



Medical Debt & Collections

A Better Way Forward for Wisconsin

June 2021

Contents:

Executive Summary	1
Introduction	3
Legal Representation	4
Debt Parking	5
Data Review	6
Recommendations	8
Legal Disparities	9
Legislative Solutions	10
Technology Solutions	10
IRS 501r Regulations	11
Review of Methods	11
What's Next	12
Conclusion	12
References	12

About ABC for Health:

ABC for Health is a Wisconsin based nonprofit public interest law firm dedicated to linking children and families, particularly those with special health care needs, to health care benefits and services.

ABC for Health's mission is to provide information, advocacy tools, legal services, and expert support needed to obtain, maintain, and finance health care coverage services.

Executive Summary

Medical debt compounds financial stress for low and moderate income Wisconsin families, amplifying existing health inequities and disparities. The lack of access to appropriate health insurance or coverage is a cause of major headaches for patients as bills pile up and their credit score spirals down. Even prior to the COVID-19 pandemic, many uninsured or underinsured Wisconsinites struggled with medical bills.

Yet, ABC for Health's recent review of circuit court records and years of applied research point to new strategies, services, and technologies to help patients obtain coverage and help health systems get paid. We identify and recommend a proactive, common sense approach to remedy some of these wrongs and to promote improved access to health care coverage and care for those with low and moderate income levels in Wisconsin.



The blatant inequity for people with medical bills is striking, with the collections industry thumb on the scales of justice.

To better understand the medical debt problems facing many Wisconsin patients and families, ABC for Health researched thousands of court actions by a number of health systems across the state **totaling over \$10 million** in sought judgements.

Our findings exposed an often indifferent medical debt collections system that profits by exploiting low income patients who cannot afford their medical bills or obtain much needed legal assistance. The blatant inequity for people with medical bills is striking, with the medical collections industry thumb on the scales of justice.

Medical Debt Workgroup & Report Contributors:

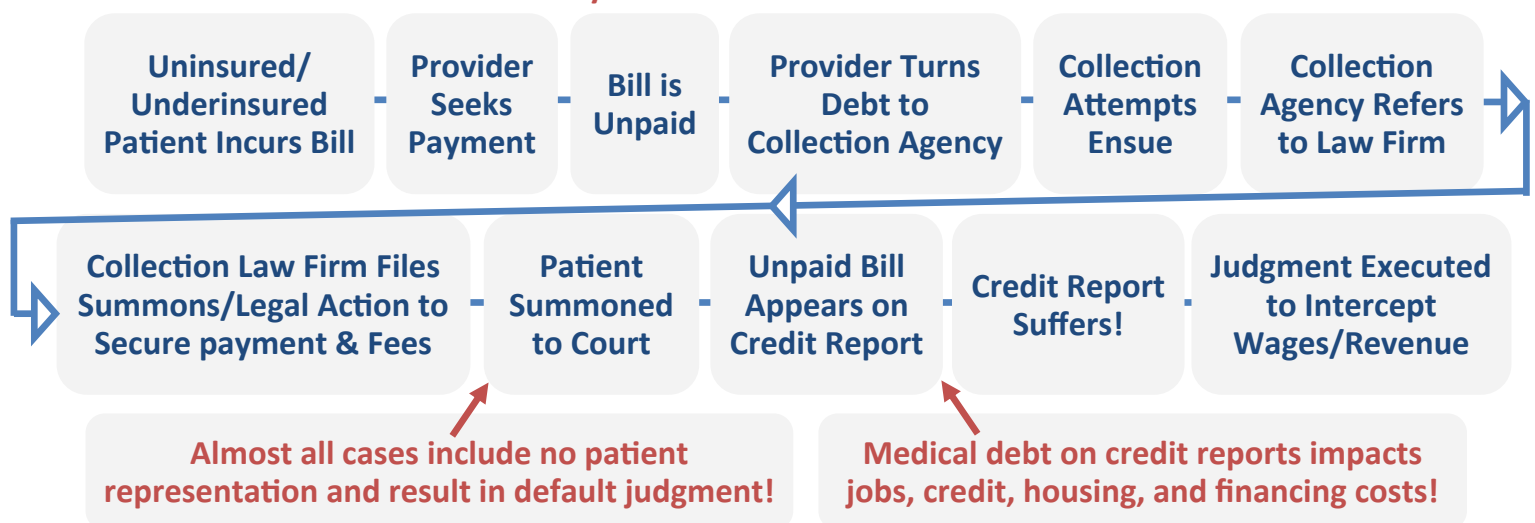
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In the sample of medical collections actions by health systems reviewed by ABC for Health, **over 99% of the patients in the actions studied had no legal representation**; health systems were represented in every case. Medical debt is often a catalyst to the cycle of debt, leading disparity populations towards further financial hardships and increased family stress.¹

