

IDAHO PATIENT ACT ISB HEALTH LAW SECTION

THOMAS J. MORTELL

FEBRUARY 4, 2021

IDAHO PATIENT ACT

- Idaho Code 48-301 through -312
- Passed by 2020 legislature
- Pushed by Frank Vandersloot
- Response to what was perceived as abusive collection practices in SE Idaho by health care providers

IDAHO PATIENT ACT

- Originally effective January 1, 2020
- Adds hoops to jump through before you can sue a patient and recover your attorney fees

EXTRAORDINARY COLLECTION ACTIONS

- Negative credit report
- Third-party collections
- Lawsuit against patient
- Liens on property or assets
- Garnishing bank accounts or wages
- See I.C. 48-302(3)
- Demand letters not included I.C. 48-312

BEFORE YOU USE EXTRAORDINARY COLLECTION ACTIONS

- Within 45 days of service, all providers must submit claims to the patient's insurance company or bill the patient directly. I.C. 48-304(1)
- Within 60 days of service, the health care facility must provide a "Consolidated Summary of Services" to the patient. I.C. 48-304(2)
- A Final Statement must go to the patient. There is no time limit to process and finalize a claim. 48-304(3)

BEFORE YOU USE EXTRAORDINARY COLLECTION ACTIONS

- The provider must wait 60 days from receipt of the final statement before charging interest. I.C. 48-304(4)
- The provider must wait 90 days from receipt of the final statement before taking an extraordinary collection action. I.C. 48-304(5)

EXTRA 45 DAYS TO SUBMIT CLAIMS

- See I.C. 48-306
- But provider forgoes its ability to collect attorney fees and costs from patient.
- Collection limited to amount of final statement and that's it.
- See also HB 42 described below.

CONSOLIDATED SUMMARY OF SERVICES

- CSS sent within 60 days of service. I.C. 48-304(2).
- Required information:
 - Patient name and contact information, including telephone number
 - Name and contact information, including telephone number of the health care facility where services were provided

CONSOLIDATED SUMMARY OF SERVICES

- Date and duration of visit to the facility
- General description of goods and services provided to the patient with name, address and telephone number of each billing entity or provider group whose providers provided services

REQUIRED LANGUAGE IN CSS

- *“This is Not a Bill. This is a Summary of Medical Services You Received. Retain This Summary for Your Records. Please Contact Your Insurance Company and the Health Care Providers Listed on this Summary to Determine the Final Amount You May Be Obligated to Pay.”*

NOT REQUIRED IN CSS

- Costs or charges of Services
- Patient Insurance Information
- Individual physician or clinician names – rather than an individual provider name, the CSS can include the provider group name or their billing service.
- The intent is that the patient knows who to expect a bill from and who to contact if they do not receive a bill.

HOW TO PROVIDE CSS TO PATIENT

- In person at discharge
- First-Class Mail
- With patient's written consent, CSS may be sent via email or patient portal.

CSS NOT REQUIRED IF –

- 1) Patient will receive a final statement from a single billing entity for all services for services provided in the facility
- 2) Patient is clearly informed in writing of the name, phone number and address of the billing entity
- It is important to document that the patient has been informed of the billing entity

CAN TAKE AN EXTRA 90 DAYS FOR CSS

- See generally I.C. 48-306.
- Forgo the ability to collect legal costs from patient.
- Can only collect the amount of the final statement and that's it.
- If you don't send a CSS, your independent providers will be barred from receiving their attorney fees and costs if they sue the patient.
- See also HB 42 described below.

FINAL STATEMENT

- Must go to the patient:
- 60 days before interest can be charged
- 90 days before taking extraordinary collection action.
- With written consent of patient, the Final Statement may be sent via email or other electronic means, such as a patient portal
- Must be able to prove Final Statement was sent.

FINAL STATEMENT MUST INCLUDE

- Name and contact information, including telephone number of the patient
- Name contact information, including telephone number of the healthcare facility where the services were provided
- A list of good and services, in reasonable detail
- Initial charges
- Dates services were provided

FINAL STATEMENT MUST INCLUDE

- A statement telling the patient that a full itemized list of goods and services provided to the patient is available upon request
- Name of third-party payors to which the charges were submitted which includes the patient's group and membership numbers.
- Detailed description of all reductions, adjustments, offsets, third-party payor payments, payments received from patients, that adjust the initial charges
- Final amount patient is obligated to pay

THREE-DAY RULE

- The law presumes that patients will receive documents within 3 days after being sent by First-Class Mail.
- Providers should actually use 63 or 93-day timelines to proceed for collecting outstanding debt.

ATTORNEY FEES AND COSTS – I.C. 48-305

- If you jump through all these hoops and engage in extraordinary collection actions, there is a cap on recovery of fees and costs.
- Uncontested case – \$350 or 100% of principal amount (whichever is less), plus interest
- Contested case – \$750 or 100% of principal amount (whichever is less), plus interest.

ATTORNEY FEES AND COSTS – I.C. 48-305

- Post-judgment motions and writs – \$25 plus costs of service.
- Willful attempts to avoid paying bona fide debt exempted.
- If patient prevails, he or she can recover attorney fees and costs incurred in contesting the debt, plus penalties (see below).

ENFORCEMENT AND PENALTIES

- If any party takes extraordinary collection actions without meeting the requirements of the Act, the patient shall have no liability for any collection costs, expenses or fees.
- The party will also be liable to the patient for any actual damages sustained by the patient, or \$1,000, whichever is greater.

ENFORCEMENT AND PENALTIES

- If party has knowingly violated the Act's requirements, the court may award 3 times the amount of actual damages, or \$3,000, whichever is greater. I.C. 48-311.

2021 LEGISLATURE – HOUSE BILL 42

- Adds I.C. Section 48-313.
- Unanimously Approved by the House.
- Hearing in the Senate next week.
- For services prior to July 1, 2021, new section waives the 45 and 90 day extended timelines in Section 48-306 as long as all of the other requirements of Section 48-306 are met.
- You still have to bill the payor and send the CSS, but not within the required time frames.
- No attorney fees and costs.

THANK YOU!

Thomas J. Mortell
tmortell@hawleytroxell.com

www.hawleytroxell.com
208.344.6000