Options for Avoiding and Managing Medical Debt

Contents Include...

Third in the Series
MANAGING MEDICAL BILLS
Strategies for Navigating the Health Care System

National Endowment for Financial Education

Options for Avoiding and Managing Medical Debt

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Copies of this booklet, other booklets in NEFE's series *Managing Medical Bills: Strategies for Negotiating the Health Care System*, and other resources about your rights in obtaining and keeping health insurance can be found online at the Web site of the Georgetown University Health Policy Institute, www.healthinsuranceinfo.net, and on the National Endowment for Financial Education consumer Web site, www.smartaboutmoney.org.

Contents

Introduction

In the United States, we rely on health insurance for our ticket to health care. Unfortunately, millions of Americans are uninsured or underinsured. Some may be eligible for private or government insurance programs but have difficulty navigating the maze of complex rules and insurance jargon. Many more may not have any affordable coverage options or may not be eligible for any. Without health coverage for an illness or disability, the challenge of paying for necessary medical care can be daunting. Bills can accumulate. Access to health care can suffer.

This booklet is the third in a series on strategies for navigating the health-care system. Two other booklets in this series may also be of interest to you. The first booklet, *Understanding Private Health Insurance,* reviews strategies for making the most of private coverage and navigating transitions that can make it hard to get and keep health insurance. The second booklet, *Medicare and Medicaid for People with Disabilities,* provides an introduction to the two largest government programs offering safety net health coverage.

This booklet was written for people who did not find the help they need in the first two booklets. It gives an overview of programs and strategies for seeking free or reduced-cost health care along with information about managing medical debts. The first chapter of this booklet describes resources for finding free health-care services. The second chapter reviews strategies for negotiating discounts with hospitals, doctors, and other providers when you lack health coverage for needed care. For people who have already started to accumulate significant medical bills and debts, the third chapter discusses financial options and strategies that may be important to consider. The fourth chapter offers an overview of bankruptcy protections, including some important changes to bankruptcy law that took effect in late 2005. The fifth chapter reviews credit reports and how your medical condition or medical debts can affect your credit rating. The sixth chapter contains resources that provide more information. Many of the Web addresses listed throughout the chapters can be found as extended URLs in the End Notes at the back of the booklet.

Chapter 1

Sources of Free Health Care

At times, health coverage is not readily available to individuals who desperately need medical care. When this is the case, one option is to explore a variety of resources supported by the federal government, states, local communities, and private organizations that offer health care without charge or on a sliding scale.

2005 Federal Poverty Guidelines

Family Size	Annual Income
1	$ 9,570
2	12,830
3	16,090
4	19,350
5	22,610

For larger families, add $3,260 for each additional person

The HHS poverty guideline is updated annually. For the latest guidelines issued, see www.aspe.hhs.gov/poverty.

One-stop shopping for this type of care is difficult, if not impossible. You may have to approach several programs and institutions in search of the health care you need.

Community health clinics

The Health Resources and Services Administration (HRSA), an agency of the U.S. Department of Health and Human Services, funds a network of community health clinics and other health centers that provide free or low-cost health care to people who are uninsured or underinsured. Medical services vary from center to center, so it is important to find a center that provides the type of care you need. For example, some clinics offer a range of services while others offer primarily obstetric and gynecological care, HIV/AIDS treatment, mental health care, or other specific types of care. Often, staff at these centers may be able to refer you to other sources of free care in the community. You can find a directory of health centers at www.ask.hrsa.gov/pc or call HRSA at 1-888-ASK-HRSA (1-888-275-4772). Search the directory by ZIP code to find the center(s) nearest you.

Breast and cervical cancer screening and treatment

The Centers for Disease Control (CDC), another agency of the U.S. Department of Health and Human Services, funds programs in every state to provide free screening for breast cancer (mammograms) and cervical cancer (pap tests) for low-income women. In every state, if you get free screening under these programs and learn you have cancer, you can be referred to free treatment through your state's Medicaid program or other resources. To find a program in your area, search the National Breast and Cervical Cancer Early Detection Program directory at www.cdc.gov/cancer (click Breast and Cervical Cancer at left, and then click Contacts).[a]

Hill-Burton hospitals and other facilities

In exchange for federal funding, some hospitals, nursing homes, and other facilities agree to provide free or low-cost health care to individuals who could not otherwise afford medical services. These facilities are called "Hill-Burton" facilities, named for the federal funding program that requires this free care. Only about 300 hospitals nationwide continue to participate in the Hill-Burton program. Participating hospitals must follow specific federal eligibility requirements that vary by facility. Each facility chooses which services it will provide at no cost or reduced cost, and private pharmacy and private physician fees generally are not included in those services. Each facility is required to provide a specific amount of free or reduced cost care each year, but can stop once they have provided that amount.