In summary, the most common tactic used by health systems we sampled is to first engage in internal attempts to collect medical debt and after a designated time period refer the bill to a collections agency vendor. The next usual step in the process, grounded in fear and intimidation, is referral to a collections law attorney or law firm specializing in debt collection that sues the patient in court for payment. Other times the provider or collection agency may simply report the unpaid medical bills to credit reporting bureaus using a so called debt parking strategy explained later in this report. Both strategies result in diminished credit scores for the patient, making it difficult to rent, receive affordable loans, purchase vehicles and more. The added stress of medical debt disrupts family life and creates a sense of hopelessness.

Life Cycle of A Medical Bill for Patients



In 2019, Wisconsin hospitals reported over \$1.3 billion in bad debt and charity care.² This medical debt becomes **socialized debt**, creating higher medical bills for everyone. A common sense approach will include an up front process of preventing debt though consumer education and assistance.

We maintain that more proactive patient engagement is a crucial first step in the fight against medical debt, and we have the data to help prove it. If consumers are both assisted and informed by patient advocates about various health care coverage options, legal rights, and resources available to them, they can take proactive steps to prevent medical debt problems and hospital systems can see reduced costs for uncompensated care.

In 2019, Wisconsin hospitals reported over \$1.3 billion for bad debt and charity care resources

Socialized Debt: a term coined by ABC for Health that reflects the concept that most unpaid medical bills or charity care services do not simply vanish. Rather, they typically get absorbed and redistributed into other health system expenses—that all customer eventually pay for.

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Introduction

For low income families adversely impacted by health disparities, navigating health insurance and medical care is a daunting task, made more stressful by the looming specter of medical debt. Disparity populations facing health inequities may be eligible for health insurance options. However, researching, applying for, and obtaining the best coverage for an individual can be a tall task.

Our health insurance and public coverage programs are confusing and complex. People get lost in the maze of programs, red tape, and bureaucratic practices. Patient assistance that may be available is limited, may not be culturally competent. Services for many, but particularly disparity populations can be hard to understand, incomplete and ineffective. Even after securing coverage, medical debt often looms through gaps in coverage (such as losing employment, aging out of a parent's insurance plan, etc.) and high cost-sharing requirements. Patient Financial counselors often have quota systems

that make it difficult to provide the detailed attention to each case needed to accurately determine patient eligibility for health care coverage.

Gathering the appropriate information needed to facilitate eligibility and enrollment is time-consuming and requires constant training updates to maintain an effective knowledge base. Also, unless this information gathering, review, and referral process begins immediately upon or even before care is provided, timely referrals and applications often become less effective with each passing month.

Brian's Story

33-year-old "Brian" was recently married and expecting his first child. He got a new job but it had a 90-day wait period before he was eligible to enroll in the employer sponsored health insurance offered. Unfortunately, Brian suffered a severe heart attack during his wait period and was uninsured. He accumulated over \$500,000 in medical debt because of the combination of bills from multiple hospitals, air ambulance charges, and other ancillary bills. For Brian, only one of the many providers he saw offered him financial assistance, yet his income does not leave him in the position to ever be able to repay the bills owed. While Brian was still working on financial assistance applications, his debt was transferred to collection agencies. Overnight, his credit score dropped from the mid 700s to the mid 300s. The current system used by Wisconsin hospitals forces people like Brian into filing bankruptcy all too often.⁴

Lasting Damage: Medical debt creates individual and family stress at the worst times—when an individual or family member is ill. Medical debt can cause serious and lasting damage to an individual's financial, physical, and mental health.³ Aside from the obvious financial burdens of uncovered health care, medical debt can damage an individual's credit, following them for years. This bad credit can lead to the "modern day debtors' prison," causing difficulty securing affordable loans, housing, employment, and vehicles. Additionally, the financial stresses caused by medical debt and the resulting negative experiences can discourage individuals from getting necessary preventive care, worsening health.

