

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 778

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO PATIENT ACT; AMENDING SECTION 48-303, IDAHO CODE,
2 TO REVISE DEFINITIONS; AMENDING SECTION 48-304, IDAHO CODE, TO REVISE
3 PROVISIONS REGARDING REQUIREMENTS FOR EXTRAORDINARY COLLECTION AC-
4 TIONS; AMENDING SECTION 48-305, IDAHO CODE, TO PROVIDE A CORRECT CODE
5 REFERENCE; AMENDING SECTION 48-306, IDAHO CODE, TO REVISE PROVISIONS
6 REGARDING EXTRAORDINARY COLLECTION ACTIONS AFTER UNTIMELY NOTICE;
7 AMENDING SECTION 48-307, IDAHO CODE, TO REVISE A PROVISION REGARDING
8 THE BURDEN OF PROOF; AMENDING SECTION 48-308, IDAHO CODE, TO REVISE A
9 PROVISION REGARDING THE REBUTTABLE PRESUMPTION OF RECEIPT; AMENDING
10 SECTION 48-309, IDAHO CODE, TO REVISE A PROVISION REGARDING AN EXEMP-
11 TION FROM THE DELIVERY OF CONSOLIDATED SUMMARY OF SERVICES; AMENDING
12 SECTION 48-310, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMEND-
13 ING CHAPTER 3, TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
14 48-314, IDAHO CODE, TO PROVIDE FOR SEVERABILITY; AMENDING CHAPTER 3,
15 TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 48-315, IDAHO
16 CODE, TO PROVIDE FOR LEGISLATIVE INTENT REGARDING APPLICABILITY; AND
17 DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.
18

19 Be It Enacted by the Legislature of the State of Idaho:

20 SECTION 1. That Section 48-303, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 48-303. DEFINITIONS. For the purposes of this chapter:

23 (1) (a) "Consolidated summary of services" means a written notice that
24 contains, at a minimum, the following:

25 (a*i*) The name and contact information, including telephone num-
26 ber, of the patient;

27 (b*ii*) The name and contact information, including telephone num-
28 ber, of the health care facility that the patient visited to re-
29 ceive goods or services;

30 (c*iii*) The date and duration of the visit to the health care facil-
31 ity by the patient;

32 (d*iv*) A general description of goods and services provided to the
33 patient during the visit to the health care facility, including
34 the name, address, and telephone number of each billing entity
35 whose health care providers provided the services and goods to the
36 patient; and

37 (e*v*) A clear and conspicuous notification at the top of the notice
38 that states: "This is Not a Bill. This is a Summary of Medical Ser-
39 vices You Received. Retain This Summary for Your Records. Please
40 Contact Your Insurance Company and the Health Care Providers
41 Listed on this Summary to Determine the Final Amount You May Be
42 Obligated to Pay."

1 (b) For the purpose of calculating timeline requirements in this chap-
 2 ter in the event of multiple notices, a "consolidated summary of ser-
 3 vices" means the notice that first supplied the information required by
 4 paragraph (a) of this subsection if such information did not change in
 5 any subsequent notices.

6 (2) "Contested judgment" means a court judgment sought by one (1) party
 7 that is challenged by another party through a filing with the court or by pre-
 8 senting evidence or argument at a hearing before the court.

9 (3) (a) "Extraordinary collection action" means any of the following
 10 actions done in connection with a patient's debt:

11 (a*i*) ~~Prior to sixty (60) days from the patient's receipt of the~~
 12 ~~final statement notice before extraordinary collection action,~~
 13 ~~selling, transferring, or assigning any amount of a patient's~~
 14 ~~debt to any ~~third-party~~ third party, or otherwise authorizing any~~
 15 ~~third-party third party to collect the debt in a name other than~~
 16 ~~the name of the health care provider;~~

17 (a*ii*) Reporting adverse information about the patient to a con-
 18 sumer reporting agency; or

19 (a*iii*) Commencing any judicial or legal action or filing or
 20 recording any document in relation thereto, including but not lim-
 21 ited to:

22 ~~(i)~~1. Placing a lien on a person's property or assets;

23 ~~(ii)~~2. Attaching or seizing a person's bank account or any
 24 other personal property;

25 ~~(iii)~~3. Initiating a civil action against any person; or

26 ~~(iv)~~4. Garnishing an individual's wages.