Eligibility for free or reduced-cost care under Hill-Burton is based on income. You may qualify if your income falls within the federal poverty guideline (see sidebar). For some services, such as nursing home care, you might qualify if your income is up to two to three times the federal poverty level. You do not need to be a U.S. citizen to qualify for Hill-Burton care, although you do need to have been a resident of the United States for at least three months. To find out if you qualify for Hill-Burton assistance, apply at the admissions or business office of a Hill-Burton facility. For more information and a directory of facilities, call 1-800-638-0742 (1-800-492-0359 in Maryland) or visit www.hrsa.gov (search for "obligated facilities").[b]

Community hospitals

Many hospitals provide free or reduced-cost care on a voluntary basis, depending on the mission of the facility. Each hospital is different. Some hospitals are dedicated almost exclusively to serving the medical needs of low-income, uninsured individuals. For a list of these hospitals, visit the National Association of Public Hospitals and Health Systems at www.naph.org. In addition, hospitals affiliated with academic institutions, although not always considered public institutions, often provide free or reduced-cost care. If you believe a hospital can provide care that you need but cannot afford, contact the patient services department of the hospital to ask about available programs.

Prescription drug assistance programs

The cost of medications can be especially burdensome for people without adequate prescription drug coverage. A number of programs may be available to provide some relief. First, many states sponsor pharmacy assistance programs. These vary state to state in both eligibility and available services. Most programs are limited to senior citizens age 65 and older, but some programs are also available to younger, low-income state residents with disabilities or chronic medical conditions. A comprehensive list of state programs, eligibility standards, and help offered is available on the AARP Web site at www.aarp.org (search for "state pharmacy assistance programs" and locate the *AARP Bulletin* article, "State-by-State, Plan-by-Plan List of Pharmacy Assistance Programs"). [c]

Many private pharmaceutical companies also have programs that offer free medications to the uninsured and others who lack prescription drug coverage. An organization called The Partnership for Prescription Assistance maintains a comprehensive database of these privately sponsored programs. You can access this database at www.pparx.org. Each company-sponsored program has its own rules for eligibility, and often applications are considered on a case-by-case basis. In general, it is helpful if you can get your doctor to help you complete an application for free medications as manufacturers may be more responsive to requests for help from physicians.

Other assistance

Some people seek help paying medical bills from charities, churches, or public appeals. Though this strategy may be a long shot—research indicates many people are unable to find help with their medical bills[1]—it can be worth a try. A nonprofit organization called the Patient Advocate Foundation offers limited help with medical bills for some individuals. In addition, their Web site (www.patientadvocate.org) offers a publication called "Patient Pal" with ideas for fundraising events for people with high medical bills.

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[1] "The Consequences of Medical Debt: Evidence from Three Communities," The Access Project, February 2003, available at www.accessproject.org/downloads/med_consequences.pdf.

Chapter 2

Negotiating Discounts for Medical Care

If you are uninsured or underinsured and can't obtain the care you need for free, it is worthwhile to ask a doctor or hospital for a reduced price. This is a very reasonable request.

Doctors and hospitals typically bill the uninsured for full charges (or full price) but discount their fees substantially for health insurance companies. For example, a report on Chicago-area hospitals discovered that the average charge for uninsured patients was almost two-and-a-half times higher than for insured patients.[2] Hospital charges to the uninsured also tend to be much higher than the actual cost of providing care. For example, the charges (or full price) billed by California hospitals in 2003 were reported to be 178 percent of the cost of care.[3]

Although it may feel uncomfortable to negotiate with a doctor or hospital over money for something as critically important as health care, people are increasingly doing just that. One poll of consumers noted that 17 percent of people had asked a pharmacist if they could pay a lower price, 13 percent had asked this of doctors, 12 percent of dentists, and 10 percent had asked hospitals. The poll also reported that about half of those who tried to negotiate a lower price were able to do so.[4]

[2] "Uninsured Pay Twice As Much," *Chicago Tribune*, January 27, 2003.

