

STATE OF NEW YORK

3470--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 26, 2021

Introduced by M. of A. GOTTFRIED, EPSTEIN, JACOBSON, THIELE, BARRON, SIMON, SEAWRIGHT, DINOWITZ, BENEDETTO, SAYEGH, REYES, GLICK, PERRY, ABINANTI, CRUZ, PAULIN, ENGLEBRIGHT, SOLAGES, L. ROSENTHAL, GUNTHER, AUBRY, GALEF, STECK, NIOU, WEPRIN, TAYLOR, JEAN-PIERRE, FORREST -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to medical billing and debt (Part A); to amend the public health law, in relation to defining certain terms (Part B); to amend the public health law, in relation to standardized consolidated itemized general hospital bills (Part C); to amend the public health law, in relation to regulation of the billing of facility fees (Part D); to amend the public health law, in relation to standardized patient financial liability forms (Part E); to amend the public health law, in relation to an all payer database (Part F); to amend the public health law, in relation to the general hospital indigent care pool; and to repeal certain provisions of such law relating thereto (Part G); to amend the civil practice law and rules, in relation to the rate of interest in medical debt actions (Part H); and to amend the financial services law, in relation to services rendered by a non-participating provider; and to amend the public health law, in relation to hospital statements of rights and responsibilities of patients (Part I)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "patient medical debt protection act".

3 § 2. This act enacts into law major components of legislation which
4 relate to patient medical debt protection. Each component is wholly
5 contained within a Part identified as Parts A through I. The effective
6 date for each particular provision contained within such Part is set

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 forth in the last section of such Part. Any provision in any section
2 contained within a Part, including the effective date of the Part, which
3 makes reference to a section "of this act", when used in connection with
4 that particular component, shall be deemed to mean and refer to the
5 corresponding section of the Part in which it is found. Section four of
6 this act sets forth the general effective date of this act.

7 PART A

8 Section 1. Sections 2800 through 2827 of article 28 of the public
9 health law are designated title 1, and a new title 2 is added to article
10 28, to read as follows:

11 TITLE 2
12 MEDICAL BILLING AND DEBT

13 § 2. This act shall take effect immediately.

14 PART B

15 Section 1. Title 2 of article 28 of the public health law is amended
16 by adding a new section 2830 to read as follows:

17 § 2830. Definitions. As used in this title, the following terms shall
18 have the following meanings, unless the context clearly requires other-
19 wise:

20 1. "Affiliated provider" means a provider that is: (a) employed by a
21 hospital or health system, (b) under a professional services agreement
22 with a hospital or health system, or (c) a clinical faculty member of a
23 medical school or other school that trains individuals to be providers
24 that is affiliated with a hospital or health system.

25 2. "Campus" means: (a) the physical area immediately adjacent to a
26 hospital's main buildings and other areas and structures that are not
27 strictly contiguous to the main buildings but are located within two
28 hundred fifty yards of the main buildings, or (b) any other area that
29 has been determined on an individual case basis by the Centers for Medi-
30 care and Medicaid Services to be part of a hospital's campus.

31 3. "Facility fee" means any fee charged or billed by a hospital or
32 health system for inpatient or outpatient hospital services provided in
33 a hospital-based facility that is: (a) intended to compensate the hospi-
34 tal or health system for the operational expenses of the hospital or
35 health system, and (b) separate and distinct from a fee for patient-spe-
36 cific services, supplies and drugs; "facility fee" shall not include any
37 fee charged or billed by a residential health care facility.

38 4. "Health system" means a group of one or more hospitals and provid-
39 ers affiliated through ownership, governance, membership or other means.

40 5. "Hospital-based facility" means a facility that is owned or oper-
41 ated, in whole or in part, by a hospital or health system where hospital
42 or professional health care services, supplies or drugs are provided.

43 6. "Fee" means any fee charged or billed by a provider for profes-
44 sional health care services provided in a hospital-based facility.

45 7. "Provider" means an individual or entity, whether for profit or
46 nonprofit, whose primary purpose is to provide professional health care
47 services.

48 § 2. This act shall take effect immediately.

49 PART C

1 Section 1. Title 2 of article 28 of the public health law is amended
2 by adding a new section 2831 to read as follows:

3 § 2831. Standardized consolidated itemized general hospital bills. 1.
4 After a patient's discharge or release from a general hospital, or
5 completion of a discrete course of treatment by a hospital-based facili-
6 ty, the facility shall provide to the patient or to the patient's survi-
7 vor or legal guardian, as appropriate, a consolidated itemized bill.
8 The initial consolidated itemized bill shall be provided no more than
9 seven days after the patient's discharge, or release or completion of
10 the episode or course of treatment, or after a request for such
11 bill, whichever is earlier.