27 (b) "Extraordinary collection action" does not include an action pur-
 28 suant to and in compliance with section 28-22-105, Idaho Code.

29 (4) (a) "Final ~~statement~~ notice before extraordinary collection ac-
 30 ~~tion"~~ means a written notice that contains, at a minimum, the following:

31 (a*i*) The name and contact information, including telephone num-
 32 ber, of the patient;

33 (a*ii*) The name and contact information, including telephone num-
 34 ber, of the health care facility where the health care provider
 35 provided goods and services to the patient;

36 (a*iii*) A list of the goods and services that the health care
 37 provider provided to the patient during the patient's visit to the
 38 health care facility, including the initial charges for the goods
 39 and services and the date the goods and services were provided, in
 40 reasonable detail;

41 (a*iv*) A statement that a full itemized list of goods and services
 42 provided to the patient is available upon the patient's request;

43 (a*v*) The name of the third-party payors to which the charges for
 44 health care services were submitted by the health care provider
 45 ~~and the patient's group and membership numbers;~~

46 (a*vi*) A detailed description of all reductions, adjustments, off-
 47 sets, third-party payor payments, including payments already re-
 48 ceived from the patient, that adjust the initial charges for the
 49 goods and services provided to the patient during the visit; and

(gvi) The final amount that the patient is liable to pay after taking into account all applicable reductions, including but not limited to the items identified in subparagraph (fvi) of this subsection paragraph.

(b) For the purpose of calculating timeline requirements in this chapter in the event of multiple notices, the "final notice before extraordinary collection action" means the notice that first supplied the information required by paragraph (a) of this subsection if such information did not change in any subsequent notices.

(5) "Health care facility" means any person, entity, or institution operating a physical or virtual location that holds itself out to the public as providing health care services through itself, through its employees, or through third-party health care providers. Health care facilities include but are not limited to hospitals and other licensed inpatient centers; ambulatory surgical or treatment centers; skilled nursing centers; residential treatment centers; urgent care centers; diagnostic, laboratory, and imaging centers; and rehabilitation and other therapeutic health settings, as well as medical transportation providers.

(6) "Health care provider" means:

(a) A physician or other health care practitioner licensed, accredited, or certified to perform health care services consistent with state law, or any agent or third-party representative thereof; or

(b) A health care facility or its agent.

(7) "Health care services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

(8) "Patient" means a person who seeks or receives services from a health care provider. For the purposes of this chapter, "patient" includes a parent if the patient is a minor, a legal guardian if the patient is an adult under guardianship, or any person contractually or otherwise liable for the financial obligations of the person receiving goods or services from the health care provider.

(9) "Third-party payor" means a health carrier as defined in section 41-5903, Idaho Code, or a self-funded plan as defined in section 41-4002 or 41-4102, Idaho Code, and includes multiple third-party payors when applicable.

(10) "Uncontested judgment" means a court judgment sought by one (1) party that is not contested by another party by filing with the court or by presenting evidence or argument at a hearing before the court.

