Community Catalyst

April 2024

# California: Policies Reduce Prices for Some but not All, and Affordability is a Problem

Many of California's policies to moderate hospital prices and reduce medical debt in Community Catalyst's compendium are relatively advanced compared with other states.[i] California's statutes concerning financial assistance and free care, prescribed discounts, and billing and collections were considered strong in their scope, the reach of their requirements, and the robustness of their enforcement mechanisms.[ii] Recent updates have sought to further strengthen these laws, though challenges remain.

The Hospital Fair Pricing Act has been law in California since 2007.[iii] The law has made lower prices for many low- and moderate-income Californians receiving hospital care, protecting those patients from large medical debts – but the law had gaps. Many who should have been eligible were not aware of discounts and were pursued for collection when they should not have been. Others whose income made them ineligible struggled with unaffordable medical services. Implementation and enforcement were spotty. The California Legislature addressed some of these deficiencies with AB 1020, "Health Care Debt and Fair Billing," in 2021. The 2021 amendments extended the availability of discounts and charity care to more people and sought to ensure that more who were eligible would benefit and be better protected from medical debt.[iv]

This spotlight takes a closer look at California's hospital pricing and debt collection policies, including the provisions of AB 1020. It discusses what is known about their effectiveness, how they are being monitored and enforced, and what more might be done to curb prices and reduce medical debt. The information in the spotlight is largely qualitative, based on a few interviews with knowledgeable people in the state and a review of news accounts and other public sources. Additional research and analysis would be required to reach definitive conclusions.

## Overview of hospitals' prices and medical debt in California

Health care prices in California are very high. A RAND study in 2020 ranked California hospital prices as the ninth highest in the country.[v] The average price paid for an inpatient hospital service in 2021 in California was $43,214, 60% higher than the average national price and more than half the median household income in California that year.[vi,vii] The average inpatient price in California increased 27% from 2017 to 2021. Similarly, the average price for outpatient hospital services in California was 54% higher than the national average.[viii] Hospital prices and debt can be a burden even for people with health insurance. Out-of-pocket cost sharing – deductibles, copayments, and coinsurance – drive medical debt for insured people. The average out-of-pocket cost of an inpatient

hospitalization in California was $1,116 in 2021, 10% greater than the national average.[ix] This is a significant figure, considering that the median level of medical debt in collections in 2022 was $712.[x]

A survey in 2022 found that nearly four in ten Californians (38%) reported having medical debt. That figure had notable disparities: Black (53%) and Latinx (46%) residents were significantly more likely to report having medical debt than white (33%) and Asian (28%) residents,[xi] and there were similar gaps in debt experience between those with lower and higher incomes. More than half (54%) reported that their debt was $1,000 or greater.[xii] The Los Angeles County Department of Public Health called medical debt a "critical public health issue" in a 2023 report.[xiii]

# Key details of the policies

California began to address the challenges of high prices and medical debt in a significant way when it enacted the Hospital Fair Pricing Act in 2006; the act took effect in 2007. At the time, the law was in the vanguard of states' efforts to moderate the effects of high and rising hospital prices, especially for those who were least able to afford them.[xiv] Among other provisions, the law required that hospitals provide free or discounted care to patients with income up to 350% of the federal poverty level (FPL)[xv] who were uninsured or, if insured, whose out-of-pocket medical expenses exceeded 10% of family income. Prices for eligible patients could not be higher than the Medicare or Medicaid rate for the service, whichever was higher. Hospitals were also required to offer a "reasonable" payment plan without interest and with monthly payments no higher than 10% of family income after deductions for essential living expenses such as housing, food, utilities and telephone, school and child care, spousal and child support, clothing, transportation, and other expenses.[xvi] Hospitals were not permitted to report outstanding debt to a credit bureau, or to initiate legal action to collect a debt, earlier than 150 days following the first bill.[xvii]

## 2021 changes

After nearly 15 years, patients and advocates had identified gaps in the law that prevented eligible patients from receiving discounts and financial assistance. The enactment of AB 1020 addressed some of these shortcomings. The law added requirements for when and where hospitals must post notices to increase their patients' awareness of the availability of financial assistance. Hospitals must now fulfill obligations before forwarding a bill for collection, such as sending patients a letter with information about the bill, information the hospital has about the patient's insurance coverage, and an

actual copy of its financial assistance application – a critical improvement over prior law. AB 1020 further regulated how debts can be collected by extending the wait time for collection action to 180 days, requiring debt buyers to abide by hospitals' financial assistance policies, prohibiting debt buyers from charging interest or fees on patient debt, and subjecting debt collectors to heightened evidentiary showings before filing suit to collect a debt.