12 2. The consolidated itemized bill shall:

13 (a) detail in plain language, comprehensible to an ordinary layperson
14 (consistent with accuracy), the specific nature of charges or expenses
15 incurred by the patient during the hospitalization or episode or course
16 of treatment and the date of each service;

17 (b) detail all services provided to the patient during the hospitali-
18 zation or episode or course of treatment, including all professional
19 services administered and supplies and drugs, contain a statement of
20 specific services received and expenses incurred by date and provider
21 for such items of service, enumerating in detail the constituent compo-
22 ponents of the services received within each department of the facility
23 and including unit price data on rates charged;

24 (c) identify each item as paid, assigned to a third-party payer, or
25 expected payment by the patient;

26 (d) include the amount due, if any from the patient, including a due
27 date;

28 (e) for any amount paid or to be paid by the patient, indicate to
29 which person or entity an amount is due;

30 (f) not include any generalized category of expenses such as "other"
31 or "miscellaneous" or similar categories;

32 (g) list drugs by brand or generic name, even where drug code numbers
33 are used;

34 (h) specifically identify physical, rehabilitative, occupational, or
35 speech therapy treatment by date, type, and length of treatment when
36 such treatment is a part of the statement or bill; and

37 (i) prominently display the telephone number of the facility's patient
38 liaison responsible for expediting the resolution of any billing dispute
39 between the patient, or the patient's survivor or legal guardian, and
40 the billing department or departments.

41 3. A provider with any financial or contractual relationship with the
42 facility may not separately bill the patient or the patient's survivor
43 or legal guardian for such services, supplies or drugs.

44 4. Any subsequent bill provided to a patient or to the patient's
45 survivor or legal guardian, as appropriate, relating to the hospitaliza-
46 tion or episode or course of treatment must include all of the informa-
47 tion required under this section, in or enclosed with the bill or by
48 reference to a previous consolidated itemized bill, with any clearly
49 delineated revisions.

50 5. The consolidated itemized bill, shall be in a form developed by
51 the commissioner, in consultation with the superintendent of financial
52 services.

53 6. Each facility shall establish policies and procedures for review-
54 ing and responding to questions from patients concerning the patient's
55 consolidated itemized bill. The response shall be provided no more than
56 seven business days after the date a question is received. If the

1 patient is not satisfied with the response, the facility shall provide
2 the patient with the contact information of the hospital department or
3 collection entity to which the issue shall be sent for review.

4 § 2. Section 2807-e of the public health law is amended by adding a
5 new subdivision 6 to read as follows:

6 6. This section is subject to the provisions of section twenty-eight
7 hundred thirty-one of this article, and where any provisions of the two
8 sections conflict, the provisions of section twenty-eight hundred thir-
9 ty-one of this article shall control.

10 § 3. This act shall take effect one year after it shall have become a
11 law.

12 PART D

13 Section 1. Title 2 of article 28 of the public health law is amended
14 by adding a new section 2832 to read as follows:

15 § 2832. Regulation of the billing of facility fees. No hospital or
16 health system shall bill or seek payment from a patient for a facility
17 fee: 1. related to the provision of preventive care service as defined
18 by the United States Preventive Services Task Force; or

19 2. where the facility fee is not covered for the patient by a third-
20 party payer.

21 § 2. This act shall take effect on the one hundred eightieth day after
22 it shall have become a law.

23 PART E

24 Section 1. Title 2 of article 28 of the public health law is amended
25 by adding a new section 2833 to read as follows:

26 § 2833. Standardized patient financial liability forms. Every hospi-
27 tal, health system, hospital-based facility, affiliated provider or
28 other provider shall use the uniform patient financial liability form
29 which shall be developed by the commissioner. The form shall disclose
30 to the patient whether services, supplies and drugs provided to the
31 patient are in-network or out-of-network, whether the care is a covered
32 benefit by a third-party payer of the patient, and the nature and amount
33 of the patient's projected financial liability. A patient shall not be
34 financially liable for any service, supplies or drugs subject to this
35 title that is not charged or billed in accordance with this title. The
36 commissioner shall develop and issue the uniform financial liability
37 form within six months of the effective date of this section. The form
38 shall be adopted and used under this section by each hospital, health
39 system, hospital-based facility, affiliated provider and other provider
40 not later than sixty days after the commissioner issues the form.

41 § 2. This act shall take effect immediately.

42 PART F

43 Section 1. Subdivision 18-a of section 206 of the public health law is
44 amended by adding a new paragraph (e) to read as follows:

45 (e)(i) The commissioner shall ensure that the New York state all payer
46 database shall serve the interests of New York's health care consumers.