SECTION 2. That Section 48-304, Idaho Code, be, and the same is hereby amended to read as follows:

48-304. REQUIREMENTS FOR EXTRAORDINARY COLLECTION ACTION. (1) No person shall engage, directly or indirectly, in any extraordinary collection action against a patient unless:

(1a) A health care provider submits its charges related to the provision of goods or delivery of services to the third-party payor of the patient, identified by the patient to the health care provider in connection with the services or, in the event no third-party payor was identi-

1 fied, to the patient, which submission of charges in either case shall
 2 be wWithin forty-five (45) days from the latest of:

3 (i) The date of the provision of goods or the delivery of services
 4 to the patient ~~or from~~;

5 (ii) Tthe date of discharge of the patient from a health care
 6 facility, whichever is later, a health care provider submits
 7 its charges related to the provision of goods or services to the
 8 third-party payor or payors of the patient, identified by the pa-
 9 tient to the health care provider in connection with the services,
 10 if any, or, in the event no third-party payor was identified, to
 11 the patient; or

12 (iii) The first date permitted by the applicable billing code or
 13 codes and the applicable policies and procedures in connection
 14 with the patient's care in each case as published by the relevant
 15 national association;

16 (2b) The patient receives a consolidated summary of services, free of
 17 charge, from the health care facility that the patient visited, unless
 18 the health care facility is exempted from providing a consolidated sum-
 19 mary of services pursuant to section 48-309, Idaho Code, wWithin sixty
 20 (60) days from the latest of:

21 (i) The date of the provision of goods or delivery of services to
 22 the patient ~~or from the~~;

23 (ii) The date of discharge, whichever is later, of the patient
 24 receives from the health care facility that the patient visited,
 25 a consolidated summary of services, free of charge, unless the
 26 health care facility is exempted from providing a consolidated
 27 summary of services pursuant to section 48-309, Idaho Code; or

28 (iii) The first date permitted by the applicable billing code or
 29 codes and the applicable policies and procedures in connection
 30 with the patient's care in each case as published by the relevant
 31 national association.

32 (3c) The patient receives, free of charge, a final statement notice
 33 before extraordinary collection action from the billing entity of the
 34 health care provider;

35 (4d) The health care provider does not charge or cause to accrue any
 36 interest, fees, or other ancillary charges until at least sixty (60)
 37 days have passed from the date of receipt of the final statement notice
 38 before extraordinary collection action or the consolidated summary of
 39 services, whichever is received later by the patient; and

40 (5e) At least ninety (90) days have passed from receipt of the final
 41 statement notice before extraordinary collection action or the consol-
 42 idated summary of services, whichever is received later by the patient,
 43 and final resolution of all internal reviews, good faith disputes, and
 44 appeals of any charges or third-party payor obligations or payments-;
 45 provided, however, that the ninety (90) days required by this paragraph
 46 may be shortened to forty-five (45) days for an extraordinary collec-
 47 tion action as defined in section 48-303(3) (a) (ii), Idaho Code, if at
 48 least thirty (30) days prior to such action, the patient receives writ-
 49 ten notice that the health care provider may take an extraordinary col-
 50 lection action as defined in section 48-303(3) (a) (ii), Idaho Code, and

1 that, as a consequence of taking such action, the health care provider
 2 will be prohibited from taking any extraordinary collection action as
 3 defined in section 48-303(3) (a) (iii), Idaho Code.

4 (2) Any person taking an extraordinary collection action as defined in
 5 section 48-303(3) (a) (ii), Idaho Code, prior to ninety (90) days from the pa-
 6 tient's receipt of the final notice before extraordinary collection action
 7 shall be prohibited from pursuing an extraordinary collection action as de-
 8 defined in section 48-303(3) (a) (iii), Idaho Code.

9 (3) No person shall engage, directly or indirectly, in any type of
 10 extraordinary collection action against a patient unless the final no-
 11 tice before extraordinary collection action includes both the name of the
 12 third-party payor to which the health care provider submitted charges re-
 13 lated to the provision of goods or delivery of services to the patient and the
 14 patient's group number and last four (4) digits of the patient's membership
 15 number; provided, however, such requirement does not apply if the health
 16 care provider has submitted all charges in connection with the patient's
 17 care to the patient's correct third-party payor. Nothing in this subsection
 18 shall be construed to exempt a person from the requirements of subsection (1)
 19 of this section or section 48-306, Idaho Code.

