithstanding any agreement to the contrary.

Section 5. (a) Notwithstanding section 34 of chapter 235, following property of a consumer obligated to pay any medical debt shall be exempt from seizure on execution:

(i) estates of homestead as defined in chapter 188, provided, that, for the purpose of this section, the declared homestead exemption shall be in the amount of $800,000;

(ii) $5,000 in cash or savings or other deposits in a banking or investment institution;

(iii) wages equal to the greater of 90 per cent of the debtor's disposable earnings or 60 times the greater of the federal or the Massachusetts hourly minimum wage for each week or portion thereof and the full amount owing or paid to a person as public assistance; provided, that in a garnishment action, if the court determines by clear and convincing evidence that the 90 per cent calculation on disposable earnings would cause extreme economic hardship to the consumer or the consumer’s family, the court may reduce the amount to 5 per cent of disposable income.

(iv) an automobile necessary for the consumer's personal transportation or to secure or maintain employment, not exceeding $15,000 of wholesale resale value; provided, however, that the wholesale resale value of a vehicle owned or substantially used by consumer or a dependent who is either a disabled person or a person 60 years of age or older shall be exempt up to $25,000 in wholesale resale value.

(b) The property subject to the exemptions in this section shall be adjusted annually beginning on January 1, 2025 and thereafter on January 1 of each successive year by the increase in the cost of living as measured by the percentage increase as of August of the immediately

preceding year over the level as of August of the previous year of the consumer price index for all urban consumers, or its successor index as published by the United States department of labor, bureau of labor statistics, or its successor agency, with the amount of the exemption rounded up to the nearest $100.

(c) An employer shall not take adverse action against an employee or refuse to hire an consumer because of one or more garnishments for medical debts or because of obligations that any garnishments impose against the employer. An employer who violates this section shall be liable in a civil action, action for contempt or other appropriate proceeding to the employee or consumer for the wages and employment benefits lost by the employee or consumer from the time of the unlawful discipline, suspension, refusal to hire or discharge to the period of reinstatement and an additional penalty of not more than $1,000.

Section 6. Failure to comply with any provision of this chapter, or any regulation promulgated in accordance with the provisions of this chapter, shall constitute an unfair or deceptive act or practice under the provisions of paragraph (a) of section 2 of chapter 93A.

SECTION 2. Chapter 93M of the General Laws shall apply to consumer medical debts incurred and contracts that take effect or are renewed on or after January 1, 2025.

SECTION 3. This act shall take effect on October 1, 2024.