47 (ii) Every hospital licensed under article twenty-eight of this chap-
48 ter and health care professionals authorized under title eight of the
49 education law shall participate in the all payer database through their

1 insurance carrier contracts, and may participate in the all payer data-
2 base through any other of the hospital's third-party payer contracts.

3 (iii) Data that is required to be submitted to the all payer database
4 shall not be considered proprietary information for the purposes of
5 submission to or inclusion in the all payer database.

6 § 2. This act shall take effect on the one hundred eightieth day after
7 it shall have become a law.

8

PART G

9 Section 1. Subdivisions 9 and 9-a of section 2807-k of the public
10 health law, subdivision 9 as amended by section 17 of part B of chapter
11 60 of the laws of 2014, subdivision 9-a as added by section 39-a of part
12 A of chapter 57 of the laws of 2006 and paragraph (k) of subdivision 9-a
13 as added by section 43 of part B of chapter 58 of the laws of 2008, are
14 amended to read as follows:

15 9. In order for a general hospital to participate in the distribution
16 of funds from the pool, the general hospital must [~~implement minimum~~
17 ~~collection policies and procedures approved~~] use only the uniform finan-
18 cial assistance form provided by the commissioner. The definitions in
19 section twenty-eight hundred thirty of this article shall apply to this
20 subdivision and subdivision nine-a of this section.

21 9-a. (a) (i) As a condition for participation in pool distributions
22 authorized pursuant to this section and section twenty-eight hundred
23 seven-w of this article for periods on and after January first, two
24 thousand nine, general hospitals shall, effective for periods on and
25 after January first, two thousand [~~seven, establish~~] twenty-two, adopt
26 and implement the uniform financial [~~aid policies and procedures, in~~
27 ~~accordance with the provisions of this subdivision~~] assistance form
28 policy, to be developed and issued by the commissioner no later than one
29 hundred eighty days after the effective date of a chapter of the laws of
30 two thousand twenty-one that amended this subdivision. No later than
31 thirty days after the issuance of the uniform financial assistance form
32 and policy, general hospitals shall implement such form and policy, for
33 reducing hospital charges and charges for affiliated providers otherwise
34 applicable to low-income individuals without third-party health [~~insur-~~
35 ~~ance~~] coverage, or who have [~~exhausted their~~] third-party health [~~insur-~~
36 ~~ance benefits~~] coverage that does not cover or limits coverage of the
37 service, and who can demonstrate an inability to pay full charges, and
38 also, at the hospital's discretion, for reducing or discounting the
39 collection of co-pays and deductible payments from those individuals who
40 can demonstrate an inability to pay such amounts. Immigration status
41 shall not be an eligibility criterion.

42 (ii) A general hospital may use the New York state of health market-
43 place eligibility determination page to establish the patient's house-
44 hold income and residency in lieu of the financial application form,
45 provided it has secured the consent of the patient. A general hospital
46 shall not require a patient to apply for coverage through the New York
47 state of health marketplace in order to receive care or financial
48 assistance.

49 (iii) Upon submission of a completed application form, the patient may
50 disregard any bills until the general hospital has rendered a decision
51 on the application in accordance with this paragraph.

52 (b) Such reductions from charges for [~~uninsured~~] patients described in
53 paragraph (a) of this subdivision with incomes below [~~at least three~~]
54 four hundred percent of the federal poverty level shall result in a

1 charge to such individuals that does not exceed [~~the greater of~~] the
2 amount that would have been paid for the same services [~~by the "highest~~
3 ~~volume payer" for such general hospital as defined in subparagraph (v)~~
4 ~~of this paragraph, or for services provided pursuant to title XVIII of~~
5 ~~the federal social security act (medicare), or for services~~] provided
6 pursuant to title XIX of the federal social security act (medicaid), and
7 provided further that such amounts shall be adjusted according to income
8 level as follows:

9 (i) For patients with incomes at or below [~~at least one~~] two hundred
10 percent of the federal poverty level, the hospital shall collect no more
11 than a nominal payment amount, consistent with guidelines established by
12 the commissioner[~~†~~].

13 (ii) For patients with incomes between [~~at least one~~] two hundred one
14 percent and [~~one~~] four hundred [~~fifty~~] percent of the federal poverty
15 level, the hospital shall collect no more than the amount identified
16 after application of a proportional sliding fee schedule under which
17 patients with lower incomes shall pay the lowest amount. Such schedule
18 shall provide that the amount the hospital may collect for such patients
19 increases from the nominal amount described in subparagraph (i) of this
20 paragraph in equal increments as the income of the patient increases, up
21 to a maximum of twenty percent of the [~~greater of the~~] amount that would
22 have been paid for the same services [~~by the "highest volume payer" for~~
23 ~~such general hospital, as defined in subparagraph (v) of this paragraph,~~
24 ~~or for services provided pursuant to title XVIII of the federal social~~
25 ~~security act (medicare) or for services~~] provided pursuant to title XIX
26 of the federal social security act (medicaid)[~~†~~].

