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Colorado: Innovative Policies Protect Many from High Prices and Medical Debt; They Could Still Be Better

Colorado has some of the more promising policies among all states in Community Catalyst's compendium of state policies to moderate hospitals' prices and reduce medical debt.[1i] Several aspects of Colorado policies are novel and innovative and have the potential to be models for advocates and policymakers in other states. At the same time, many people in Colorado still face medical debt challenges, suggesting that opportunities for improvement remain.

One example of policy innovation occurred in 2021, when the Colorado Legislature passed HB21-1198, "Health Care Billing Requirements for Indigent Patients," which created a requirement for Hospital Discounted Care that requires discounts for low- and moderate-income patients.[2ii] The law went into effect in September 2022 and effectively capped the maximum amount a hospital can expect to receive for a given hospital stay from an eligible patient.

Colorado enacted another law in 2022 that addresses medical debt through hospital price transparency. The law prohibits hospitals that have not complied with federal price transparency requirements[1] from pursuing collection actions for outstanding bills. As an enforcement tool, the law gives patients the right to bring legal action against hospitals they believe have not complied with the law. Hospitals that violate the law must refund payments, pay legal costs, and ensure that debts are removed from the patient's credit record.[3iii]

This spotlight takes a closer look at the discount requirements and payment plan limits of HB21-1198: how effective they have been at this early stage, how results are being monitored, and what more might be done to curb prices and reduce medical debt. The information in this spotlight is largely qualitative, based on interviews with knowledgeable health advocates and state regulators in Colorado as well as a review of news accounts and other public sources. Additional research and analysis would be required to reach definitive conclusions.

[1] Under the Affordable Care Act, hospitals are required to make public a list of standard charges for the items and services they provide.

[2] Debt reported to a major credit bureau. Includes past-due credit lines that have been closed and charged-off on the creditor's books as well as unpaid bills reported to the credit bureaus that the creditor is attempting to collect.

[3] 250 percent of FPL in 2024 is equal to an annual of income of $78,000.

Overview of hospitals' prices and medical debt in Colorado

Prices for health care in Colorado are higher than national averages. A RAND study ranked Colorado hospital prices in 2020 as the 14th highest in the U.S.[iv] In 2021, the average price for an inpatient service was just under $28,500, according to the Health Care Cost Institute.[v] This was about 5% higher than the national average price, and objectively quite high in a state where the median household income was a little over $82,000 in 2021.[vi] An analysis by the Colorado Department of Health Care Policy and Financing found that Colorado hospitals' price per patient was the sixth highest in the nation.[vii] High hospital prices are felt by patients through higher insurance premiums and out-of-pocket costs, the portion of the price that is directly charged to insured patients as copayments, coinsurance, and deductibles. Colorado hospital patients faced average out-of-pocket cost sharing of $1,142 in 2021, which was about 13% higher than the national average.[viii] These out-of-pocket obligations are a driver of medical debt for patients with insurance, and $1,142 is not a negligible amount; the median medical debt in collections[2] in Colorado was $693 in 2022.[ix]

The level of medical debt in Colorado is moderate compared to the nation, but there is evidence of inequity in how the debt is distributed. In 2022, 11% of Colorado's population had medical debt in collections, but that figure increases to 18% for communities of color.[x] Similarly, a statewide survey in 2021 found that 11.3% of Coloradans reported problems paying their medical bills in the past 12 months, including 17.6% of Black residents and 17% of Latinx residents.[xi]

Key details of the policies

Health care advocates in Colorado zeroed in on high hospital prices and hospital billing practices as a significant source of medical debt. In a survey by the Colorado Center on Law and Policy in 2021, more than two-thirds of respondents said they were unaware that hospitals were required by state law to provide financial assistance to certain patients. About one-fifth of survey respondents said the hospital had offered them a payment plan, about two-thirds had trouble paying their hospital bills, and nearly three-quarters of these said their bills were sent to a collection agency.[xii]

The coverage expansions that resulted from the Affordable Care Act[4] meant that hospitals were providing less charity care and had lower levels of bad debt on their books. Hospitals have also benefited from state efforts to drive value in the Medicaid program, which brought higher Medicaid payment rates that, in some cases, exceed Medicare levels. Despite this, hospitals were not sharing these benefits with patients by reducing their prices.[xiii] Even as hospitals experienced an aggregate drop of about $400 million per year in bad debt and charity care in the five years following Medicaid expansion in 2014, hospital profits grew from about $1,000 per patient to over $1,400.[xiv] In 2021, Colorado hospital profits were the fourth highest among states.[xv]

These circumstances provided the background for the introduction and passage of HB21-1198 in June 2021.