[3] Lucette Lagnado, "Moving In With Mom at Age 25," *Wall Street Journal*, March 17, 2003.

[4] "Haggle with your doctor, cut your bill," *Insure.com*, available at moneycentral.msn.com/content/Insurance/Insureyourhealth/P35612.asp.

Approach the right person

A key to receiving a cost reduction is to ask the right person. You can ask your doctor directly if he or she will waive or reduce the bill for care. If you feel awkward discussing money with your doctor, the office manager or billing manager is a good place to start. For a hospital, ask to speak to the business manager or head of the billing office. You also could contact the hospital's social worker. When possible, it can be more effective to make your request in person instead of by phone or letter.

Don't stop at the first no. If the first answer you receive is a "no," be polite but persistent, especially with hospitals. Many hospitals have adopted formal policies for offering free or reduced-price care to patients without insurance. However, not all hospital staff may be aware of these policies. One study found that many hospital staff members routinely tell patients that no free care is available. In addition, a number of nonprofit hospitals with free-and-reduced-care policies nonetheless pursued aggressive collections practices against uninsured patients, turning their cases over to bill collectors and demanding full payment.[5] In response, more than a dozen lawsuits have been filed—and settled or won—against hospitals for aggres-

[5] "Not There When You Need It: The Search for Free Hospital Care," Community Catalyst, Inc., October 2003, available at www.communitycatalyst.org.

sive billing practices against the uninsured.[6]

The American Hospital Association (AHA) recently adopted a Statement of Principles on Hospital Billing and Collection Practices, urging all hospitals to not only have policies for offering free and discounted care for the uninsured, but to make sure the policies are available and understandable to the public.[7]

AHA Statement of Principles
Hospital Billing and Collection Practices

"Hospitals should make available for review by the public specific information…about what they charge for services.

"Hospitals should make available to the public information on hospital-based charity care policies and other known programs of financial assistance.

"Hospitals should have policies to offer discounts to patients who do not qualify under a charity care policy…Policies should clearly state the eligibility criteria, amount of discount, and payment plan options."

More than 4,200 hospitals nationwide have pledged their commitment to these principles. For the full list, visit www.hospitalconnect.com (search for "statement of principles").[d] If you think a hospital on this list is not disclosing or living up to its policy on free and discounted care, present a copy of the principles and list to the hospital billing office. You might also contact your state attorney general. Some state attorneys general have encouraged nonprofit hospitals to offer more free care and discounts to the uninsured. In addition, many state attorneys general have a division dedicated to helping consumers, usually called the consumer protection office. Contact information for state consumer protection offices is available in chapter six, page 29 of this booklet.

Find out what others are paying

Information showing that you are being billed more than others for the same service can support your request for a price reduction. The federal government posts information about Medicare payments to physicians and hospitals on the Internet, although the information is fairly technical for the average consumer. For example, the tool for looking up Medicare physician fees requires you to know the billing code of a particular service to find out the Medicare fee. The tool is available at www.cms.hhs.gov (search for "physician's fee schedule").[e] The American Medical Association main-

[6] Successful lawsuits were won or settled in Arkansas, California, Illinois, Minnesota, New Hampshire, Ohio, Oregon, Washington, West Virginia.

[7] The full statement of principles is available at www.hospitalconnect.com/aha/key_issues/bcp/content/guidelinesfinalweb.pdf.

tains a Web site at www.ama-assn.org that consumers can access on a limited basis to look up Medicare payments to physicians.

Review your bill for mistakes

Get an itemized copy of your bill and check it for mistakes. If the medical treatments are written in code, ask for a copy that explains in plain language what the codes mean. Although reviewing a medical bill can be daunting, you may be able to significantly reduce the amount you owe. Even if you are covered by insurance, you may be able to reduce your co-payment. A *Consumer Reports* article, "Decoding your hospital bills," discusses medical billing errors and provides a list of common errors; read the article at www.consumerreports.org (search for "medical bills").

Inquire about payment plans

Especially for high medical bills, it is worth inquiring about paying over time. If your resources permit, you also might ask whether the provider can offer a deeper discount in return for a larger up-front payment. Cash today might be more attractive to providers than a promise to pay sometime in the future. If the hospital agrees to a discount or to let you pay over time, get the agreement in writing.

Chapter 3

Managing Medical Debt

This chapter reviews several issues you might confront and options you have if you have already incurred medical bills and are having trouble paying them.