AB 1020 added enforcement authority for the Department of Health Care Access and Information (HCAI), requiring it to review hospital policies for compliance and establish a complaint and appeal process for patients and hospitals. Finally, AB 1020 increased the income eligibility for financial assistance to 400% of FPL, from 350%.[xviii]

# Effectiveness of the policies

## Curbing hospital prices

Thanks to the original 2006 law, most acute care hospitals in California have a financial assistance policy that provides discounts to eligible patients, often including free care or close to it for a subset of those patients.[xix, xx] These policies, and the requirement for reasonable payment plans, have reduced hospital prices, at least for low- and moderate-income uninsured patients.[xxi]

However, the specifics of a financial assistance policy and application are left to each hospital to determine, within general state guidelines, so there is a lack of consistency across the policies. For example, there is no statewide income threshold below which a patient would be certain to face no charges for hospital care. While many hospitals use the Medi-Cal eligibility threshold of 138% of FPL, this is not standard. Discounts a hospital offers at various levels of income also aren't standard, other than the maximum of the Medicare or Medicaid rate (which sometimes can be difficult for patients to ascertain). While some hospitals' financial assistance applications are as short as a single page, others are long and complicated, deterring their use.

## Improving affordability

The 2021 updates improved the law by expanding eligibility, requiring greater efforts to inform patients of the policies, and imposing restrictions on debt collectors. Raising eligibility from 350% to 400% of FPL increased the number of people in California who are potentially eligible for lower hospital prices to about 21 million people, more than half of California's population of 39 million.[xxii] The significant discounts required by the Hospital Fair Pricing Act, in which prices could not exceed the higher of Medicare or Medicaid

rates, improved affordability and reduced the potential debt to which uninsured and underinsured patients are exposed.[xxiii] The law limits the maximum monthly payment in an extended payment plan, though 10% of income, even after deductions for essential expenses, could be considerable. Much depends on how each hospital's policy defines and applies the deductions. The 2021 amendments, which placed restrictions on actions by debt collectors, are too recent (having gone into effect in 2022) to permit an assessment of their effectiveness in reducing debt, particularly among patients who should be eligible for financial assistance.

### Enforcement

Similarly, the 2021 changes strengthened enforcement of the law, but HCAI's jurisdiction and enforcement powers are too new to assess their effectiveness in improving compliance. HCAI now has a team of experienced enforcement attorneys and the authority to impose penalties of up to $40,000 for violations of the law. These are improvements over the much weaker, pre-2021 enforcement provisions, when HCAI did not even have the authority to review hospitals' policies for compliance with the law.[xxiv] A $40,000 fine is less than the average price of a single inpatient hospital stay, though, so its deterrent effect is questionable. However, there are still jurisdictional gaps, discussed below, that might limit the effectiveness of some parts of the law. Furthermore, HCAI's enforcement relies primarily on consumer complaints, rather than on proactive investigations of hospital compliance. This approach will not necessarily give a full view of compliance, because patients who are better resourced, have more time, and speak and write English are more likely to file complaints than the most financially vulnerable patients.

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

Despite these improvements, some observers feel that shortcomings remain in the Hospital Fair Pricing Act.[xxv] For example, the state could establish standard levels for free care and discounts. California's very broad parameters leave much to each hospital's discretion, resulting in inequities, confusion and, in many cases, unnecessarily high prices for people with limited means. The financial assistance laws in Washington[xxvi], which specify a minimum level at which free care must be provided, or in Illinois[xxvii], which include a specific discount requirement, could provide models for California.

Another improvement that could reduce overall hospital prices would be to extend the financial assistance requirements of AB 1020 to professionals who treat patients during a hospital stay but bill separately from the hospital. These professionals are not covered by the Fair Pricing Act, even though they can be a source of high expenses and medical debt.

