

Medical Debt Collection Strategy Plays Key Role in Federal Court Decision, 2-12-2024

Given the complexity of modern health insurance and the medical billing process, the collection of medical debt is unique from other forms of debt. This can create its own challenges, which is why an early out collection strategy can be prudent as evidenced by a recent federal court decision. With medical debt, there is typically no defined date of default. The reason for this is simple. When a patient obtains treatment from a provider, the provider typically submits a claim to the patient's health insurer and the insurer then processes the claim based on the provider's records, the terms of the insurance policy, and standard billing and coding procedures. Sometimes an insurance appeals process will play out, which could last weeks or even months.

As a result, whether medical debt is in default is a complicated question that is usually answered by several stakeholders. This contrasts sharply with other forms of consumer debt, where the terms of default are typically set out in an underlying contract.

If your organization collects medical debt, it's critical to collaborate with your creditors who may provide you with a defense for "early out" collection attempts. This is illustrated by a recent decision in Illinois federal court, *Mladenov v. RI RCM Inc.*

Federal Court Decision

In Mladenov, the plaintiff incurred a medical debt and received letters from the defendant. The letters indicated the plaintiff's balance was not currently in default and invited the plaintiff to contact the defendant to assist in resolving the balance. The defendant performed certain "early out" pre-collection services to resolve unpaid accounts before the debts were deemed to be in default. Following receipt of the defendant's letters, the plaintiff sued the defendant and alleged several violations under the Fair Debt Collection Practices Act (FDCPA). The court granted the defendant's motion for summary judgment and held the defendant was not a "debt collector" under the statute because the debt at issue was not in default. The court reasoned that the defendant did not have the capacity to determine whether the debt was in default and that this was the creditor's decision. This further exemplifies the reason why it is critical to know whether the obligation your organization is collecting on is in default.

Kaufman Dolowich Can Help

Consult with Kaufman Dolowich's Financial Services & Institutions team to work with your creditor clients to obtain liability protections. Our attorneys are uniquely positioned to help you work with your clients to ensure you are given adequate protections ahead of time before incurring liability under the FDCPA. We can make sure the proper agreements are in place that protect you from FDCPA liability even before being served with a complaint.