HB21-1198 seeks to control the level of health care prices for low- and moderate-income patients – those with income at or below 250% of the federal poverty level (FPL)[3] – and to protect those patients from the damaging effects of medical debt. Health care providers are required to cap the prices they charge uninsured low-income patients at the level of payment they receive from Medicaid or Medicare, using whichever is higher. Additionally, providers must limit the collection of outstanding bills for all low-income patients, whether they have insurance or not, to 4% of monthly income for hospitals and 2% of monthly income for health care professionals. Specifically, for a family of four at 250% of FPL, 4% of monthly income is about $260. Regardless of the size of the debt, if an income-eligible patient makes 36 monthly payments and there is still a balance, the law requires that the hospital forgives the remaining amount and consider the bill paid in full.[xvi] In the example of the family of four, this means that the total amount paid under a payment plan would be no higher than $9,360. For context, in 2018, prior to the COVID-19 pandemic, the average price per hospital patient in Colorado was nearly $19,000, suggesting that the Hospital Discounted Care policy potentially reduces hospital prices for those eligible by at least half, on average.[xvii]

Effectiveness of the policies

The Hospital Discounted Care provisions of HB21-1198 went into effect in September 2022, and informants agree it is too early to know the law's full impact on prices and medical debt.

[4] Debt reported to a major credit bureau. Includes past-due credit lines that have been closed and charged-off on the creditor's books as well as unpaid bills reported to the credit bureaus that the creditor is attempting to collect.

Curbing hospital prices

The Hospital Discounted Care policy has the potential to curb hospital prices for a large portion of the Colorado population, including those who are most susceptible to accumulating medical debt. It applies to patients up to 250% of the FPL – people at or below this income level make up one-quarter or more of the state population.[xviii] It expressly limits charges to Medicare or Medicaid levels for uninsured patients. Both uninsured and under-insured patients (those with insurance but high levels of out-of-pocket costs) can have their out-of-pocket costs limited to a maximum percentage of their monthly income, with outstanding balances canceled after 36 payments (the law does not allow for interest charges on these payment plans). Insured patients must request screening for this assistance; however, uninsured patients are required to be screened automatically. Preliminary data will be forthcoming in early 2024 from the Department of Health Care Policy and Finance (HCPF), the state agency charged with enforcing the law, but full effects will not be apparent for some time.

Improving affordability

Early anecdotes regarding the potential impact of the Hospital Discounted Care law on medical debt are promising. Informants report that the constraints of the payment plan rules, combined with the prospect of state audits or private lawsuits, may lessen hospitals' pursuit of bill collection from low-income patients. The most cost-effective move for hospitals may be to write off many of these bills; advocates report hearing of patients receiving very low bills, or none at all.

However, advocates and state officials are concerned that certain groups will not benefit from the Hospital Discounted Care law as much as others. Not all patients are being screened for assistance who should be, because of language barriers, inconsistent understanding of the rules among hospital staff, hospital information that may be difficult to find or understand, or other reasons. People with insurance must request a payment plan that would limit the cost of their care to a reasonable level relative to income, but many may not benefit from this protection because they are simply unaware of it. Immigrants and members of mixed status families may be reluctant to take advantage because of concerns of being labeled a "public charge" or fear of immigration action, though receipt of assistance is not subject to a public charge test and lawful presence in the U.S. is not an eligibility requirement of the law.

Enforcement

HCPF has an audit team that will be monitoring compliance with the law by selecting a group of hospitals to review each year. The agency will also respond to complaints it receives from patients and provide formal training on the rules to hospital staff. HCPF is authorized to assess fines for willful noncompliance with the law. The law also confers a private right of action on individuals who believe a hospital has not followed the law in properly screening for financial assistance eligibility or pursuing collection of outstanding bills. To date, HCPF has not assessed a fine, nor has a patient pursued legal action. It has received a number of complaints, although an organization that works with patients reports there is a perception that the process is difficult and may deter some from pursuing complaints.

What more could/should be done to address high hospital prices and medical debt?

Advocates would like to see under-insured people with income below 250% of FPL automatically qualify for the discounts as their uninsured counterparts do. The more likely near-term fight, though, is defending against hospital industry attempts to roll back existing protections. Streamlining the application process and improving the tool that is used to screen for eligibility would increase the number of people who benefit from it. The Colorado Indigent Care Program (CICP) is an older financial assistance program, more narrowly focused than Hospital Discounted Care. The two policies overlap in eligibility criteria and application process, which may be creating confusion and reducing visibility of the new law. A thoughtful phaseout of the CICP, which advocates favor, might reduce barriers to accessing the more expansive Hospital Discounted Care.