27 [~~For patients with incomes between at least one hundred fifty-~~
28 ~~one percent and two hundred fifty percent of the federal poverty level,~~
29 ~~the hospital shall collect no more than the amount identified after~~
30 ~~application of a proportional sliding fee schedule under which patients~~
31 ~~with lower income shall pay the lowest amounts. Such schedule shall~~
32 ~~provide that the amount the hospital may collect for such patients~~
33 ~~increases from the twenty percent figure described in subparagraph (ii)~~
34 ~~of this paragraph in equal increments as the income of the patient~~
35 ~~increases, up to a maximum of the greater of the amount that would have~~
36 ~~been paid for the same services by the "highest volume payer" for such~~
37 ~~general hospital, as defined in subparagraph (v) of this paragraph, or~~
38 ~~for services provided pursuant to title XVIII of the federal social~~
39 ~~security act (medicare) or for services provided pursuant to title XIX~~
40 ~~of the federal social security act (medicaid); and~~

41 (~~iv~~) For patients with incomes [~~between at least two hundred fifty-~~
42 ~~one percent and three hundred~~] above four hundred one percent of the
43 federal poverty level, the hospital shall collect no more than the
44 greater of the amount that would have been paid for the same services
45 [~~by the "highest volume payer" for such general hospital as defined in~~
46 ~~subparagraph (v) of this paragraph, or for services provided pursuant to~~
47 ~~title XVIII of the federal social security act (medicare), or for~~
48 ~~services~~] provided pursuant to title XIX of the federal social security
49 act (medicaid).

50 [~~(v) For the purposes of this paragraph, "highest volume payer" shall~~
51 ~~mean the insurer, corporation or organization licensed, organized or~~
52 ~~certified pursuant to article thirty two, forty two or forty three of~~
53 ~~the insurance law or article forty four of this chapter, or other third-~~
54 ~~party payor, which has a contract or agreement to pay claims for~~
55 ~~services provided by the general hospital and incurred the highest~~
56 ~~volume of claims in the previous calendar year.~~

1 ~~(vi) A hospital may implement policies and procedures to permit, but~~
2 ~~not require, consideration on a case by case basis of exceptions to the~~
3 ~~requirements described in subparagraphs (i) and (ii) of this paragraph~~
4 ~~based upon the existence of significant assets owned by the patient that~~
5 ~~should be taken into account in determining the appropriate payment~~
6 ~~amount for that patient's care, provided, however, that such proposed~~
7 ~~policies and procedures shall be subject to the prior review and~~
8 ~~approval of the commissioner and, if approved, shall be included in the~~
9 ~~hospital's financial assistance policy established pursuant to this~~
10 ~~section, and provided further that, if such approval is granted, the~~
11 ~~maximum amount that may be collected shall not exceed the greater of the~~
12 ~~amount that would have been paid for the same services by the "highest~~
13 ~~volume payor" for such general hospital as defined in subparagraph (v)~~
14 ~~of this paragraph, or for services provided pursuant to title XVIII of~~
15 ~~the federal social security act (medicare), or for services provided~~
16 ~~pursuant to title XIX of the federal social security act (medicaid). In~~
17 ~~the event that a general hospital reviews a patient's assets in deter-~~
18 ~~mining payment adjustments such policies and procedures shall not~~
19 ~~consider as assets a patient's primary residence, assets held in a tax-~~
20 ~~deferred or comparable retirement savings account, college savings~~
21 ~~accounts, or cars used regularly by a patient or immediate family~~
22 ~~members.~~

23 ~~(vii)]~~ (iv) Nothing in this paragraph shall be construed to limit a
24 hospital's ability to establish patient eligibility for payment
25 discounts at income levels higher than those specified herein and/or to
26 provide greater payment discounts for eligible patients than those
27 required by this paragraph.

