

House Bill 3320

Sponsored by Representative REYNOLDS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Imposes new requirements on hospitals with respect to financial assistance policies and processes. Requires Oregon Health Authority to impose civil penalties for violation of requirements.

A BILL FOR AN ACT

1
2 Relating to financial assistance for the cost of health care services; creating new provisions; and
3 amending ORS 442.610, 442.618 and 646A.677.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. (1) As used in this section:

5
6 (a) **"Financial assistance" includes:**

7 (A) **Charity care, as defined in ORS 442.601; or**

8 (B) **An adjustment to a patient's costs for care under ORS 442.614 (1)(a).**

9 (b) **"Hospital" has the meaning given that term in ORS 442.612.**

10 (2) **If a patient of a hospital licensed under ORS 441.025 is uninsured, is enrolled in med-**
11 **ical assistance or expresses an inability to pay for hospital services in full, or if a hospital**
12 **has reasonable cause to believe that a patient may qualify for financial assistance, the hos-**
13 **pital shall screen the patient for financial assistance eligibility before the patient may be**
14 **billed directly for hospital services. A patient who is determined eligible for financial assist-**
15 **ance based on the screening shall be provided financial assistance.**

16 (3) **A patient's eligibility for financial assistance continues for 12 months following a**
17 **hospital's determination that the patient qualifies for financial assistance, and the patient**
18 **may not be required to reapply for financial assistance for services provided during that**
19 **12-month period.**

20 (4) **If a patient applies for and is determined eligible for financial assistance after having**
21 **paid for services, or is determined eligible for financial assistance by other means after**
22 **having paid for services, the patient must be refunded, with interest, the amount of the fi-**
23 **nancial assistance for which the patient qualified. The Oregon Health Authority shall pre-**
24 **scribe the rate of interest by rule.**

25 (5)(a) **A hospital must have an easy-to-understand process that is fair and consistent for**
26 **appealing a hospital's denial of financial assistance, in whole or in part, and that allows the**
27 **patient, or an individual acting on behalf of the patient, to correct any deficiencies in doc-**
28 **umentation or to request a review of the denial by the hospital's chief financial officer or**
29 **equivalent executive officer.**

30 (b) **A patient must be notified of the appeal process in any denial of financial assistance,**
31 **whether in whole or in part.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **(6) A hospital that has initiated collection activities must suspend all collection activities**
 2 **during the pendency of an appeal that is filed using the hospital’s appeal process under sub-**
 3 **section (5) of this section.**

4 **SECTION 2.** ORS 442.610 is amended to read:

5 442.610. (1) As used in this section:

6 (a) “Financial assistance policy” means a policy that meets the requirements of section 501(r)
 7 of the Internal Revenue Code and implementing regulations.

8 (b) “Hospital” has the meaning given that term in ORS 442.015.

9 (2) A hospital shall have a written financial assistance policy that complies with the plain lan-
 10 guage standards for consumer contracts under ORS 180.545 (1).

11 (3) A hospital shall:

12 (a) Provide a paper copy of the financial assistance policy **and an application form to apply**
 13 **for financial assistance** to a patient upon request;

14 (b) Include on each billing statement **and on the hospital’s website home page a prominently**
 15 **displayed** notice of:

16 (A) The availability of financial assistance;

17 (B) The contact information for the office or department of the hospital that can provide infor-
 18 mation about obtaining financial assistance; and

19 (C) The [*direct*] Internet address for the financial assistance policy **and the application for fi-**
 20 **nanacial assistance;**

21 **(c) Prominently display on the hospital’s website home page a direct link to the Internet**
 22 **address of the financial assistance policy and a direct link to the Internet address for an**
 23 **online application for financial assistance that may be accessed through a mobile device;**

24 **(d) Accept an application for financial assistance that is submitted through an online**
 25 **application process, by electronic mail, by means of the United States Postal Service or in**
 26 **person; and**

27 [*(c)*] **(e) Maintain public displays in locations in the hospital that are accessible to the public**
 28 **that notify and inform patients about the financial assistance policy. Locations that are accessible**
 29 **to the public include but are not limited to the emergency department, if any, and the areas where**
 30 **patient admissions are processed.**

31 (4)**(a) The Oregon Health Authority shall make available to hospitals and the general public a**
 32 **uniform application for financial assistance, created by a trade association representing hospitals,**
 33 **that may be used in any hospital in this state to request financial assistance.**

