Does New York State's Amended Statute of Limitations for Medical Debt Apply Retroactively? Probably Not, But Too Early to Know for Certain

Written by Attorneys Matthew Corwin, Nabil Foster & Samantha Millar
Of Hinshaw and Culbertson LLP

On April 3, 2020, New York State Governor Andrew Cuomo signed New York's 2021 Executive Budget into law. The Executive Budget added § 213-d to New York's Civil Practice Law and Rules to reduce the statute of limitations for bringing an action to recover a medical debt from six (6) to three (3) years. Although this newly enacted provision is effective immediately, questions abound as to whether the new law applies retroactively. That is, for example, is a four-year-old medical debt that would be timely under the old six-year statute of limitations now time-barred by the new three-year limitations period?

Unfortunately, the answer is not immediately certain, and the legislation itself provides little guidance in this regard. As an initial matter, the new statutory provision is silent about whether it is intended to apply retroactively. The plain text of the law simply provides that "an action on a medical debt . . . shall be commenced within three years of treatment." The Legislature did not explicitly indicate whether or not it intended the law to apply retroactively.

Moreover, the legislative history behind the reduction in the statutory period for recovering a medical debt is not instructive as to its retroactivity. The stated justification behind the legislation is to ensure that patients have similar statute of limitations protections as those afforded to the insurance industry. Under applicable law, hospitals and health care providers must submit medical claims to insurers within two (2) years or they forfeit their ability to secure payment on an outstanding claim. By reducing the period by which hospitals and health care providers can seek repayment of medical debt directly from patients, the Legislature sought to place patients and insurers at least on similar footing in this regard. The Legislature also noted conformity with sixteen other states and the District of Columbia which have shorter statutes of limitations for medical debt actions.

Yet, despite this robust justification for amending the statute of limitations, retroactive application of the amendment cannot easily be inferred. In New York State, statutes are presumed to apply prospectively, and courts in New York are reluctant to apply legislation retroactively if the legislature did not expressly or impliedly provide for such retroactive application in the language of the statute itself or in an expression of legislative intent to do so. *Matter of Regina Metro. Co., LLC v. New York State Div. of Hous. & Cmty. Renewal*, 2020 N.Y. Slip. Op. 02127 (N.Y. April 2, 2020) (per curiam). This presumption against retroactivity is, as the Supreme Court noted in *Landgraf v. Usi Film Products*, 511 U.S. 244 (1994), based on "[e]lementary considerations of fairness [that] dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly."

The presumption against retroactive application in New York therefore strongly suggests that the new three-year statute of limitations for medical debt does not apply retroactively, and that an action to recover on the four-year-old medical debt described above, for example, would still be viable. That said, because the amended statute of limitations is new and has not yet been tested in the legal system, it remains uncertain how New York courts will interpret the statutory provision and the Legislature's intent in enacting it.