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Lack of Legal Representation: ABC researched over 5,000 Wisconsin circuit court public record entries of health systems based collections actions from health systems in 2017-2019. We identified a lack of legal representation for patients as a grave inequity and a primary obstacle to battling the current medical debt crisis. Of the over 5000 records researched, in fewer than 1% of cases was a patient represented.

Lack of Legal Representation					
Year	Number of Cases	Unrepresented Patients	Represented Patients	Amount Sought by Health Systems*	Average Amount Sought
2017	1525	1511	14	\$3,513,070.09	\$2,331.17
2018	1973	1954	19	\$3,757,254.99	\$2,239.13
2019	1525	1512	13	\$3,172,030.82	\$2,572.61
Total	5023	4977	46	\$10,442,355.90	\$2,363.59

*The average amount sought does not include cases where the amount sought was not included in the circuit court entry.

Unpaid medical bills can result in a variety of collection actions, where collection agencies make repeated patient contacts to attempt to collect the debt. Sometimes, hospitals opt to sue patients directly to pay their bills by going through the court process to secure judgements.⁵

These collection tactics are extremely damaging to consumer credit scores and complicate pathways out of poverty. Help offered by many health systems is not as effective as it could be with formal training and up-to-date continuing education. In the end, unrepresented and unassisted consumers have compromised credit scores due to an unforgiving hospital revenue cycle process focused on collections. The revenue cycle process is bolstered by longstanding partnerships between the health care and collections industries.

Our research and experience serving clients points toward a proactive patient engagement process as an effective strategy to prevent unnecessary debt and to combat the inequity caused by medical debt. Proactive patient engagement helps consumers prevent debt issues before they arise, helps providers get paid, and secures ongoing support to help patients maintain access to both health coverage and care.

Brad's Story

"Brad" was a victim of a violent assault and called 911. First responders arrived via ambulance yet determined he was too complex to take to the local hospital. Paramedics called a helicopter to take Brad to a trauma center. Brad received a bill for over \$1,000 for the "ambulance ride not taken." Medicare refused to pay the bill. With the help of an advocate at ABC for Rural Health, Brad stayed in contact with the collection agency pursuing payment on this bill, explaining the circumstance and requesting more time before the collection became a court action. Ultimately, the advocate was able to find appropriate resources to help pay the bill.

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A Lack of Transparency: A Look at Debt Parking

Most health systems recognize that the “court of public opinion” looks unfavorably on most medical collection actions. Hospitals seek to avoid the negative press and publicity related to medical collection actions. Collection agencies and related law firms may take a different approach. As court actions conducted by health systems remain searchable by advocates and reporters, we expect more providers to shift towards less transparent collection tactics like “Debt Parking.”

Debt parking occurs when a collector places a debt on your credit report without contacting

Debt Parking: A tactic where a collector does not notify the debtor when a debt is placed on their consumer credit score

you, the debt sits on your report negatively affecting you until you attempt to use your credit to apply for a loan, make a large purchase, apply for a job, and more. Debt parking pressures consumers to resolve the debt and providers pursue the strategy to negatively impact or freeze a consumer’s credit as leverage to secure payment.

Blair’s Story

“Blair” was enrolled in a Wisconsin Medicaid program. She said she always worked hard to protect herself from debt. When checking her credit report, she noticed she had multiple medical bills parked on her report, dragging down her credit score. Yet, the dates of service for the bills in collections were all dates she was enrolled in Medicaid! With the help of an advocate with legal support at ABC for Health, Blair was able to navigate a dispute process and was able to get the debt removed from her credit report.

Our research could not fully evaluate the current scope of debt parking in Wisconsin due to a lack of data. Unlike the Wisconsin Court Access, credit scores are not publicly accessible, reducing the chance for media investigations, public knowledge, and backlash. Credit is crucial to so many important steps in life such as renting, employment, and applying for loans. Collection actions are shifting toward less transparent ways, like debt parking, for providers and collectors to effectively pressure patients and families into paying. Aggregate information on debt parking and credit scores may help limit the use of this tactic.

Federal Trade Commission to Collectors: Consumer Credit Reports are a **NO PARKING Zone**, yet the practice persists.