## Conclusion

California's Hospital Fair Pricing law makes lower hospital prices and less medical debt a reality for many people. However, individual hospital policies can be confusing and difficult to access. The new enforcement regime, though unproven, has promised to make discounts and protections accessible to more eligible people. Future policy efforts can build on this foundation to make the state's very costly health care system more affordable for a large portion of its population.

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[i] https://communitycatalyst.org/resource/50-states/
[ii] Curbing Hospital Prices to Reduce Medical Debt: State Rankings. https://communitycatalyst.org/wp-content/uploads/2023/10/CC-CompendiumRankingChart-v2.pdf
[iii] Calif. Health and Safety Code, Division 107, Part 2, Chapter 2.5, Article 1 [§§127400-127446]
[iv] AB 1020, codified as Chapter 473, Statutes of 2021, October 4, 2021.
[v] The study computed the ratio of prices paid by private insurers with those paid by Medicare. California's relative price was 291 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.
[vi] Health Care Cost Institute, 2021 Health Care Cost and Utilization Report, April 2023. Data files: https://healthcostinstitute.org/images/pdfs/HCCUR2021_Downloadable_Data_Files.zip
[vii] U.S. Census Bureau, American Community Survey 1-Year Estimates, 2021.
[viii] Health Care Cost Institute.
[ix] Health Care Cost Institute.
[x] Debt in America: An Interactive Map. The Urban Institute. https://apps.urban.org/features/debt-interactive-map/, accessed February 2, 2024.
[xi] Note that the aggregation of "Asian" into a single category masks disparities within that category. It is likely that there are high levels of medical debt among certain Asian subgroups with lower incomes, less health insurance coverage, or worse overall health status. See Usha Lee McFarling,

"Invisible in the data: Broad 'Asian American' category obscures health disparities." StatNews, Nov. 21. 2023.
[xii] Jen Joynt, Rebecca Catterson, Emily Alverez, Larry Bye, and Lin Liu. The 2024 CHCF California Health Policy Survey. California Health Care Foundation, January 2024.
[xiii] County of Los Angeles Department of Public Health, "Medical Debt in LA County: Baseline Report and Action Plan." June, 2023.
[xiv] Western Center on Law and Policy, "Greater Patient Protections in Hospital Billing Starting 2022." Health Care Practice Tip, December 2021. https://wclp.org/wp-content/uploads/2021/12/Practice-Tip-Hospital-Fair-Pricing-Act-12-6-21.pdf, access January 26, 2024.
[xv] 350 percent of FPL for a family of four was about $105,000 in 2022, prior to changes to the law. The median family income in California in that year was about $105,000 as well.
[xvi] The full list of deductions is at California Health and Safety Code, section 127400(i).
[xvii] Calif. Health and Safety Code, Hospital Fair Pricing Policies [§§127400-127446].
[xviii] Western Center on Law and Policy, "Greater Patient Protections in Hospital Billing Starting 2022."
[xix] Glenn Melnick and Katya Fonkych, Fair Pricing Law Prompts Most California Hospitals to Adopt Policies to Protect Uninsured Patients from High Charges. Health Affairs 2013 32:6, 1101-1108.
[xx] https://syfphr.hcai.ca.gov/FacilityList.aspx, accessed February 2, 2024.
[xxi] Ge Bai, "California's Hospital Fair Pricing Act Reduced the Prices Actually Paid By Uninsured Patients," Health Affairs 34, no. 1 (January 1, 2015): 64–70, https://doi.org/10.1377/hlthaff.2014.1072. This study's methodology did not allow for the assessment of impact on underinsured patients.
[xxii] U.S. Census Bureau, 2022 American Community Survey 1-Year Estimates
[xxiii] According to Bai, from 2004 (before the Act was passed) to 2012, the net price actually paid by uninsured patients shrank from 6 percent higher than Medicare prices to 68 percent lower than Medicare prices.
[xxiv] Western Center on Law and Policy, "Greater Patient Protections in Hospital Billing Starting 2022."
[xxv] Community Catalyst interviews with California informants.
[xxvi] Cite Washington spotlight when available.
[xxvii] Cite Illinois spotlight when available.