

‘We need someone to stand up for us’: NM fails patients hounded by medical debt collectors

AG’s office, Human Services Department haven’t followed through on 2021 patients’ debt law

By: [Austin Fisher](#) - December 14, 2022 5:00 am



New Mexico passed a law in 2021 meant to protect people with low incomes from being sued or facing aggressive collection agencies over medical debt. But the state is doing little to enforce its new law, and two patient-led lawsuits allege health care companies keep suing people anyway. (Photo by Getty Images)

As a father of two lay in bed with excruciating pain in his back, he wasn’t sure where it came from, but he felt like he had nowhere to take it.

His girlfriend and mother told him he needed to go to the hospital and see a doctor.

“I can’t,” he told them. “I don’t have insurance.”

But they insisted, and he was driven to the emergency room at Mountain View Regional Medical Center down the street from his house in Las Cruces in October 2021. He was there for four hours, he said, got some pain medication, and was sent home.

More than a year later, a postal worker came to his door telling him he needed to show his identification and sign for a package. Inside was court paperwork from the hospital, suing him for not paying the bill, which Mountain View said totaled over \$4,000.

“I just went into panic mode,” he said. “I didn’t know they could do this. They didn’t even call me and say, ‘Hey, make a payment.’ Nothing.”

The hospital disputes this in court filings, and attorneys say before the lawsuit was filed, Mountain View’s collection agency sent him letters and called him.

The patient declined to be named because of an ongoing lawsuit, and to protect his privacy and safety.

His income of about \$300 per week as a plumber, according to court records, should have qualified him for protection from this lawsuit under a New Mexico law passed in 2021 meant to protect people with low incomes from being sued or facing aggressive collection agencies over medical debt.

But the state is doing little to enforce its new law, and two patient-led lawsuits allege health care companies keep suing people anyway.

The plumber said he was convinced that if he did not comply with the Las Cruces hospital’s demands, and the case reached a judgment, his credit would be ruined. The hospital is calling on the court to force him to pay it, plus interest.

So he sold his truck — the only thing he owned of any value, he said — to prepare for potentially having to pay a judgment.

“He sold this asset to prepare for what he saw as an inevitability,” said Nicolas Cordova, health care director at the New Mexico Center on Law and Poverty.

Other clients divert money their family needs for housing, clothes and fuel when faced with these lawsuits, Cordova said.

“That just shows the irreparable damage these kinds of unlawful lawsuits can impose on people and families who should not have been subjected to those lawsuits at all,” Cordova said.

Everyone should be able to access medical care they need without the fear of devastating medical debt, Cordova said.

Counting on ignorance

Unpaid medical bills have [become big business](#), with hospitals selling batches of debts to collection agencies for millions at a go.

Nearly [one out of every five people](#) in New Mexico have medical debt sold to collection agencies.

Over 200,000 people in the state do not have health insurance. For those folks, Cordova said, one of two things usually happens: You either avoid health care when you need it, or if you get health care, you might be charged unfair amounts, leaving you with a stack of unaffordable bills.

Hospitals in New Mexico are suing hundreds of patients each year to collect. These lawsuits can result in hospitals garnishing people’s wages, reporting adverse information to someone’s creditors, or even forcing them to potentially sell their assets, diverting money from their basic needs, Cordova said. All for a case they should not have been subjected to in the first place.

Faced with that dire situation, the New Mexico Legislature passed the [Patients’ Debt Collection Protection Act](#), which puts the legal burden on hospitals and other health care companies to first check someone’s income to see if they are “[indigent](#)” before suing them or sending collectors their way.

If you’re being sued over medical debt, the Office of the Superintendent of Insurance published the [forms](#) needed to prove that someone has a low income in January 2022.

“The hospital knows this is the law, and it has been in effect since 2021,” Cordova said. “And yet they’re relying on everyday New Mexicans not understanding their rights.”

Since the law went into effect in July 2021, Mountain View has unlawfully sued over 260 patients without considering their income, according to a [class action](#) lawsuit.

The state Human Services Department [told](#) hospitals in November 2021 to comply with the law, they must first look at income before billing someone for an emergency or medically necessary care. The state [issued](#) rules putting the law into practice a month later.

Hundreds of lawsuits

It’s hard enough already not having enough money to go to the doctor, the Las Cruces plumber said, but it’s even worse to be sued for seeing one. The most frustrating part was not knowing who to call, he said, and he felt relief when he met Cordova.

“We need someone to stand up for us,” he said. “I feel bad for all the people that are still wondering what to do. It’s hard to find someone standing up for us.”

Cordova said the class action case against Mountain View has two goals: one, ensure the hospital follows the law, whether that means not filing lawsuits against patients with low incomes at all, or meeting the legal burden of looking into it first; and two, reverse any kind of downstream impacts of those unlawfully filed lawsuits.

It’s not just Mountain View. In a review of court records, the Center on Law and Poverty [found](#) more than 700 cases where hospitals or their collection agencies sued patients with low incomes in state courts across New Mexico, even after the law took effect.

Another separate class action lawsuit accuses the Credit Bureau of Farmington, on behalf of three health care companies in San Juan County, of filing “several hundred” debt collection lawsuits against low-income patients over the last four years.

