

Modernizing Hospital Financial Assistance for Low-Income Patients



#ENDMEDICALDEBT

What is A8441/S7625?

New York's hospital prices are the highest in the nation and patients routinely struggle to pay their hospital bills.¹ This bill (A8441/S7625) would update New York's Hospital Financial Assistance Law (HFAL) to comply with Affordable Care Act (ACA) requirements to **facilitate patients' access to financial assistance.**²

All New York hospitals are nonprofit charities under state law. To offset their uncompensated care losses, New York State generously distributes \$1.13 billion in Indigent Care Pool funds to them. In exchange, the 2008 HFAL requires hospitals to offer free or discounted care to uninsured low- and moderate-income patients. Still, **New York's nonprofit hospitals have sued over 52,000 patients for medical debt** in the past five years – and a random sample of thousands of these court files indicates that **few patients were informed of or offered financial assistance.**

The HFAL law is out of sync with evolving ACA and Medicaid laws and regulations that facilitate coverage and recognize the high cost of care. Instead of one uniform application, the old HFAL permits each hospital to develop their own applications, which are required to comply with the guidance provided by the NYS Department of Health (DOH), which audits the hospitals for compliance. But for nearly a decade, state auditors have documented that hundreds of these policies fail to comply with the law, and their failure rate is increasing over time.³ **Other states have moved forward with medical debt reforms that facilitate the provision of hospital financial assistance, including: Maryland, Colorado, New Mexico, California, and Illinois.**⁴

The lack of standardization in how hospitals implement the Hospital Financial Assistance Law **results in patients who should receive assistance going without financial support and even going without care.**⁵ Many of the 52,000 patients who were sued by hospitals for medical debt, including the 4,880 patients who have had liens placed on their homes as a result of these lawsuits and thousands more whose wages have been garnished, likely qualified for hospital financial assistance but were not offered this help.⁶



The #EndMedicalDebt Campaign is a project of the Community Service Society of New York.

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Barriers to hospital financial assistance **exacerbate racial disparities in health**. People of color are more likely to be uninsured.⁷ And the average rate of people with medical debt that has been put into collections is higher in communities of color in New York than in white communities.⁸

This legislation would address these problems by **requiring all hospitals to use one, simplified form developed by DOH**. A proven income eligibility verification process already exists in the New York State of Health exchange insurance program, which can also be used to determine eligibility for hospital financial assistance.

The changes in this legislation will make it **easier for state regulators to ensure hospital compliance with HFAL, easier for patients to get the care they need without financial disaster, and less likely that patients will be sued for medical debt** or subject to other extreme collection actions like liens and wage garnishments.

Why should hospitals provide financial aid to patients?

All hospitals in New York State are charities and providing financial aid should be a condition for their favorable tax treatment. In addition, hospitals receive \$1.1 billion in state and federal funding from the Indigent Care Pool to help them provide uncompensated care to patients. **In exchange for receiving this funding, hospitals are legally required to offer hospital financial assistance to patients who qualify.**

Why is it so hard for patients to apply for financial assistance?

The current law allows all 200 hospitals in the state to develop their own application forms and policies. State audits of these policies show that **hospitals continue to violate the HFAL and Department of Health guidance**.⁹ Moreover, finding a hospital's financial aid application is like playing "Where's Waldo" since they are often tucked away or not posted at all. This bill would facilitate access to financial assistance, and reduce medical debt litigation, because it requires all hospitals to use a uniform, simplified form designed by the DOH and posted on it's and all hospitals' websites.

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How would this bill change HFAL income eligibility requirements?

The current law requires hospitals to offer HFA to patients with incomes up to 300% of the federal poverty level (FPL), but the ACA and the American Rescue Plans recognize the high cost of health care and offer financial assistance to purchase insurance to patients with incomes up to 600% of FPL. **This bill would increase the HFAL income limit to 600% FPL to receive discounted care.**

Why should hospitals disregard patients' assets?