Credit cards

Putting your medical debt on a credit card may seem like an attractive option since it allows you to pay off the debt over time. However, many experts recommend against taking this step for two reasons:

- The interest rate on the unpaid balance on the credit card will add significantly to the total payment.
- Transferring medical debt to a credit card may affect your eligibility for Medicaid—because medical debt on a credit card may no longer qualify as medical debt[8]. In some states, some medical costs can be deducted from gross income to determine your Medicaid eligibility. The second booklet in this series, *Medicare and Medicaid: A Health-Care Safety Net for People with Serious Disabilities and Chronic Conditions,* provides contact information for each state's Medicaid program.

Home equity loans and lines of credit

If you own a home, you might think about getting a home equity loan or line of credit to pay medical debts. With these types of loans, you borrow money against a percentage of the equity in your home. (The equity in your house is generally the fair market value of your house minus existing mortgages.) The interest rate on a home equity loan is typically lower than the interest rate on a credit card balance. However, because your home secures the loan, you can lose your home if you are unable to make the loan payments. You can read about the benefits and risks of home equity loans and home equity lines of credit from the Federal Reserve Board, a federal banking regulator. This article, called *When Your Home Is on the Line: What You Should Know About Home Equity Lines of Credit*, is available at www.federalreserve.gov/pubs/HomeLine.

Home equity fraud

In the home equity loan field, some lenders take advantage of consumers by using abusive lending practices. For example, "hidden terms" in the loan might add unnecessary fees and charges you must pay. You can get more information about home equity scams from the Federal Trade Commission (FTC) at www.ftc.gov.[f] Two brochures—*Avoiding Home Equity Scams* and *Home Equity Loans*: *Borrowers Beware!*— are particularly informative. In addition, a consumer advocacy group called Consumer Action has written a pamphlet on home equity fraud, including useful links to other resources. It is available at www.consumer-action.org.[g]

Dealing with debt collectors

If you do not pay your medical bills (or fail to make payments under a pay-

[8] State of Wisconsin, *Coping with Medical Debt,* at www.dhfs.state.wi.us/guide/spec/probdebt.htm

ment agreement), the health-care providers can turn your account over to an outside debt collector.

Some debt collectors can be very aggressive, calling at all hours of the day and night, or making threats or unreasonable demands. The federal Fair Debt Collection Practices Act (FDCPA) requires that debt collection agencies treat you fairly. The FDCPA also prohibits collection agencies from using certain practices to collect on debts. For example, collection agencies generally may not:

» Continue to call you once you tell them in writing to stop contacting you.
» Contact you before 8 a.m. or after 9 p.m. unless you agree.
» Contact you at work if the collector knows your employer disapproves of such contacts.
» Tell anyone other than you (and your attorney, if you have one) that you owe money.

The FDCPA, however, does not cover everyone who collects debts. You can learn more about the FDCPA from the FTC, the agency in charge of enforcing the act, by visiting www.ftc.gov, click on "Consumers," then "Credit," then "Consumers" (again) and finally on "Fair Credit Reporting Act."[h]

Credit counseling organizations

If your bills are growing, you might think about contacting a credit counseling organization to help you solve your financial problems. Many credit counseling organizations are nonprofit. Reputable credit counseling organizations can advise you on managing your money and debts, help you develop a budget, and offer free educational materials and workshops. Their counselors are certified and trained in the areas of consumer credit, money and debt management, and budgeting. The National Foundation for Credit Counseling (NFCC) accredits credit counseling agencies that provide free or low-cost services. To locate an NFCC member credit counseling agency, visit www.nfcc.org or call 1-800-388-2227. The Association of Financial Counseling and Planning Education (AFCPE) also provides certification of credit counselors who work with individuals with credit problems. Visit www.afcpe.org for more information.

A caveat: not all credit counseling organizations are honest. Some say they are nonprofit but actually charge high fees. Others collect money for your debts but do not forward the payments on to your *creditors* (the people or institutions to whom you owe money.) The FTC has a number of publications about credit counseling organizations and other groups promising to help you solve your debt problems available at www.ftc.gov.[i] Click "Consumers," then "Credit" and "In Debt?"

If you are thinking about filing for bankruptcy, you should be aware of new rules that require consumers to receive counseling from a government-approved credit counseling organization. This makes it all the more important to seek out a reputable organization. (For additional information on credit counseling requirements in bankruptcy, see chapter four, "Bankruptcy" starting on page 19.)