20 SECTION 3. That Section 48-305, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 48-305. FEES AND COSTS FOR EXTRAORDINARY COLLECTION AC-
 23 TION. (1) Notwithstanding any provision of law or agreement to the contrary,
 24 a patient shall have no liability to any party taking extraordinary collec-
 25 tion action for costs, expenses, and fees, including attorney's fees, unless
 26 the party has complied with section 48-304, Idaho Code, and then subject to
 27 the following limitations:

28 (a) In the case of an uncontested judgment against the patient, the
 29 court may award, in addition to the outstanding principal, up to three
 30 hundred fifty dollars (\$350) or an amount equal to one hundred percent
 31 (100%) of the outstanding principal amount, whichever is less, plus any
 32 prejudgment interest accrued in accordance with section 48-304(41) (d),
 33 Idaho Code, and any postjudgment interest awarded by the court;

34 (b) In the case of a contested judgment against the patient, the court
 35 may award, in addition to the outstanding principal, up to seven hundred
 36 fifty dollars (\$750) or an amount equal to one hundred percent (100%) of
 37 the outstanding principal amount, whichever is less, plus any prejudg-
 38 ment interest accrued in accordance with section 48-304(41) (d), Idaho
 39 Code, and any postjudgment interest awarded by the court;

40 (c) In the case of postjudgment motions and writs, the court may award
 41 up to seventy-five dollars (\$75.00) for any successful motion or ap-
 42 plication for a writ of attachment to any particular garnishee and
 43 twenty-five dollars (\$25.00) for any subsequent application for a writ
 44 to the same garnishee. In the case of garnishments, the court may also
 45 award service fees as prescribed by the applicable board of county com-
 46 missioners pursuant to section 11-729, Idaho Code.

47 (2) In the case of a contested judgment, if a party taking extraordi-
 48 nary collection action against a patient prevails against a patient and in-
 49 curs costs, expenses, and fees, including attorney's fees, that are grossly

1 disproportionate to the award amounts set forth in subsection (1) (b) of this
2 section, then the party may petition the court for a supplemental award for
3 costs, expenses, and fees. Upon an affirmative showing that the incurred
4 costs, expenses, and fees are grossly disproportionate to the award amounts
5 set forth in subsection (1) (b) of this section, and that fees were incurred
6 because of the patient's willful attempt to avoid paying a bona fide debt,
7 then the court may take into account the factors outlined in rule 54(e) (3) of
8 the Idaho rules of civil procedure and may, in its discretion, award supple-
9 mental costs, expenses, and reasonable attorney's fees.

10 (3) Notwithstanding any provision of law or agreement to the contrary,
11 if a patient in a contested judgment is a prevailing party, then the patient
12 shall be entitled to recover from a nonprevailing party all costs, expenses,
13 and fees, including attorney's fees, incurred by the patient in contesting
14 the action, and the patient shall have no liability to any nonprevailing par-
15 ties for any costs, expenses, and fees, including attorney's fees and pre-
16 judgment interest incurred by a nonprevailing party.

17 SECTION 4. That Section 48-306, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 48-306. EXTRAORDINARY COLLECTION AFTER UNTIMELY NOTICE -- LIMITA-
20 TION. If a party is unable to engage in an extraordinary collection action
21 because the health care provider or health care facility failed to meet
22 the timing requirements of section 48-304(1) (a) or (2b), Idaho Code,
23 but complies with such timing requirements within either an additional
24 forty-five (45) days for failure to meet the timing requirements of sec-
25 tion 48-304(1) (a), Idaho Code, or an additional ~~ninety (90)~~ one hundred
26 eighty (180) days for failure to meet the timing requirements of section
27 48-304(21) (b), Idaho Code, then as long as all other requirements of section
28 48-304, Idaho Code, have been satisfied, such party may commence an extraor-
29 dinary collection action. Notwithstanding any provision of law or agreement
30 to the contrary, in any such collection action, the patient shall have no
31 liability for costs, expenses, and fees, including attorney's fees.