34 **(b) Any application for financial assistance that requests information other than the in-**
 35 **formation required to determine eligibility for financial assistance under ORS 442.614 (1)**
 36 **must be clearly marked optional, as prescribed by the authority by rule, and cannot be used**
 37 **to deny financial assistance.**

38 **SECTION 3.** ORS 442.618 is amended to read:

39 442.618. (1) As used in this section[,]:

40 (a) “**Extraordinary collection action**” includes:

41 **(A) A lawsuit or other legal process to collect a debt;**

42 **(B) A report to a credit rating agency; or**

43 **(C) Other extraordinary collection actions as referenced in 26 U.S.C. 501(r)(6) or as pre-**
 44 **scribed by the Oregon Health Authority by rule.**

45 (b) “Health care facility” has the meaning given that term in ORS 442.015, excluding long term

1 care facilities.

2 (c) **“Payer type” means one or more of the following persons legally responsible for all**
 3 **or part of the cost of hospital services:**

4 (A) **A commercial insurer;**

5 (B) **Medicare;**

6 (C) **The state medical assistance program;**

7 (D) **A patient that is uninsured or otherwise personally responsible for the cost of hos-**
 8 **pital services; or**

9 (E) **Other payer type prescribed by the authority by rule.**

10 (2) A hospital shall report annually to the [*Oregon Health*] authority the following information
 11 regarding all health care facilities and affiliated clinics that are owned in part or in full by the
 12 hospital or operating under the same brand as the hospital:

13 (a) The address of each health care facility and affiliated clinic;

14 (b) Whether the hospital’s financial assistance policy, developed under ORS 442.614, [*is posted*
 15 *in the health care facility and affiliated clinic and available to patients of the facility and affiliated*
 16 *clinic*] **complies with ORS 442.610 (3); [and]**

17 (c) Whether the hospital is a nonprofit entity and whether the hospital’s nonprofit status applies
 18 to the hospital’s affiliated clinics[.];

19 (d) **How many applications for financial assistance were received and how many applica-**
 20 **tions for financial assistance were approved during the reporting period;**

21 (e) **Of the patients who were found eligible for financial assistance during the reporting**
 22 **period:**

23 (A) **How many were found eligible for financial assistance through a screening under**
 24 **section 1 (2) of this 2023 Act or using another process that did not require the patients to**
 25 **complete an application for financial assistance; and**

26 (B) **How many were found eligible for financial assistance using the hospital’s financial**
 27 **assistance application process;**

28 (f) **How many patients were approved and how many were denied financial assistance**
 29 **reported by payer type;**

30 (g) **The reason for and the documentation relied upon for each denial of financial assist-**
 31 **ance, in whole or in part;**

32 (h) **The number of accounts that were:**

33 (A) **Referred to a debt collector or collection agency during the reporting period; and**

34 (B) **Transferred for extraordinary collection actions during the reporting period, listed**
 35 **by type of action; and**

36 (i) **The average, median and total amount of debt, owed to the hospital by patients, that**
 37 **was in collections during the reporting period.**

38 (3) **Data reported under subsection (2)(d) to (h) of this section must include any available**
 39 **demographic data, described in ORS 413.161, regarding the patients included in the counts,**
 40 **to the extent that reporting of such data does not violate patient confidentiality.**

41 [(3)] (4) The authority shall prescribe the form and manner for reporting the information de-
 42 scribed in subsection (2) of this section.

43 [(4)] (5) A hospital that fails to file a timely report, as prescribed by the authority, may be
 44 subject to a civil penalty not to exceed \$500 per day. Civil penalties shall be imposed as provided
 45 in ORS 183.745.

1 **SECTION 4. (1) The Oregon Health Authority shall impose a civil penalty, in accordance**
 2 **with ORS 183.745, for noncompliance with any requirement of ORS 442.610 or 442.614 or sec-**
 3 **tion 1 of this 2023 Act.**

4 **(2) For each day of noncompliance with any requirement of ORS 442.610 or 442.614 or**
 5 **section 1 of this 2023 Act, the civil penalty shall be:**

- 6 **(a) \$250 for the first violation;**
- 7 **(b) \$500 for the second violation; and**
- 8 **(c) \$1,000 for the third or any subsequent violation.**

9 **(3) In addition to any other action authorized by law, the authority may conduct audits**
 10 **of hospitals for compliance with ORS 442.610 or 442.614 or section 1 of this 2023 Act.**