28 (c) ~~[Such policies and procedures shall be clear, understandable, in~~
29 ~~writing and publicly available in summary form and each]~~ Each general
30 hospital participating in the pool shall ensure that every patient is
31 made aware of the existence of such ~~[policies and procedures]~~ uniform
32 financial assistance form and policy and is provided, in a timely
33 manner, with a ~~[summary]~~ copy of such ~~[policies and procedures]~~ form and
34 policy upon request. ~~[Any summary provided to patients shall, at a mini-~~
35 ~~imum, include specific information as to income levels used to determine~~
36 ~~eligibility for assistance, a description of the primary service area of~~
37 ~~the hospital and the means of applying for assistance. For general~~
38 ~~hospitals with twenty-four hour emergency departments, such policies and~~
39 ~~procedures]~~ A general hospital shall require the notification of
40 patients through written materials provided to patients during the
41 intake and registration process, through the conspicuous posting of
42 language-appropriate information in the general hospital, and informa-
43 tion on bills and statements sent to patients, that financial ~~[aid]~~
44 assistance may be available to qualified patients and how to obtain
45 further information. ~~[For specialty hospitals without twenty four hour~~
46 ~~emergency departments, such notification shall take place through writ-~~
47 ~~ten materials provided to patients during the intake and registration~~
48 ~~process prior to the provision of any health care services or proce-~~
49 ~~dures, and through information on bills and statements sent to patients,~~
50 ~~that financial aid may be available to qualified patients and how to~~
51 ~~obtain further information. Application materials shall include a notice~~
52 ~~to patients that upon submission of a completed application, including~~
53 ~~any information or documentation needed to determine the patient's~~
54 ~~eligibility pursuant to the hospital's financial assistance policy, the~~
55 ~~patient may disregard any bills until the hospital has rendered a deci-~~
56 ~~sion on the application in accordance with this paragraph]~~ General

1 hospitals shall post the uniform financial assistance application form
2 and policy in a conspicuous location on the general hospital's website.
3 The commissioner shall likewise post the uniform financial assistance
4 form and policy on the department's hospital profile page related to the
5 general hospital's or any successor website.

6 (d) The commissioner shall provide application materials to general
7 hospitals, including the uniform financial assistance application form
8 and policy. These application materials shall include a notice to
9 patients that upon submission of a completed application form, the
10 patient may disregard any bills until the general hospital has rendered
11 a decision on the application in accordance with this paragraph. The
12 application materials shall include specific information as the income
13 levels used to determine eligibility for financial assistance, a
14 description of the primary service area of the hospital and the means to
15 apply for assistance. Such policies and procedures shall include clear,
16 objective criteria for determining a patient's ability to pay and for
17 providing such adjustments to payment requirements as are necessary. In
18 addition to adjustment mechanisms such as sliding fee schedules and
19 discounts to fixed standards, such policies and procedures shall also
20 provide for the use of installment plans for the payment of outstanding
21 balances by patients pursuant to the provisions of the hospital's finan-
22 cial assistance policy. The monthly payment under such a plan shall not
23 exceed [~~ten~~] five percent of the gross monthly income of the patient[~~,~~
24 ~~provided, however, that if patient assets are considered under such a~~
25 ~~policy, then patient assets which are not excluded assets pursuant to~~
26 ~~subparagraph (vi) of paragraph (b) of this subdivision may be considered~~
27 ~~in addition to the limit on monthly payments.] The rate of interest
28 charged to the patient on the unpaid balance, if any, shall not exceed
29 the [~~rate for a ninety-day security~~] federal funds rate issued by the
30 United States Department of Treasury[~~,~~ ~~plus .5 percent~~] and no plan
31 shall include an accelerator or similar clause under which a higher rate
32 of interest is triggered upon a missed payment. [~~If such policies and~~
33 ~~procedures~~] The policy shall not include a requirement of a deposit
34 prior to [~~non-emergent,~~] medically-necessary care[~~,~~ ~~such deposit must be~~
35 ~~included as part of any financial aid consideration~~]. Such policies and
36 procedures shall be applied consistently to all eligible patients.~~

37 (e) Such [~~policies and procedures~~] policy shall [~~permit patients to~~]
38 require the hospital's chief financial officer to provide a sworn affi-
39 davit, that must be filed with a complaint for medical debt collection
40 action in a court of jurisdiction, that the patient does not meet the
41 income or residency criteria for financial assistance. Patients may
42 apply for assistance [~~within at least ninety days of the date of~~
43 ~~discharge or date of service and provide at least twenty days for~~
44 ~~patients to submit a completed application~~] at any time during the
45 collection process, including after the commencement of a medical debt
46 court action or upon securing a default judgment in a court of jurisdic-
47 tion. Such policies and procedures may require that patients seeking
48 payment adjustments provide [~~appropriate~~] the following financial infor-
49 mation and documentation in support of their application[~~,~~ ~~provided,~~
50 ~~however, that such application process shall not be unduly burdensome or~~
51 ~~complex~~] that are used by the New York state of health marketplace: pay
52 checks or pay stubs; rent receipts; a letter from the patient's employer
53 attesting to the patient's gross income; or, if none of the aforemen-
54 tioned information and documentation are available, a written self-
55 attestation of the patient's income. General hospitals shall, upon
56 request, assist patients in understanding the hospital's policies and

