Dealing with Medical Debt: Consumer Advice from NCLC

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This is the first in a series of articles from NCLC that provide advice for families in financial difficulty. The Consumer Debt Advice series, targeted directly to the consumer, includes information about legal rights and best strategies for dealing with debt. Readers are encouraged to share these articles with individuals who may benefit—clients, counselors, community groups, clergy, and others. Use the “email” icon at the top of this screen to reach your networks directly.

This first article focuses on medical debt, including debt owed to hospitals, doctors, dentists, and other providers. Far more detail with legal citations on consumer rights dealing with medical debt is found in National Consumer Law Center, Collection Actions Chapter 9 [1], updated at www.nclc.org/library.

Don’t Pay Medical Debt Ahead of Other Debt or Borrow to Pay Medical Debt

Most families encountering financial difficulty have overdue medical debt. You should treat medical debt as a low priority debt to be paid only after you pay more pressing types of debt, such as your mortgage, car loan, or criminal citations. Almost any other type of debt will be more pressing—medical debt should typically be your lowest priority.

Similarly, never pay medical debt by incurring other debt. The worst thing you can do is take out a second mortgage to pay off medical debt. Also don’t put medical debt on your credit card, even a “medical” credit card, unless you can pay the card and all your other obligations that month.

Unlike credit card debt, medical debt will typically carry low or no interest payments and late charges. While the medical debt may eventually end up on your credit report, it will not show up for at least six months. Delinquent credit card debt affects your credit score immediately. You are also less likely to be sued on medical debt than credit card debt. Medical debt can go unpaid for long periods of time without any significant adverse consequences.

Nonprofit hospitals have written policies to reduce or even eliminate certain medical charges if you are eligible for financial assistance. Many states have laws that reduce or even eliminate medical debt for eligible families. Whether or not you qualify for such financial assistance, health care providers are often more willing to reduce the amount of a delinquent debt where you can show financial hardship. Once you put medical debt on your credit card, you lose all of these opportunities.

Some doctor or dentist offices may encourage you to sign up for a special credit card to pay your medical bills, but these cards are usually not a good choice for paying medical bills. The credit cards often have high interest rates or unfavorable terms. You lose the option of negotiating with your health care provider over the bill. Using this type of card turns your medical debt into credit card debt.

Medical debt’s status as a low priority debt does not mean that one should ignore medical debt. You have special rights concerning medical debt, and it is important to know these rights to be able to reduce the amount of your medical debt and its adverse consequences.

Debt Collectors and Medical Debt

Hospitals and other health care providers are quick to turn over medical debt to debt collection agencies—some will do so after a month or two, while others may wait six or more months. The job of these debt collectors is to try to get you to pay medical debt even if this is not in your best interest.

They will push you to put medical debt on your credit card—don’t fall for that. They will try to get you to pay these bills ahead of more important bills, such as your rent or home mortgage. They will threaten to ruin your credit rating, but they may not even report the collection effort to a credit reporting agency. If they do report the debt, the reporting agency will not even include the debt in its reporting unless it is over six months old. Just as importantly, paying your medical bill instead of your mortgage or car loan will end up damaging your credit report a lot more than not paying your medical bill.

Debt collectors also will call you and constantly press for payment. But this is easy to stop, particularly for medical debt. Few hospitals and health care providers will be collecting on their own debt, but will instead hire third-party collection agencies. Under federal law these agencies must stop contacting you if you simply send them a letter telling them to stop.

Another approach to avoid debt collection harassment is to contact the hospital or health care provider early about your inability to pay, before the matter is turned over to a collection agency. Explain that you are unable to pay at present and that...
you will not pay the collection agency either. Since the health care provider must pay the agency, the provider may be better off waiting for you to pay the provider directly when your financial situation improves. Preventing your debt from going to a collector will also help your credit standing because typically only collection agencies and not medical providers report your debt to a credit bureau.

**Limits on Credit Reporting of Medical Debt**

Virtually no medical provider will report your debt to a credit bureau. Instead, when your debt is eventually handed over to a collection agency, that collection agency may (or may not) report the debt to a credit bureau.

In addition, in almost all cases, your credit rating is determined by one of the three major national credit bureaus. All three of these agencies have agreed not to include any medical debt in your credit report if the debt is less than 180 days delinquent when reported to them. This means that medical debt will not affect your credit rating unless a provider’s collection agency makes a new report to a credit bureau after the debt is over 180 days old.

**Can a Hospital Turn You Away If You Owe It Money?**

If medical debt goes unpaid for a period of time, a hospital or other health care provider may decide to stop providing you services. In some areas, you may have few other options for medical care, but in other locations you should be able to find other health care providers to take care of your family. That you owe money to one hospital or one health care provider should not prevent you from obtaining services from other hospitals or providers. This will particularly be the case with public hospitals and community health centers.

Even if you owe a hospital for past due bills, the hospital cannot turn you away from its emergency room. This is your right under a federal statute called the Emergency Medical Treatment and Active Labor Act (EMTALA).