Debt parking has gained more notoriety nationally by the Federal Trade Commission (FTC). The FTC Bureau of Consumer Protection is not only aware of the practice, they have begun to heavily police debt parking. FTC commissioner Rebecca Kelly Slaughter described debt parking as “unfair, unconscionable, and a violation of the Fair Debt Collection Practices Act.” The FTC has brought legal challenges to debt parking under the Fair Debt Collection Practices Act. As health systems receive more public backlash for suing patients in court, they are moving towards more covert collections methods.⁶

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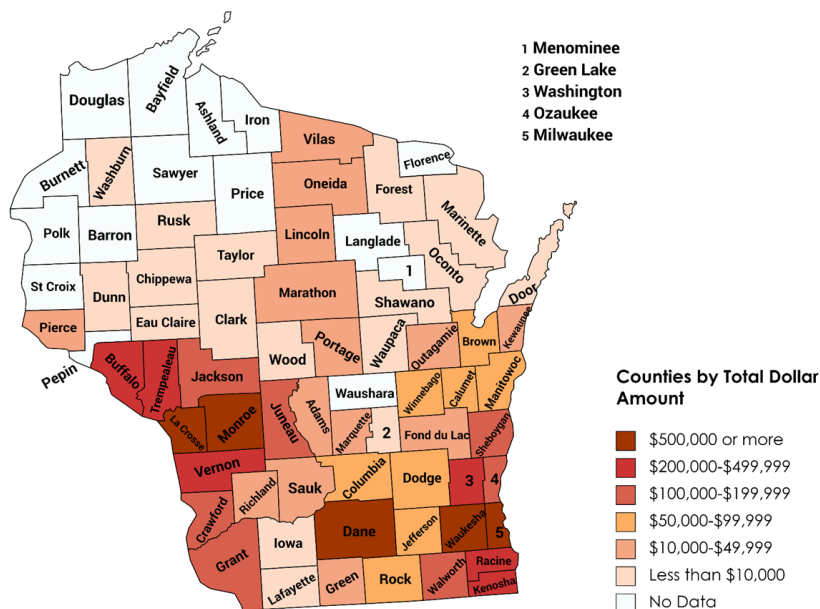
Data Review

ABC for Health conducted an 18 month review of legal actions from 2017-2019 filed by select health systems in Wisconsin, seeking to recoup payments against patients and families. This data is publicly available in Wisconsin circuit court records. In the review, ABC for Health identified a lack of legal representation as a significant factor for many low income consumers that exacerbates the consequences and pain of medical debt.

Data Review

- ABC for Health researched over **5,023** court actions by **5** separate health systems from 2017-2019. (See page 11 for data collection methods.)
- The Total amount sought from this sample: **\$10,442,355.90**. The average amount each system sued for was **\$2,363.59**.
- Our research found **65** actions for **\$10,000** or more; **611** actions for **\$4,000** or more.
- Our research spanned **57** of Wisconsin's 72 counties.
- In **over 99%** of the court actions compiled, the patient being sued by the hospital lacked representation. Health systems were represented by an attorney in each and every case.
- Additionally, over **88%** of the judgments filed against patients were default judgments.

Default judgments often occur when the debt is uncontested or the consumer does not appear in court. Most consumers have no idea of possible legal rights and violations incurred through the collections process. The price of a judgment is often exorbitantly more expensive than the actual cost or the price paid by insurers. These amounts are the full price of medical care and also include court fees and interest. Our sample size from is small compared to the ocean of court actions on medical debt conducted by health systems in Wisconsin. For instance, our research comes from Wisconsin Circuit Court data on only 46 of the 160 Wisconsin hospitals of an extremely wide array of sizes and specialties.⁷ Our research shows that between 2017 and 2019, patients sued by the health systems incorporated in our study lost millions of dollars while receiving little legal assistance to combat the collections industry and attorneys employed by health systems.



County Impact of Our Sample of Collection Actions, 2017-2019.

Map drawn using MapChart.net.

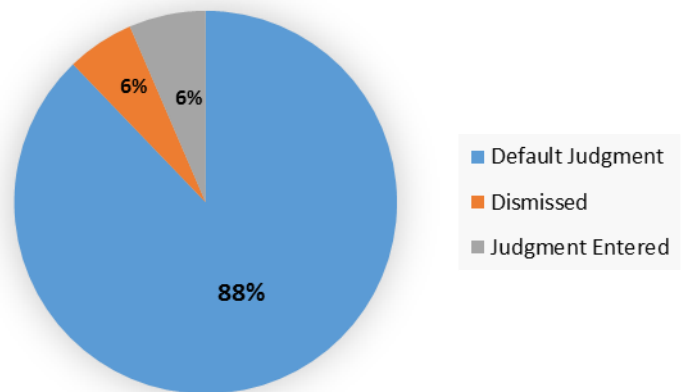
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The primary finding of our sample research was the near complete lack of legal representation for patients with medical debt (fewer than 1% of those studied had an attorney). Without legal assistance, it is difficult for patients to effectively manage or defend against collections actions in court, especially when they or someone in their family is having health issues.