The old HFAL, counterintuitively, has an asset test for only the poorest patients who have incomes at or below the Medicaid threshold, but no one else. That's because in 2007, when it was drafted, the Medicaid program still had an asset test. But the ACA got rid of it for most people, and the Governor's budget proposal for FY2023 would eliminate it for the rest (aged, blind and disabled New Yorkers). The auditors found that **many hospital policies do not get this counterintuitive rule right**. This bill would eliminate the asset test for poor patients and reduce confusion for hospital bill collectors.

What other patient protections does the proposal include?

Under the old HFAL, patients only have 6 months to apply for financial aid. But billing nightmares between hospitals and insurers can take well over 6 months—even years—to resolve. This bill would **require hospitals and their providers to offer financial aid throughout the collection process**, obviating the need for hospitals to sue their patients. In addition, the new law would ensure that hospitals carefully screen patients before suing them. It **protects patients from being sued while they are waiting for their insurance coverage** of the bill to be finalized. Finally, it would cover immigrant patients.

Would this bill help hospitals?

Yes. This bill helps hospitals in many ways. First, it obviates the need for their staff to develop and implement complicated financial aid policies and forms by developing **one simple statewide form and policy** that all hospitals would use. Second, it adopts a discount schedule that is **consistent with Medicare rates** (the old law was pegged to Medicaid and two others). Finally, it **cuts down on paperwork** by allowing hospitals to use credit scoring software to pre-approve patients for financial aid.

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References

- ¹ Altarum Healthcare Value Hub, “New York 2021 Scorecard,” <https://www.healthcarevaluehub.org/affordability-scorecard/New-York>.
- ² “Discharged Into Debt: Nonprofit Hospitals File Liens on Patients’ Homes,” by 2 Amanda Dunker and Elisabeth Benjamin, January 2022.
- ³ “Still Waiting After all These Years: Many Nonprofit Hospitals Financial Aid Policies Still Fail Health Department Audits,” Health Care For All New York blog, November 1, 2021; Community Service Society of New York, “Unintended Consequences: How New York State Patients and Safety-Net Hospitals are Shortchanged,” January 2018.
- ⁴ “An Ounce of Prevention, A Review Of Hospital Financial Assistance Policies In The States,” National Consumer Law Center, November 2021.
- ⁵ Community Service Society of New York, “Unintended Consequences: How New York State Patients and Safety-Net Hospitals are Shortchanged,” January 2018; “Incentivizing Patient Financial Assistance: How to fix New York’s Hospital Indigent Care Program,” February 2012.
- ⁶ “Discharged Into Debt: New York’s Nonprofit Hospitals are Suing Patients,” by Amanda Dunker and Elisabeth Benjamin, March 2020; “Discharged Into Debt: A Pandemic Update,” by Amanda Dunker and Elisabeth Benjamin, January 2021; “Discharged Into Debt: Medical Debt and Racial Disparities in Albany County,” by Amanda Dunker and Elisabeth Benjamin, March 2021; “Discharged Into Debt: Nonprofit Hospitals File Liens on Patients’ Homes,” by Amanda Dunker and Elisabeth Benjamin, January 2022.
- ⁷ Kaiser Family Foundation State Health Facts, Uninsured Rates for the Nonelderly by Race/Ethnicity 2019, White (3.9%), Black (6.5%), Hispanic (11.3%), Asian/Native Hawaiian Pacific Islander (7.2%), American Indian/Alaska Native (12.9%).
- ⁸ Urban Institute, “Debt in America: An Interactive Map” retrieved February 2, 2020.
- ⁹ “Still Waiting After all These Years: Many Nonprofit Hospitals Financial Aid Policies Still Fail Health Department Audits,” Health Care For All New York blog, November 1, 2021; Community Service Society of New York, “Unintended Consequences: How New York State Patients and Safety-Net Hospitals are Shortchanged,” January 2018.