Lawsuits

People who have unpaid medical bills or are behind in monthly payments, can by sued in court by the health-care providers whom they owe. Lawsuits can be complicated and expensive. You must take them seriously.

If you receive a warrant, subpoena, summons, or other legal document telling you that you have been sued or that you must appear in court, do not ignore it. If you do not respond to the legal document or fail to show up in court, the court can decide against you without ever hearing your side.

If you can afford it, it is best to consult an attorney. If you have very limited income, you may qualify for free legal assistance through local legal services funded by the Legal Services Corporation (LSC), a private nonprofit organization established by Congress to provide civil legal assistance to those who are not otherwise able to afford it. You can obtain more information about LSC and a list of LSC-funded offices for your area at www.lsc.gov.

How long does a health-care provider have to file a lawsuit against me?

Each state sets a limit on the timeframe within which a creditor can legally sue to collect on a debt. This is known as the *statute of limitations*. If a creditor waits too long to sue, the case can be thrown out of court. However, it is your responsibility to tell the court that the statute of limitations has expired. The rules for statutes of limitations are quite complex. If you don't have an attorney to help you understand them, you can read an overview of how statutes of limitations work at www.fair-debt-collection.com (search "statute of limitations").

What will the judge decide?

The judge will decide whether you owe the health-care provider money, and if so, how much. The judge's decision is called a "judgment."

What happens if I win the lawsuit?

If you win the lawsuit, the judge enters a judgment stating that you do not owe any money. The health-care provider will no longer be allowed to try to collect the debt.

What happens if I lose the lawsuit?

If you lose the lawsuit, the court will make a judgment stating you owe the health-care provider a certain amount of money. Once this happens, interest can be added to the amount owed until it is paid off. Credit reporting services will record the judgment so that it appears on your credit report. (For more information about credit reports, see chapter five, "Credit Reports and Credit Scores" on page 26.)

After getting a judgment, a creditor may be able to *garnish* (withhold some or all of) your wages depending on your state's law. They may also be able to put a *lien* (or legal claim) on your house or other property you own. If you later sell the property, the lien holder will be paid before you can collect any money from the sale.

Can I protect my property from a creditor?

Generally, state laws allow you to claim that certain property is exempt from a creditor. Exempt property cannot be taken from you. Additional information about exempt property is discussed in chapter four, "Bankruptcy" starting on page 19.

Will I be thrown into jail for not paying my debts?

No. A person cannot be imprisoned just for having debts. However, if you fail to obey a summons or subpoena to appear in court, a *body attachment* might be issued for your arrest. A body attachment is a civil warrant for your arrest to bring you before the court. In recent years, some debt collectors have used body attachments to have debtors arrested for failing to appear in court. The debtor then needs to provide an amount of cash (known as *posting bond*) in order to be released from jail. When the debtor appears in court for a hearing, the debt collectors might be granted the right to keep the bond money and apply it to the debt owed.

Chapter 4
Bankruptcy

If your debts are overwhelming and you see no way out, you may be thinking about filing for bankruptcy. You are not alone. Medical bills contribute to nearly half of all personal bankruptcies.[9]

[9] D. Himmelstein, E. Warren, et al, "Illness and Injury As Contributors to Bankruptcy," *Health Affairs*, February 2, 2005.

Bankruptcy may help give you a fresh start by erasing many of your debts. It can stop letters and calls and other attempts to collect your debt. However, if you have debts that will continue to grow (such as unpaid bills for ongoing medical treatment) or you have no source of income, bankruptcy may offer only temporary relief.

Many people attempt to file for bankruptcy on their own. Before you go this route, you should know that the bankruptcy laws are very complicated. Furthermore, Congress recently passed a law, called the Bankruptcy Abuse and Consumer Protection Act of 2005, which made significant changes to the bankruptcy rules affecting consumers. The following sections provide basic answers to common bankruptcy questions as an introduction to this protection. Consulting an attorney who specializes in bankruptcy may be your best course of action.

How does bankruptcy work?

Bankruptcy gives you the chance to reduce or eliminate some of your debts. It is also designed to provide an orderly repayment to your *creditors* (the people to whom you owe money). The most common types of consumer bankruptcy are Chapter 7 and Chapter 13. Both of these procedures are complicated beyond what can be explained in this booklet.