**There was nearly a complete lack of representation for patients with medical debt.
Fewer than 1% of those studied had an attorney.**

The difficulty in managing legal issues related to health care is evidenced by the fact that more than 88% of court actions studied that ended in default judgments. And it shows that medical collections actions are predominantly one-sided. This is not a fair fight and the legal rights of patients are mostly trampled.

Medical debt is mostly a debt of necessity, no one chooses to have a hip replaced or to undergo chemotherapy, and when people do not pay these bills it is usually because they cannot. Collections agencies know that most people in medical debt cannot successfully navigate a legal dispute or afford an attorney.



Case Outcome, as a percentage

Collection agencies, and by extension the health systems that hire them, take advantage of patients who often cannot leave work or lose wages in an effort to defend themselves in court. The medical debt collections industry profits from the inability of the low income patients they sue to fight back. Therein lies the great inequity and the need to balance the scales of justice in Wisconsin.

Recently, these medical debt collections actions have been in the public eye as a result of the COVID-19 pandemic. Due to the increased scrutiny in the news and in government, health systems have pivoted to less transparent methods to pursue patients.

Amy's Story

While working in Northern Wisconsin, Amy started experience symptoms of a seizure. Paramedics arranged an emergency helicopter to the closest hospital. That facility, however, did not have the care team required, and directed Amy to a care team in Madison, Wisconsin over 300 miles away, via emergency airplane. After treatment and safe discharge home, Amy got a \$40,000 bill. Her insurer had denied the cost of the emergency plane stating she was "not transported to the nearest hospital and because a prior authorization was not obtained." Amy qualified for legal assistance at ABC for Health for her insurance appeal where they successfully challenged the denial. Without legal assistance, this large, unlawful bill easily would have left Amy in financial disarray, considering bankruptcy.

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Recommendations

Patients and families need proactive, competent patient engagement, improved access to civil legal assistance, a disrupted relationship between collectors and providers, and improved state and federal consumer protections.

Helping patients in advance is a common sense approach that most people, outside of the credit and collections industry should get behind. Competent, pro-active patient assistance can help Wisconsinites identify and secure ongoing coverage for their medical needs, avoid debt, and protect their credit by chipping away at the underlying factors causing medical debt. With experienced advocacy patients would get the help they need and deserve to identify and secure the health coverage options available to them. Finding and securing the right coverage, at the right time would also help ensure that hospital bills are paid whenever possible.

Precision Patient Advocacy is a concept that reflects the need for accurate, timely, and often granular information from patients to help identify health coverage resources. The process and methods developed by ABC for Health and technology partner My Coverage Plan, Inc. identify optimized coverage solutions based on a holistic evaluation of program eligibility markers. Our experience with clients taught us that patient engagement should not be a one-time encounter, but an ongoing, forward-looking process. Proactive patient engagement must not only help secure coverage, but also include health benefit check-ups to ensure patients have the best coverage available to them when life changes happen. Proactive patient engagement can help plan for a gap in coverage when employment changes, if monthly income changes create eligibility issues, or give a place to turn when health care coverage gets confusing. Ongoing and proactive patient engagement can help secure long-term coverage, avoid gaps in coverage, prevent medical debt and credit problems, and promote patients' financial, mental, and physical health.

A Better Way for Health Systems:

Some hospitals take another more cost effective and patient friendly approach, putting "precision patient advocacy" into motion.

In data collected from October 2005—December 2020, the partnership between ABC for Health and one Wisconsin-area hospital helped over 10,050 unique patients obtain needed care. The partnership promoted over \$43 million in third-party reimbursements. The hospital's investment yielded a return of over \$12 for every \$1 spent helping patients with proactive Health Benefits Counseling services.

The 12:1 return on investment accounts only for the financial benefits of the first encounter between a patient and a Health Benefits Counselor. These reimbursement figures also only account only for hospital charges and do not include reimbursements to doctors and other contracted health care providers.