If you request financial assistance from a nonprofit hospital, the hospital cannot deny you care in any part of the hospital because of an old bill until it determines whether you are eligible for financial assistance. You usually have about eight months (240 days) from when you first received the old bill to request such financial assistance.

If you are a Medicaid recipient and you owe a doctor or other health care provider for co-payments or deductibles, Medicaid prohibits health care providers from denying you future services.

**Correcting Your Medical Bills**

One way to reduce a medical debt is to review it carefully for errors and unauthorized charges. Also review any explanation of benefits (EOB) form you receive from your insurance company to see if it is consistent with the medical bill. If you see errors, contact the health care provider or your insurance company to have the erroneous charges taken off your bill.

Check also for charges based upon unauthorized balanced billing. The EOB may disallow a portion of the health care provider’s bill, pursuant to its agreement with the provider. Balance billing is when the health care provider bills you for the disallowed portion of the bill. Balance billing is prohibited in certain states.

If you have Medicare or Medicaid, providers are usually not allowed to bill you for rates higher than what these programs are willing to pay. They can only bill you for copays and deductibles. If you have both Medicare and Medicaid coverage and are enrolled in a Qualified Medicare beneficiary program, providers are usually not even allowed to bill you the Medicare co-pays and deductibles.

If you receive a bill that you believe should be covered by insurance, Medicaid, or Medicare, contact your insurer to find out why the service was not covered. You may need to contact your health care provider also. If the insurance company made an error, they might be able to fix it when you call.

If your insurance company, Medicaid, or Medicare will not pay for a service that you needed, you have a right to appeal. Call your insurer and tell the insurer that you want to appeal their decision. Do this as soon as you can before the deadline for requesting an appeal. Contact your state insurance commissioner or state attorney general’s office if you need assistance.

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Requesting Financial Assistance

Federal law requires nonprofit hospitals to establish policies for offering patients financial assistance, such as free or discounted medical services for eligible patients. The policies and how to apply for financial assistance must be in writing and available from both the hospital and on the hospital’s website.

Hospitals often charge an uninsured patient high “retail” prices for services, but charge significantly less for the same service to a health insurer, Medicare, or Medicaid. If you are eligible for financial assistance from a nonprofit hospital, the hospital should not charge you the “retail” price but instead should charge a price similar to what it charges insurance companies, Medicare, and Medicaid. The hospital even has to go back and reduce bills you received even before you established eligibility for financial assistance.

Federal law does not otherwise specify standards for financial assistance, but about half the states have medical debtor protection laws that specify who, based on family income, is eligible for financial assistance and what type of assistance a hospital must offer. For example, the hospital may have to offer an interest-free installment plan, reduced cost medical care, or even free medical care. The hospital’s financial assistance plan will set out exactly the type of financial assistance that it provides to those who are eligible.

In at least some states you can also apply for Medicaid and if you are found eligible, Medicaid will cover retroactively medical bills incurred over the last three months. This retroactive coverage is not available in every state.

Other hospitals or health care providers may agree to reduce bills based on your financial hardship even if not required to do so by federal or state law. Explain your financial situation and that you will pay when you are financially able. You can ask for a payment plan, but do not agree to a payment plan if you cannot afford the payments. There also are charities and other programs that may help pay for some of your medical bills.

Will a Health Care Provider Sue You for Unpaid Bills?

A hospital or other health care provider is less likely to sue you to collect on an overdue bill than are most other creditors, such as credit card companies. This is particularly the case for relatively small medical bills. In addition, if you request financial assistance from a nonprofit hospital, the hospital cannot start a collection lawsuit against you until it determines whether you are eligible for financial assistance.

If the hospital does sue you, you may be able to defend the lawsuit by arguing the medical bills are not reasonable. In most cases, patients do not agree to a price for medical services ahead of time, and the hospital or physician bills you for whatever price it decides to charge. Some judges may be sympathetic to your argument that the hospital charged you a higher price than the hospital charges to insurance companies, Medicare, or Medicaid. If you raise this in the lawsuit, the hospital or other health care provider may even settle with you for less rather than try to prove that its charges are reasonable.

Only then can the provider seek to garnish a portion of your wages and seize funds from your bank account, where such actions are allowed under state and federal law.

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About Author: Jenifer Bosco is a staff attorney at NCLC with a focus on energy and utility issues that affect low-income consumers. Prior to joining NCLC, she was the first director of the Office of Patient Protection at the Massachusetts Health Policy Commission. Previously, Jen advocated for health care needs of low-income individuals as project director of the Mental Health Parity Initiative at Health Law Advocates in Boston. She previously worked in legal aid organizations at the Massachusetts Law Reform Institute and Merrimack Valley Legal Services. She also served as an Assistant Attorney General with the Office of the Massachusetts Attorney General; worked as senior staff attorney with the National Employment Lawyers Association; and began her legal career as a law clerk for the Massachusetts Superior Court. Jen holds a J.D. from Georgetown University Law Center and a B.A. from Boston College.