For more information, read *Bankruptcy Basics*, a brochure written by the United States Bankruptcy Court. This detailed and technical brochure is available at www.uscourts.gov. There are two versions of this guide available—one for bankruptcy cases filed after Oct. 17, 2005 and one for those filed before this date. Be sure you read the version that applies to your situation.

Chapter 7

In Chapter 7 bankruptcy, most of your debts are *discharged* (canceled) in a relatively short period of time, generally four to six months. In exchange for this discharge, you must turn your property over to a person, called a *trustee,* who is appointed by the court. The trustee sells your property and distributes the money to your creditors. Your future income is not taken into account. Once these payments, if any, are made, the remainder of your debt is discharged.

You can protect certain property from being taken and sold in bankruptcy. This property is called *exempt* property, and usually includes your retirement funds and at least part of the *equity* in your home. (Equity means the value of your home above the amount you owe on your mortgage loan and any other second mortgages, home equity loans, etc.) See "Will I be able to keep my house if I file for bankruptcy" on page 22 for more information on whether you can protect your home and retirement funds in bankruptcy. Some people choose to file for Chapter 7 because they have little or no property that can be taken and sold. Although they pay their creditors little or no money in Chapter 7, the remainder of their debt is still canceled.

Who can file for Chapter 7?

Not everyone can file for Chapter 7. To qualify for Chapter 7, you must show that you truly cannot afford to make monthly payments on your debts. You can show this in two ways. First, if your current monthly income is less than or equal to the median income in your state, you can file for Chapter 7. Second, if your income is above the median income in your state, you may be able to show that you have little income available to pay your creditors. You do this through a "means test" that measures how much income you have left after paying certain allowed living expenses. If you do not qualify for Chapter 7, you might qualify for Chapter 13.

You can find official, current information about your state's median income on the Web site of the United States Trustee Program at www.usdoj.gov/ust. The National Consumer Law Center has a detailed, technical explanation, *Means Testing and Section 707 Motions* at www.consumerlaw.org.

Chapter 13

A Chapter 13 bankruptcy is sometimes called a *reorganization proceeding*. In a Chapter 13 bankruptcy, your income pays some or all of what you owe to your creditors over time. You must get the court's approval for a plan to repay your creditors over a three- to five-year period, depending on your income and debts. In the plan, you must repay some debts in full; others may be repaid only partially or not at all, depending on what you can afford. The unpaid balance of your debt will be discharged when you successfully complete the plan.

Who can file for Chapter 13?

Chapter 13 does not have income limits. It does, however, have debt limits. You may not file for a Chapter 13 bankruptcy if you have more than about $1.2 million in total debt. There are also dollar limits on the different types of debt that can make up this total (for example, mortgages and car loans as opposed to credit card bills and medical bills).

What happens if I fall behind on Chapter 13 plan payments?

A number of things can happen if you fall behind on Chapter 13 plan payments.

» *The bankruptcy trustee can modify your plan.* If you can show that you can still pay back some of the debt over time, the bankruptcy trustee may modify the plan by giving you a grace period or reducing the monthly payment.

» *Your case might be converted to a Chapter 7.* If it looks like you will not be able to successfully complete even a modified plan, your case might be converted to a Chapter 7 liquidation proceeding.

- *Your case might be dismissed.* If your case is dismissed, your bankruptcy proceeding just ends. The remaining balance on your debts will not be discharged or erased. You will still owe these debts and your creditors will be free to take collection action against you.
- *The court might grant you a "hardship discharge."* In limited circumstances, the court can grant you a hardship discharge. Generally, such a discharge is available only if the failure to complete payments is due to circumstances beyond your control (such as a debilitating illness that precludes employment). If you receive a hardship discharge, your debts will be erased even though you did not fully pay the amounts due under the Chapter 13 plan.

What types of collection activity are stopped by filing bankruptcy?

The filing of a petition in bankruptcy automatically *stays* (or stops) most collection actions against you. Creditors cannot start or continue most lawsuits against you. They cannot *garnish* (withhold) your wages or call you to demand payment. Creditors normally receive notice that you have filed for bankruptcy from the clerk of the bankruptcy court.

Sometimes, creditors can get the court's permission to continue to collect from you. For example, if you are behind on home mortgage payments and file for bankruptcy under Chapter 7, it is possible that the court would allow the lender to foreclose on your house.