We know the health coverage and disability benefits that ABC for Health staff secure for patients goes much farther than the costs of one encounter. The long-term benefits to the health care provider are much greater as patients come back repeatedly with secure and reliable health care coverage.

A Better Way Forward for Wisconsin

Eliminate Legal Disparities: Improving access to civil legal assistance would help to address the dramatic disparity in legal representation for medical debt patients. Expanding State funding for civil legal services would increase interest in, and incentivize further development of programs. Currently, non-profits dedicated to providing civil legal services to low income and disparity populations have very limited funding sources, constraining the number of Wisconsinites these groups are able to help. Increased State funding would help more people secure legal representation in medical debt collection cases, reducing socialized debt.

Access to Civil Legal Services:

All health insurance and coverage programs are governed by laws, rules, and regulations. Health care insurance coverage is complex and full of red tape that negatively impact disparity populations. Access to civil legal services and support is a great equalizer for consumers with access to health coverage or medical debt issues. Yet Wisconsin, unlike our Midwestern neighboring states, does not invest in civil legal aid. Consumers, particularly those impacted by disparities, often can't afford an attorney to represent them in a fair hearing or insurance appeal. They struggle to navigate complex bureaucratic processes. To effectively make a compelling argument before a judge or appeal committee, requires program or statutory knowledge that consumers lack. Increased access to complex case resolution services complete with legal backup promotes equitable case resolution and related social and racial justice issues for disparity populations and lessens the economic and education-based disparities.

Examine the Cozy Relationship: As we learn more about the medical debt situation in Wisconsin, ABC for Health has reviewed the longstanding relationship between certain health systems and the medical debt collection side of the revenue cycle industry. This is a topic that requires further investigation and research. The historic and cozy business relationships between collections agencies and health systems may present a significant barrier to a more equitable medical debt landscape. Collection agencies and legal partners that profit by squeezing patients for money and revenue may have close business relationships with health systems' decision makers that stand in the way of progress. A transparent and public understanding of this relationship may help further the goals of equitable and reasonable medical debt collections.

Timmy's Story

While on vacation with his family, "Timmy" experienced a diabetic emergency. He was admitted to a local hospital for an overnight stay. His parents immediately provided Medicaid insurance information and notified the HMO of the emergency. While out of state and out of network, the family's plan included coverage for emergencies. Yet, when the family returned home, a large bill was waiting. With the help of an ABC for Health advocate with access to legal support, the bill was correctly submitted for payment. Over a year later, the family received a collection notice for the same bill! The family returned to the advocate, and learned of a hospital coding error that triggered an insurance denial and the subsequent collection action. The insurance company was not willing to pay the claim citing "timely filing regulations." ABC wrote a letter outlining how billing this Medicaid recipient was a violation of federal law. The hospital agreed to write off the charges and remove the debt from collections.

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Legislative Solutions: As public knowledge and bipartisan disapproval of aggressive and punitive medical debt grows, 33 states and the federal government have created legislation to take some steps to protect consumers against unfair billing practices.⁸ The No Surprises Act was passed by Congress as part of the December 2020 spending bill and comes into effect in 2022.⁹

The No Surprises Act attempts to ensure patients do not see the brunt of the bill when an insurer and health care provider squabble over pricing. The Act will prevent insured patients from paying more than their standard cost-sharing requirement when they receive emergency care from an out of network hospital or doctor. The Act will also prevent insured patients from paying more than their standard cost-sharing requirement when they receive care from an out-of-network provider at an in-network hospital (oftentimes specialists will not be directly employed by a hospital and therefore have different contract arrangements with insurers). The No Surprises Act will also provide protections for ongoing care patients, protections against air ambulance providers surprise billing patients, and processes to increase transparency in medical billing and insurance coverage.

The No Surprises Act is a vital step toward eliminating unfair medical billing practices, but it is in no way a comprehensive solution. The No Surprise Act offers no protections to uninsured patients, does nothing to prevent surprise billing by ground ambulances, and does not offer significant protections against credit damage caused by unfair medical billing.

Technology Solutions:

Our legal practice and research over the last 25+ years led us to explore and develop technology solutions to improve the Health Benefits Counseling process by proper alignment of health care coverage. The practice promotes health equity and reduces health disparities for patients.