32 SECTION 5. That Section 48-307, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 48-307. BURDEN OF PROOF. Any person seeking to engage in an extraor-
35 dinary collection action bears the burden of establishing that the require-
36 ments of sections 48-304 and 48-306, Idaho Code, if applicable, have been
37 satisfied prior to engaging in any extraordinary collection action. Any
38 party commencing a judicial action against a patient must plead with partic-
39 ularity its compliance with each requirement of sections 48-304 and 48-306,
40 Idaho Code, as the case may be, and must specifically identify the name,
41 group, and policy numbers of the third-party payor to which the health care
42 provider submitted the charges in connection with the provision of goods or
43 delivery of services, along with the date of each submission.

44 SECTION 6. That Section 48-308, Idaho Code, be, and the same is hereby
45 amended to read as follows:

1 48-308. REBUTTABLE PRESUMPTION OF RECEIPT. A patient shall be pre-
2 sumed to have received a consolidated summary of services or a final
3 statement notice before extraordinary collection action three (3) days af-
4 ter the document has been sent by first class mail to the patient's address
5 confirmed by the patient during the patient's last visit to the health care
6 provider or as updated by the patient in subsequent written or electronic
7 communications. Nothing in this section shall be interpreted as precluding
8 the patient from agreeing in writing to receive consolidated summaries of
9 services or final ~~statements~~ notices before extraordinary collection action
10 via email or other electronic means.

11 SECTION 7. That Section 48-309, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 48-309. DELIVERY OF CONSOLIDATED SUMMARY OF SERVICES. Notwithstand-
14 ing any provision of law to the contrary in this chapter, a health care facil-
15 ity is not required to send a consolidated summary of services to a patient
16 prior to engaging in extraordinary collection action if:

17 (1) The patient will receive a final statement notice before extraor-
18 dinary collection action from a single billing entity for all goods and ser-
19 vices provided to the patient at that health care facility;

20 (2) The patient was clearly informed in writing of the name, phone num-
21 ber, and address of the billing entity; and

22 (3) The health care facility otherwise complies with all other provi-
23 sions of section 48-304, Idaho Code.

24 SECTION 8. That Section 48-310, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 48-310. CONTRACTED SERVICE. Nothing in this chapter prohibits a
27 health care facility from authorizing a health care provider by con-
28 tract to provide the consolidated summary of services required by section
29 48-304 ~~(2)~~ (b), Idaho Code, on its behalf.

30 SECTION 9. That Chapter 3, Title 48, Idaho Code, be, and the same is
31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
32 ignated as Section 48-314, Idaho Code, and to read as follows:

33 48-314. SEVERABILITY. The provisions of this chapter are hereby de-
34 clared to be severable, and if any provision of this chapter or the applica-
35 tion of such provision to any person or circumstance is declared invalid for
36 any reason, such declaration shall not affect the validity of the remaining
37 portions of this chapter.

38 SECTION 10. That Chapter 3, Title 48, Idaho Code, be, and the same is
39 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
40 ignated as Section 48-315, Idaho Code, and to read as follows:

41 48-315. LEGISLATIVE INTENT REGARDING APPLICABILITY. The legislature
42 finds and affirms that the legislative intent of including the effective
43 date of January 1, 2021, in the original enactment of this chapter by chapter

1 139, laws of 2020, was and is to apply the requirements of this chapter, in-
2 cluding the limitations on costs, expenses, and fees, including attorney's
3 fees, set forth in section 48-305, Idaho Code, on any and all extraordinary
4 collection actions commenced on or after January 1, 2021, regardless of the
5 date of the provision of goods or delivery of services to a patient.

6 SECTION 11. An emergency existing therefor, which emergency is hereby
7 declared to exist, Sections 8 and 10 of this act shall be in full force and ef-
8 fect on and after passage and approval, and retroactively to January 1, 2021;
9 and Sections 1 through 7 and Section 9 of this act shall be in full force and
10 effect on and after the date of passage and approval and shall apply to all
11 extraordinary collection actions commenced on and after such date.