1 procedures and in applying for payment adjustments. [~~Application forms~~
2 ~~shall be printed~~] The commissioner shall translate the financial assist-
3 ance application form and policy into the "primary languages" of each
4 general hospital. Each general hospital shall print and post these mate-
5 rials to its website in the "primary languages" of patients served by
6 the general hospital. For the purposes of this paragraph, "primary
7 languages" shall include any language that is either (i) used to commu-
8 nicate, during at least five percent of patient visits in a year, by
9 patients who cannot speak, read, write or understand the English
10 language at the level of proficiency necessary for effective communi-
11 cation with health care providers, or (ii) spoken by non-English speak-
12 ing individuals comprising more than one percent of the primary hospital
13 service area population, as calculated using demographic information
14 available from the United States Bureau of the Census, supplemented by
15 data from school systems. Decisions regarding such applications shall be
16 made within thirty days of receipt of a completed application. Such
17 policies and procedures shall require that the hospital issue any
18 denial/approval of such application in writing with information on how
19 to appeal the denial and shall require the hospital to establish an
20 appeals process under which it will evaluate the denial of an applica-
21 tion. [~~Nothing in this subdivision shall be interpreted as prohibiting a~~
22 ~~hospital from making the availability of financial assistance contingent~~
23 ~~upon the patient first applying for coverage under title XIX of the~~
24 ~~social security act (medicaid) or another insurance program if, in the~~
25 ~~judgment of the hospital, the patient may be eligible for medicaid or~~
26 ~~another insurance program, and upon the patient's cooperation in follow-~~
27 ~~ing the hospital's financial assistance application requirements,~~
28 ~~including the provision of information needed to make a determination on~~
29 ~~the patient's application in accordance with the hospital's financial~~
30 ~~assistance policy.~~]

31 (f) Such policies and procedures shall provide that patients with
32 incomes below [~~three~~] four hundred percent of the federal poverty level
33 are deemed presumptively eligible for payment adjustments and shall
34 conform to the requirements set forth in paragraph (b) of this subdivi-
35 sion, provided, however, that nothing in this subdivision shall be
36 interpreted as precluding hospitals from extending such payment adjust-
37 ments to other patients, either generally or on a case-by-case basis.
38 Such [~~policies and procedures~~] policy shall provide financial [~~aid~~]
39 assistance for emergency hospital services, including emergency trans-
40 fers pursuant to the federal emergency medical treatment and active
41 labor act (42 USC 1395dd), to patients who reside in New York state and
42 for medically necessary hospital services for patients who reside in the
43 hospital's primary service area as determined according to criteria
44 established by the commissioner. In developing such criteria, the
45 commissioner shall consult with representatives of the hospital indus-
46 try, health care consumer advocates and local public health officials.
47 Such criteria shall be made available to the public no less than thirty
48 days prior to the date of implementation and shall, at a minimum:

49 (i) prohibit a hospital from developing or altering its primary
50 service area in a manner designed to avoid medically underserved commu-
51 nities or communities with high percentages of uninsured residents;

52 (ii) ensure that every geographic area of the state is included in at
53 least one general hospital's primary service area so that eligible
54 patients may access care and financial assistance; and

55 (iii) require the hospital to notify the commissioner upon making any
56 change to its primary service area, and to include a description of its

1 primary service area in the hospital's annual implementation report
2 filed pursuant to subdivision three of section twenty-eight hundred
3 three-1 of this ~~[article]~~ title.

4 (g) Nothing in this subdivision shall be interpreted as precluding
5 hospitals from extending payment adjustments for medically necessary
6 non-emergency hospital services to patients outside of the hospital's
7 primary service area. For patients determined to be eligible for finan-
8 cial ~~[aid]~~ assistance under the terms of ~~[a-hospital's]~~ the uniform
9 financial ~~[aid]~~ assistance policy, such ~~[policies and procedures]~~ policy
10 shall prohibit any limitations on financial ~~[aid]~~ assistance for
11 services based on the medical condition of the applicant, other than
12 typical limitations or exclusions based on medical necessity or the
13 clinical or therapeutic benefit of a procedure or treatment.