The ABC for Health & My Coverage Plan, Inc. tool called **Advocus™** is a decision support tool and database that works like TurboTax® for health benefits. Advocus is used in a health benefits interview process to help gather data, optimize patient coverage, and create a roadmap for future coverage. With this type of new health IT, we can better help clients resolve coverage questions and ultimately help underserved, disparity patients better navigate the complexities of our multi-payor health care system.

Technology like Advocus can promote timely client engagement that creates a health care *coverage* record, analogous to a medical record, for individuals and families. It captures and tracks the myriad variables that impact access to health coverage and needed care. Instead of providing episodic services for clients in crisis, we can explore new client engagement strategies that emphasize preventive planning and ongoing connections to community resources.

Advocus uses the process of Precision Patient Advocacy to organize and track granular data and key life events to forecast health coverage eligibility changes, project a plan to maintain coverage into the future, create a record of coverage and eligibility changes, and provide access to ongoing services including a regular Health Coverage Checkup!



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Review Compliance & Enforcement of IRS 501r Regulations

The Affordable Care Act added new requirements for nonprofit hospitals under Section 501(r) of the IRS Code.¹⁰ The regulations put the onus on the provider to ensure consumers have proper access to financial assistance policies and that required timelines before proceeding with collection on an account are in place. Providers must: a) limit charges: not charge individuals eligible for financial assistance more for emergency or other medically necessary care than the amounts generally billed to patients with insurance (public and private coverage); b) establish and disclose financial assistance policies, describing eligibility criteria and how to apply; and, c) abide by reasonable billing and collection requirements. The regulation actually states that providers are **prohibited** from engaging in certain collection methods without first screening the patient for financial assistance. The regulation instructs the hospital to: “make reasonable efforts to determine whether an individual is eligible for financial assistance *before* engaging in ‘extraordinary collection actions’ to collect fees for services provided.” The proactive intake interview, screening, and patient engagement encompassed in ABC for Health’s Precision Patient Advocacy approach not only satisfies the revenue recovery needs of health systems, but also offer a smart approach to meeting IRS regulatory requirements.

A Review of Methods:

The goal of our research was to collect and analyze data that reflects the scope and conditions of medical debt collections actions in Wisconsin. We selected systems we believe are most representative of the spectrum of health systems collection activity. Systems were selected based on client experiences (both good and bad) as well as the spectrum of charity care involvement (or lack of involvement) documented in the 2018 Wisconsin Hospital Association Uncompensated Care Report.² In conducting our research, we used the Wisconsin Circuit Court Access website to search for our selected systems’ various public records court actions from 2017-2019. We utilized Excel to document the outcomes of cases (i.e. dismissal, default judgment, etc.), the dollar amount that the systems were seeking from patients, and the attorneys involved.

We only included small claims and civil court actions, not other actions like hospital liens. Additionally, the dollar amount sought that we documented does not include filing fees, service fees, or attorney fees. The purpose of this report is not to point fingers at any specific health system, but to draw attention to issues in the medical debt collections system and steps that can be made to help patients secure coverage, reduce debt, and ensure that hospitals are paid. While total case load and dollar amount may differ from system to system, all five of the systems we reviewed had similar percentages of default judgments, proportions of patient representation, and average amount sought. Our data for the Aurora systems is incomplete, only including entries from early-2017 due to Aurora’s immense size and thus the large number of court entries. Because of this, analysis of sums from 2017 may be skewed due to having a slightly disproportionate number of entries when compared to other years.

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What's Next:

- Review claims and the impact of COVID in 2020-21 on health system billing and collections.
- Review additional health system including smaller, rural providers.
- Identify strategies to train and support a workforce of patient assisters.

Conclusion

Medical debt is a pervasive issue for health disparity populations, causing serious harm to Wisconsinites' financial, physical, and mental health. The massive caseload, financial burden, and imbalance in legal representation that we found point towards a health care system often partnering with a medical debt collections industry propped up by low-income patients who are unable to pay for care, struggle to secure ongoing health care coverage, and lack the legal means to fight back. The No Surprises Act is an excellent step towards equitable medical coverage protections, but it does not do enough to combat the inequities facing Wisconsinites. More proactive patient engagement will help patients to secure long-term coverage and stop the debt cycle before it begins. Ongoing engagement with patients, particularly those impacted by disparities will help Wisconsinites maintain continuity of health care coverage. Increased state funding for civil legal services will begin to chip away at the legal issues facing low income people with medical debt.

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