Another price transparency policy, passed in 2023, addresses prices for patients with incomes too high to qualify for Hospital Discounted Care. It requires health care providers to supply an estimate of the total cost to self-pay patients who request it, and that the final, actual cost of the service be no more than 15% or $400 higher than the estimate, whichever is less.[xix] These rules seek to compel a hospital to commit to a price for patients who do not have insurance but are not eligible for their price to be limited to the Medicare or Medicaid rate. This constrains the hospital's opportunity for "upcharging" after a service has been delivered and gives patients a reasonable expectation of what a service will cost, allowing them to seek a better price elsewhere when possible and desirable. Though the Hospital Discounted Care law is new, there is concern among advocates that estimates are often incomplete or full of caveats, and that too much of the

responsibility is on patients to secure the estimate.[xx] Monitoring the effectiveness of this law and remedying any deficiencies would reinforce Colorado's commitment to curb hospitals' prices.

Conclusion

Coloradans are hopeful that the new Hospital Discounted Care law will realize its promise and provide price and debt relief to low- and moderate-income people. It is too soon to gauge the new law's level of success, but early signs are positive. Official state reports in early 2024 will provide the first updates on the law's status and impact.

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[i] https://communitycatalyst.org/resource/50-states/

[ii] C.R.S. §25.5-3-501 through 505

[iii] C.R.S. §§ 25.5-1-901 — 25.5-1-904

[iv] The study computed the ratio of prices paid by private insurers with those paid by Medicare. Colorado's relative price was 283 percent of Medicare; the national average ratio was 224 percent. Christopher M. Whaley et al., Prices Paid to Hospitals by Private Health Plans: Findings from Round 4 of an Employer-Led Transparency Initiative. RAND Corporation, 2022.

[v] Health Care Cost Institute, 2021 Health Care Cost and Utilization Report, April 2023. Data files: https://healthcostinstitute.org/images/pdfs/HCCUR2021_Downloadable_Data_Files_2021

[vi] U.S. Census Bureau, American Community Survey 1- Year Estimates, 2021.

[vii] Colorado Department of Health Care Policy and Financing, "Hospital Insights Bulletin," January 2023.
https://hcpf.colorado.gov/sites/hcpf/files/Hospital%20Insights%20Bulletin%202023.pdf, accessed January 22, 2024.

[viii] Health Care Cost Institute.

[ix] Debt in America: An Interactive Map. The Urban Institute. https://apps.urban.org/features/debt-interactive-map/, accessed December 12, 2023.

[x] Debt in America: An Interactive Map.

[xi] Colorado Health Access Survey Data Dashboard. Colorado Health Institute.
https://www.coloradohealthinstitute.org/programs/colorado-health-access-survey, accessed December 12, 2023

[xii] Allison Neswood, Experiences Battling Debt Drive Reform of Hospital Financial Assistance Laws in Colorado. Community Catalyst and the Colorado Center on Law and Policy, December 2021.

[xiii] Community Catalyst interviews with Colorado informants.

[xiv] Colorado Department of Health Care Policy and Financing, "Colorado Hospital Cost Shift Analysis," January 2020.

https://hcpf.colorado.gov/sites/hcpf/files/Colorado%20Hospital%20Cost%20Shift%20Analysis%20Report-
January%202020.pdf, accessed January 22, 2024.

[xv] Colorado Department of Health Care Policy and Financing, "Hospital Insights Bulletin," January 2023.
https://hcpf.colorado.gov/sites/hcpf/files/Hospital%20Insights%20Bulletin%202023.pdf, accessed January 22,
2024

[xvi] C.R.S. 25.5-3-501 – 506. For further background on HB21-1198, including the circumstances and activity that led to its passage, see Allison Neswood, Case Study: Reform of Hospital Financial Assistance Laws in Colorado - Community Catalyst

[xvii] Colorado Department of Health Care Policy and Financing, "Hospital Cost Price and Profit Review," August 2021,
https://hcpf.colorado.gov/sites/hcpf/files/Hospital%20Cost%20Price%20and%20Profit%20Review%20Full%20Repo
rt_withAppendices-0810ac.pdf.

[xviii] In 2022, 22.1 percent of Colorado's population had income below 200 percent of the federal poverty level.
Kaiser State Health Facts, Distribution of the Total Population by Federal Poverty Level (above and below 200%
FPL). https://www.kff.org/other/state-indicator/population-up-to-200-fpl/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D, accessed
January 25, 2024.

[xix] C.R.S. §25-49-106.

[xx] Community Catalyst interviews with Colorado informants.