14 (h) Such policies and procedures shall not permit the securance of a
15 lien or forced sale or foreclosure of a patient's primary residence in
16 order to collect an outstanding medical bill and shall require the
17 hospital to refrain from sending an account to collection if the patient
18 has submitted a completed application for financial ~~[aid, including any~~
19 ~~required supporting documentation]~~ assistance, while the hospital deter-
20 mines the patient's eligibility for such ~~[aid]~~ assistance. Such ~~[poli-~~
21 ~~cies and procedures]~~ policy shall provide for written notification,
22 which shall include notification on a patient bill, to a patient not
23 less than thirty days prior to the referral of debts for collection and
24 shall require that the collection agency obtain the hospital's written
25 consent prior to commencing a legal action. Such ~~[policies and proce-~~
26 ~~dures]~~ policy shall require all general hospital staff who interact with
27 patients or have responsibility for billing and collections to be
28 trained in such ~~[policies and procedures]~~ policy, and require the imple-
29 mentation of a mechanism for the general hospital to measure its compli-
30 ance with ~~[such policies and procedures]~~ the policy. Such ~~[policies and~~
31 ~~procedures]~~ policy shall require that any collection agency under
32 contract with a general hospital for the collection of debts follow the
33 ~~[hospital's]~~ uniform financial assistance policy, including providing
34 information to patients on how to apply for financial assistance where
35 appropriate. Such ~~[policies and procedures]~~ policy shall prohibit
36 collections from a patient who is determined to be eligible for medical
37 assistance pursuant to title XIX of the federal social security act at
38 the time services were rendered and for which services medicaid payment
39 is available.

40 (i) Reports required to be submitted to the department by each general
41 hospital as a condition for participation in the pools, and which
42 contain, in accordance with applicable regulations, a certification from
43 an independent certified public accountant or independent licensed
44 public accountant or an attestation from a senior official of the hospi-
45 tal that the hospital is in compliance with conditions of participation
46 in the pools, shall also contain, for reporting periods on and after
47 January first, two thousand seven:

48 (i) a report on hospital costs incurred and uncollected amounts in
49 providing services to ~~[eligible]~~ patients ~~[without insurance]~~ found
50 eligible for financial assistance, including the amount of care provided
51 for a nominal payment amount, during the period covered by the report;

52 (ii) hospital costs incurred and uncollected amounts for deductibles
53 and coinsurance for eligible patients with insurance or other third-par-
54 ty payor coverage;

55 (iii) the number of patients, organized according to United States
56 postal service zip code, who applied for financial assistance pursuant

1 to the [~~hospital's~~] uniform financial assistance policy, and the number,
2 organized according to United States postal service zip code, whose
3 applications were approved and whose applications were denied;

4 (iv) the reimbursement received for indigent care from the pool estab-
5 lished pursuant to this section;

6 (v) the amount of funds that have been expended on [~~charity care~~]
7 financial assistance from charitable bequests made or trusts established
8 for the purpose of providing financial assistance to patients who are
9 eligible in accordance with the terms of such bequests or trusts;

10 (vi) for hospitals located in social services districts in which the
11 district allows hospitals to assist patients with such applications, the
12 number of applications for eligibility under title XIX of the social
13 security act (medicaid) that the hospital assisted patients in complet-
14 ing and the number denied and approved;

15 (vii) the hospital's financial losses resulting from services provided
16 under medicaid; and

17 (viii) the number of referrals to collection agents or outside vendor
18 court cases and liens placed on [~~the primary~~] any residences of patients
19 through the collection process used by a hospital.

20 (j) [~~Within ninety days of the effective date of this subdivision each~~
21 ~~hospital shall submit to the commissioner a written report on its poli-~~
22 ~~cies and procedures for financial assistance to patients which are used~~
23 ~~by the hospital on the effective date of this subdivision. Such report~~
24 ~~shall include copies of its policies and procedures, including material~~
25 ~~which is distributed to patients, and a description of the hospital's~~
26 ~~financial aid policies and procedures. Such description shall include~~
27 ~~the income levels of patients on which eligibility is based, the finan-~~
28 ~~cial aid eligible patients receive and the means of calculating such~~
29 ~~aid, and the service area, if any, used by the hospital to determine~~
30 ~~eligibility]~~ The commissioner shall include the data collected under
31 paragraph (i) of this subdivision in regular audits of the annual gener-
32 al hospital institutional cost report.

33 (k) In the event it is determined by the commissioner that the state
34 will be unable to secure all necessary federal approvals to include, as
35 part of the state's approved state plan under title nineteen of the
36 federal social security act, a requirement[~~, as set forth in paragraph~~
37 ~~one of this subdivision,~~] that compliance with this subdivision is a
38 condition of participation in pool distributions authorized pursuant to
39 this section and section twenty-eight hundred seven-w of this [~~article~~]
40 title, then such condition of participation shall be deemed null and
41 void and, notwithstanding section twelve of this chapter, failure to
42 comply with the provisions of this subdivision by a hospital on and
43 after the date of such determination shall make such hospital liable for
44 a civil penalty not to exceed ten thousand dollars for each such
45 violation. The imposition of such civil penalties shall be subject to
46 the provisions of section twelve-a of this chapter.