Who will enforce the law?

Nora Meyers Sackett, press secretary for Gov. Michelle Lujan Grisham, said the governor “expects all state laws to be followed and adhered to, including legislation she was proud to sign that is intended to protect low-income New Mexicans.”

“The executive is not a law enforcement body, and we wouldn’t be able to comment on a litigation matter that does not involve our office,” Meyers Sackett said in an emailed statement on Dec. 2.

But the state’s top prosecutor — the Attorney General’s Office — is not doing much to make sure hospitals and collection companies comply with the medical debt law.

Cholla Khoury, chief deputy attorney general, [told](#) lawmakers on Nov. 29 the language in the new statute is too vague for the AG’s Office to take health care companies to court.

She said an early draft of the law explicitly linked it to the state’s Unfair Practices Act, a consumer protection law meant to shield people from unfair, deceptive or unconscionable trade practices. That language was stripped from the measure, Khoury said, “which means our enforcement power and our scope is severely limited.”

But the Center on Law and Poverty is arguing in its class action lawsuit that breaking the new law in these circumstances also counts as a violation of the Unfair Practices Act.

Courts have interpreted a list of what practices might count as unfair or deceptive as “non-exhaustive.” So even if a specific practice isn’t listed, it could still be illegal.

Khouri urged lawmakers to amend the new medical debt law to connect it to the Unfair Practices Act during the next legislative session that starts in January.

Later in the same hearing, Rep. Gail Chasey (D-Albuquerque) asked Cordova to weigh in on whether this change is necessary to enforce the law.

“With due respect, I don’t think that is necessary at this time,” Cordova said. “The Patients’ Debt Collection Protection Act explicitly says that the Attorney General’s Office can enforce the protections.”

Indeed, the law itself [reads](#): “The attorney general shall enforce the provisions of the Patients’ Debt Collection Protection Act.”

The AG’s Office can argue to a judge right now that a violation of the new law also counts as a violation of the Unfair Practices Act, Cordova said.

One of the law’s three sponsors in the Roundhouse confirmed Cordova’s position.

Sen. Katy Duhigg (D-Albuquerque) said in an interview there is no need to make violations of the new law a “per se” violation of the Unfair Practices Act. The Senate Judiciary Committee heard the bill twice specifically to ensure it wasn’t an issue, she said.

Duhigg said she would be very wary of reopening the law to further changes unless it was absolutely essential, “because it’s likely to be weakened if we did.”

‘Possible further action’

“Our office utilizes the current rule of law to target predatory debt collection,” wrote Jerri Mares, a spokesperson for the attorney general.

Still, few members of the public even know any protections exist, Khoury and Duhigg both pointed out. And the AG’s Office “cannot act as a private attorney for individual citizens,” Mares said.

Update

This story was updated on Wednesday, Dec. 14, at 12:15 p.m. to reflect that Source NM reporter Austin Fisher asked about enforcement actions by the AG’s Office on Dec. 1.

Outgoing Attorney General Hector Balderas established the [Advocacy and Intervention Division](#) that “conducts a risk assessment of complaints and may properly refer high-risk complaints to our litigation team for their further review and determination,” Mares said.

The AG's Office rolled out a complaint system, netting 128 complaints about aggressive debt collection by hospitals that would be subject to the new medical debt law. Roughly half of those complaints actually described potential violations, Khouri said. Six are "under review for possible further action," Mares wrote.

After a request on Dec. 1 about enforcement actions pursuant to the Act, Mares had not provided an example before Tuesday.

Mares wrote the new law didn't give the AG's Office any case agents to enforce it, and two to three agents "would be an adequate start."

If the attorney general seeks more funding from the Legislature to beef up their consumer protection work, "We will be happy to support that advocacy," Cordova said.

Hospitals secretive about how they spend public money

Along with requiring hospitals to screen out low-income patients before taking people to court over debt, the new law mandates they report to the Human Services Department each year on how they are using public funds meant to cover ambulance rides and hospital stays.

The top five New Mexico hospitals who are filing these debt collection lawsuits are Mountain View Regional Medical Center in Las Cruces, Carlsbad Medical Center, the Credit Bureau of Farmington (for debts owed to San Juan Regional Medical Center and two other companies), Lea Regional Hospital, and the Otero County Hospital Association, according to the Center on Law and Poverty's data.

None of those five hospitals have submitted any reports on how they are spending public money meant to cover care for low-income patients, according to HSD spokesperson Marina Piña.

"We have not received reporting for this act from the providers stated in your inquiry," Piña said via email on Dec. 2.

On Friday, Piña wrote the department had just finished working with the New Mexico Hospital Association on a template for the reports after starting that process in late 2021. All hospitals and other health care companies who receive money from Medicaid will be required to report how they are spending the money on Jan. 6 and must report again at the end of every fiscal year, she wrote.

Cordova said it's important to not leave regulation in the hands of the entities being regulated. The department should issue rules or some kind of specific, clear requirements for these hospitals to turn over that information.

"Otherwise, we're going to be in situations where it's entirely discretionary for the hospitals," Cordova said. "That's what we've seen for the past year-and-a-half."

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