



# ILLINOIS AAHAM 2021 LEGISLATIVE UPDATE

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# 2021 LEGAL UPDATE

- HUNSTEIN CASE-ADMISSION ACTIVITY TO LESSEN IMPACT
- MEDICAL DEBT COLLECTION RELIEF ACT S.B.355
- FRENCH V CENTURA – DOUBLE SHOTS OF LOVE-PREDATORY TPS'S AND THE ETERNAL STRUGGLE OF DETERMINING CUSTOMARY, REASONABLE AND USUAL
- NO SURPRISES ACT: GIVE A LITTLE TAKE A LITTLE

# LEGAL UPDATE- HUNSTEIN

- Hunstein
  - 11<sup>th</sup> Circuit case ( Georgia, Florida)
  - FFDCPA and confidentiality
  - Posture of case- MSJ
    - No mention of BAA
    - No argument about carving out healthcare
- IN TAKE REMEDIES

# LEGAL UPDATE-HUNSTEIN

- FACTS-HOSP-COLLECTION VENDOR- TO LETTER VENDER
- VIOL FED FAIR DEBT COLL ACT- PRIVACY ISSUES
- SHORTCOMINGS IN ANALYSIS
- SLIPPERY SLOPE
- AAHAM ACTION-CURRENT STATUS

# LEGAL UPDATE- COVID RELATED LEGISLATIVE ACTS

- S.355 MEDICAL DEBT COLLECTION RELIEF ACT
  - SIGNIFICANT MORATORIUM ON PATIENT DEBT COLLECTION
  - DELAY IN CONTACT
  - DELAY IN FINANCIAL COUNSELING

# S.355 MEDICAL DEBT COLLECTION RELIEF ACT

- SUSPENDS EXTRAORDINARY COLLECTION ACTIONS (LIENS, SELLING DEBT TO THIRD PARTY COLLECTOR, GARNISHMENT) FOR DEBT INCURRED FEBRUARY 1, 2020 THROUGH 18 MONTHS AFTER ENACTMENT OF THE ACT.
- EXTENDS CONSUMER PROTECTIONS FOR COVID RELATED DEBTS INCURRED 2/1/20 TO 60 DAYS AFTER COVID PUBLIC HEALTH EMERGENCY ENDS.
- SUSPENDS EXISTING PAYMENT PLANS
- ONE YEAR EXTENSION OF FEDERAL AND STATE INSURANCE APPEAL DEADLINES
- HOLD HEALTHCARE PROVIDERS LIABLE FOR FAILURE TO COMPLY

# Meanwhile back in Colorado



# FRENCH V CENTURA

- FRENCH V CENTURA –
- PREDATORY TPA'S AND THE ETERNAL STRUGGLE OF DETERMINING CUSTOMARY, REASONABLE AND USUAL PRICING

# COURT DEVELOPMENTS

## FRENCH V CENTURA

- COLORADO SUPREME COURT CASE
- USE OF REASONABLE AND CUSTOMARY ANALYSIS
- CHARGEMASTER RATES PREVIOUS STANDARD
- JURY TRIAL ISSUES

# FRENCH V CENTURA

- PREDATORY TPA'S
  - CHRISTIAN MINISTRIES
  - LOW BALL PAYMENTS
  - FORCE LITIGATION
  - PRETEND THEY ARE NOT PLANS
  - ACT AS TPA'S
  - SUE HOSPITAL FOR FRAUD

# FRENCH V CENTURA

- ANYONE UNDERSTAND R&C PRICING?

# LEGAL UPDATE-FRENCH

- CUSTOMARY,USUAL,REASONABLE (R&C)
  - FAIR MARKET VALUE OF SERVICES
  - NON-CONTRACTED
  - FORCED SALE
  - IMPACTING FACTORS
    - GOULD COMPARATIVE FACTORS
    - CHILDREN'S HOSPITAL PAID CLAIMS DATA APPROACH
      - NOT COST
      - LOA'S
      - WRITE OFFS

# FRENCH

- AMICUS BRIEF
- CALIFORNIA DIFFERS
- KAISER APPROACH TO R&C
- EXPENSE
- APPELLATE IMPACT

# NO SURPRISES ACT

- OON CLINICIANS PROVIDING EMERGENCY SERVICES AT NETWORK FACILITIES.

# NO SURPRISES ACT

- NO ARBITRARILY IMPOSED RATES FOR OON CLINICIANS PROVIDING CARE AT NETWORK FACILITIES
- PAYMENT NOT BASED ON PUBLIC PAYER RATES
- PROVIDER-PAYER RETAIN ABILITY TO NEGOTIATE RATES.
- NO PAYMENT ROUTING DIRECTLY TO PATIENT

# NO SURPRISES ACT

- PAYMENT STRUCTURE
  - STATE PROCESS
  - IF NO STATE PROCESS-VOLUNTARY STATUTORY PROCESS:
    - ACCEPT INITIAL PAYMENT KEYED TO IN NETWORK RATES
    - 30 DAYS TO NEGOTIATE A RATE
    - IDR ( INDEPENDENT DISPUTE RESOLUTION).

# NO SURPRISES ACT

- STATE PROCESS-
- REASONABLE AND CUSTOMERY ANALYSIS
  - CHARGEMASTER RATES
  - FAIR MARKET RATES

# NO SURPRISES ACT

- Independent Dispute Resolution-A TRAGIC-COMEDY
  - 30 DAYS TO AGREE ON RATE-
  - IF NO AGREEMENT-4 DAYS TO TRIGGER IDR
  - 3 BUSINESS DAYS TO SELECT AN IDR ENTITY
  - IF CANNOT AGREE-HHS SECRETARY HAS THREE BUSINESS DAYS TO SELECT FOR YOU
  - 10 DAYS OF IDR SELECTION, EACH SIDE SUBMITS AN OFFER FOR REIMBURSEMENT WITH SUPPORTING DOCUMENTATION.
  - IDR MUST SELCT ONE OF THE OFFERS (BASEBALL ARB) WITHIN 30 DAYS OF SELECTION.

# NO SURPRISES ACT

- Cooling off period
- Limited batching of claims
- Fees-loser pays
- VIABILITY OF IDR? 😊



THANK YOU