47 § 2. Subdivision 14 of section 2807-k of the public health law is
48 REPEALED and subdivisions 15, 16 and 17 are renumbered subdivisions 14,
49 15 and 16.

50 § 3. This act shall take effect immediately.

51

PART H

52 Section 1. Section 5004 of the civil practice law and rules, as
53 amended by chapter 258 of the laws of 1981, is amended to read as
54 follows:

1 § 5004. Rate of interest. Interest shall be at the rate of nine per
 2 centum per annum, except where otherwise provided by statute, provided
 3 that in medical debt actions by a hospital licensed under article twen-
 4 ty-eight of the public health law or a health care professional author-
 5 ized under title eight of the education law the interest rate shall be
 6 calculated at the one-year United States treasury bill rate. For the
 7 purpose of this section, the "one-year United States treasury bill rate"
 8 means the weekly average one-year constant maturity treasury yield, as
 9 published by the board of governors of the federal reserve system, for
 10 the calendar week preceding the date of the entry of the judgment award-
 11 ing damages. Provided however, that this section shall not apply to any
 12 provision of the tax law which provides for the annual rate of interest
 13 to be paid on a judgment or accrued claim.

14 § 2. This act shall take effect immediately.

15 PART I

16 Section 1. Subsection (h) of section 603 of the financial services
 17 law, as added by section 26 of part H of chapter 60 of the laws of 2014,
 18 is amended to read as follows:

19 (h) "Surprise bill" means a bill for health care services, other than
 20 emergency services, received by:

21 (1) an insured for services rendered by a non-participating physician
 22 at a participating hospital or ambulatory surgical center, where a
 23 participating physician is unavailable or a non-participating physician
 24 renders services without the insured's knowledge, or unforeseen medical
 25 services arise at the time the health care services are rendered;
 26 provided, however, that a surprise bill shall not mean a bill received
 27 for health care services when a participating physician is available and
 28 the insured has elected to obtain services from a non-participating
 29 physician;

30 (2) an insured for services rendered by a non-participating provider,
 31 where the services were referred by a participating physician to a non-
 32 participating provider without explicit written consent of the insured
 33 acknowledging that the participating physician is referring the insured
 34 to a non-participating provider and that the referral may result in
 35 costs not covered by the health care plan; ~~or~~

36 (3) an insured for services rendered by a non-participating provider
 37 when the insured reasonably relied upon an oral or written statement
 38 that the non-participating provider was a participating provider made by
 39 a health care plan, or agent or representative of a health care plan, or
 40 as specified in the health care plan provider listing or directory, or
 41 provider information on the health plan's website;

42 (4) an insured for services rendered by a non-participating provider
 43 when the insured reasonably relied upon a statement that the non-parti-
 44 cipating provider was a participating provider made by the non-partici-
 45 pating provider, or agent or representative of the non-participating
 46 provider, or as specified on the non-participating provider's website;
 47 or

48 (5) a patient who is not an insured for services rendered by a physi-
 49 cian at a hospital or ambulatory surgical center, where the patient has
 50 not timely received all of the disclosures required pursuant to section
 51 twenty-four of the public health law.

52 § 2. Paragraph (k) of subdivision 1 of section 2803 of the public
 53 health law, as added by chapter 241 of the laws of 2016, is amended to
 54 read as follows:

1 (k) The statement regarding patient rights and responsibilities,
2 required pursuant to paragraph (g) of this subdivision, shall include
3 provisions informing the patient of his or her right to [~~choose~~ be held
4 harmless from certain bills for emergency services and surprise bills,
5 and to submit surprise bills or bills for emergency services to the
6 independent dispute process established in article six of the financial
7 services law, and informing the patient of his or her right to view a
8 list of the hospital's standard charges and the health plans the hospi-
9 tal participates with consistent with section twenty-four of this chap-
10 ter.

11 § 3. This act shall take effect immediately.

12 § 3. Severability clause. If any provision of this act, or any appli-
13 cation of any provision of this act, is held to be invalid, or to
14 violate or be inconsistent with any federal law or regulation, that
15 shall not affect the validity or effectiveness of any other provision of
16 this act, or of any other application of any provision of this act,
17 which can be given effect without that provision or application; and to
18 that end, the provisions and applications of this act are severable.

19 § 4. This act shall take effect immediately provided, however, that
20 the applicable effective date of Parts A through I of this act shall be
21 as specifically set forth in the last section of such Parts. Effective
22 immediately, the commissioner of health and the superintendent of finan-
23 cial services shall make regulations and take other actions reasonably
24 necessary to implement every part of this act when it takes effect.