11 **SECTION 5.** ORS 646A.677 is amended to read:

12 646A.677. (1) As used in this section:

- 13 (a) “Debt collector” has the meaning given that term in ORS 646.639.
- 14 (b) “Financial assistance” means the written financial assistance policy described in ORS
 15 442.610.
- 16 (c) “Hospital” has the meaning given that term in ORS 442.612.
- 17 (d) “Hospital-affiliated clinic” has the meaning give that term in ORS 442.612.
- 18 (e) “Medical debt” means an amount owed by a patient to a hospital or a nonprofit hospital-
 19 affiliated clinic for medically necessary services or supplies.
- 20 (f) “Medically necessary” has the meaning given that term in ORS 442.612.
- 21 (g) “Nonprofit” has the meaning given that term in ORS 442.612.

22 (2) A hospital and a nonprofit hospital-affiliated clinic shall post the hospital’s financial assist-
 23 ance policy in the manner described in ORS 442.610 (3)[(c)].

24 (3) Upon the request of a patient or an individual who is authorized to act on behalf of a patient,
 25 a hospital or hospital-affiliated clinic shall conduct a screening to determine if the patient qualifies
 26 for:

- 27 (a) Financial assistance under the hospital’s financial assistance policy; or
- 28 (b) The state medical assistance program.

29 (4) Before transferring an unpaid charge for services to a debt collector or referring an unpaid
 30 charge for collection, a hospital or hospital-affiliated clinic shall:

31 (a) Conduct a screening to determine if the patient qualifies for financial assistance as described
 32 in ORS 442.614 (1)(a)(A), if applicable; *and*

33 (b) Provide a copy of its financial assistance policy to the patient along with an application for
 34 financial assistance; **and**

35 **(c) In addition, for patients described in section 1 of this 2023 Act, comply with the re-**
 36 **quirements of section 1 of this 2023 Act.**

37 (5) A hospital or nonprofit hospital-affiliated clinic may conduct the screening described in sub-
 38 sections (3) and (4) of this section using commercially available services, software or online tools.

39 (6) As a condition for providing financial assistance, a hospital may require a patient to:

- 40 (a) Respond to requests from the patient’s primary insurer as necessary for the insurer to adju-
 41 dicate a claim for reimbursement of the cost of services; and
- 42 (b) Provide information concerning any potential third party liability for the cost of services
 43 including but not limited to:

44 (A) Information about the coordination of benefits between insurers that cover the patient’s
 45 care;

1 (B) Accident reports; and

2 (C) The patient's workers' compensation claims or benefits.

3 (7) If a patient qualifies for financial assistance under ORS 442.614 (1)(a)(A), a hospital, nonprofit
4 hospital-affiliated clinic or other debt collector may not charge interest on the patient's medical
5 debt.

6 (8)(a) Except as provided in paragraph (b) of this subsection, the interest that a hospital,
7 nonprofit hospital-affiliated clinic or other debt collector may charge on a medical debt owed by a
8 patient who does not qualify for financial assistance under ORS 442.614 (1)(a)(A) may not exceed the
9 weekly average one-year constant maturity Treasury yield, as published by the Board of Governors
10 of the Federal Reserve System, for the week preceding the date when the patient was first billed,
11 except that the interest may not be less than two percent per annum or more than five percent per
12 annum.

13 (b) Upon entry of a judgment against a patient described in paragraph (a) of this subsection, a
14 hospital, nonprofit hospital-affiliated clinic or other debt collector may increase the interest charged
15 on a medical debt up to the amount specified in ORS 82.010.

16 (9) A hospital, hospital-affiliated clinic or other debt collector may not attempt to collect a
17 medical debt from a patient's child or other family member who is not financially responsible for the
18 debt under ORS chapter 108.

19 (10) It is an unlawful collection practice under ORS 646.639 for a hospital, hospital-affiliated
20 clinic or other debt collector to:

21 (a) Collect or attempt to collect a medical debt in a manner that the hospital, hospital-affiliated
22 clinic or other debt collector knows, or after exercising reasonable diligence would know, is in vi-
23 olation of this section;

24 (b) **Unreasonably deny a patient's request for financial assistance; or**

25 (c) **Fail to comply with ORS 414.066, 442.610 or 442.614 or section 1 of this 2023 Act.**

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