Are all my debts discharged in bankruptcy?

No. Some types of debt may not be discharged in bankruptcy, including debts for child support, most student loans, certain types of taxes, and others. If a debt is not discharged, you are still legally liable for it even after your bankruptcy case is complete.

Will I be able to keep my house if I file for bankruptcy?

Generally, you should be able to keep your house in a Chapter 13 bankruptcy. Because you repay debts over three to five years, you have a chance to make up the missed payments over time. As long as you make the plan's repayments and your current mortgage payments, you should not lose your home as a result of Chapter 13 bankruptcy.

You are more likely to lose your house in a Chapter 7 bankruptcy. If you are behind on mortgage payments, you probably will not have the time to make up missed payments because a Chapter 7 proceeding is over in four to six months. The lender will probably ask the court for permission to sell your house to pay your debt. The courts usually grant this permission.

Examples of Homestead Exemptions in Bankruptcy

Michael has owned his house for six years and it has a current market value of $150,000. It is his only significant asset. Michael has a $100,000 mortgage on the house. This means that Michael has $50,000 in equity in his house. Michael owes a significant amount of money on medical bills. He is current on his home loan payments, but is falling behind on his other debts. Michael files for a Chapter 7 bankruptcy.

Example 1

Assume Michael lives in a state where the homestead exemption is limited to $10,000. In this state, even though Michael has $50,000 in equity in his house, he can only protect $10,000 of it. It is possible that the trustee in Michael's Chapter 7 bankruptcy would sell Michael's house and use the proceeds (minus $10,000) to pay off his mortgage and his other debts.

Example 2

Now, assume Michael lives in a state with a maximum $200,000 homestead exemption. In this state, Michael can protect the $50,000 equity he has in his house. If the trustee were to sell the house, $100,000 would go towards the mortgage and the remaining $50,000 would be exempt from collection. Since there would be no money available for other creditors, the trustee would not sell Michael's house.

Even if you are current on your mortgage payments, you may lose your house in a Chapter 7 bankruptcy. Whether you are able to keep your house depends on the amount of home equity you are able to protect under a legal protection called a "homestead exemption."

Homestead exemptions

A homestead exemption allows you to protect some or all of the equity in your house from creditors. The amount of the homestead exemption is often determined by state law. In some states, such as Texas and Florida, there is no dollar limit on the amount of homestead exemption. Most states, however, have a maximum dollar limit on the amount of homestead exemption you can take.

If your home equity is greater than your state's permitted homestead exemption, you may lose the home.

You can read a summary of your state's homestead exemption laws at www.bankruptcyaction.com. In addition, you may be able to read your state's homestead exemption law on your state legislature's Web site.

What happens if I move to a different state shortly before filing for bankruptcy?

Recent changes to the federal bankruptcy laws are designed to stop people from moving to get a better homestead exemption. For example, if you move within three years and four months of filing for bankruptcy, there may be additional limits to the amount of homestead exemption you may take.

You can read more about new limits on homestead exemptions on the Web site of the National Consumer Law Center at www.consumerlaw.org.[j]

Additional information about exempt property can be found in the *Bankruptcy Basics* brochure available from www.uscourts.gov.[k]

Will I be able to keep my retirement fund if I file for bankruptcy?

Yes, in most cases. You can protect *tax exempt* retirement funds from creditors under the federal bankruptcy law. Some examples of tax exempt retirement funds include individual retirement accounts (IRAs), pension funds, and public sector retirement programs. There is a $1 million cap on the amount you can protect in some types of IRAs. You have the right to protect your retirement fund under federal law—even if your state law offers less protections for retirement funds.

You can find additional information about protecting retirement funds in *Exemptions Under the 2005 Bankruptcy Act*, which is available from the National Consumer Law Center at www.consumerlaw.org.[l]

What are the new counseling requirements for people who file for bankruptcy?

Under recent changes to the federal bankruptcy law, you must receive credit counseling from a government-approved credit counseling program within 180 days (about six months) before you file for bankruptcy. You must obtain a certificate proving that you had credit counseling, and then file this certificate when you file for bankruptcy. This new requirement means you cannot file for bankruptcy at the last minute—you need time to locate and complete a counseling program. Credit counselors are allowed to charge you reasonable fees for their services. However, they must reduce or waive the fees if you are unable to pay the full amount.

You can find more detailed information about pre-bankruptcy counseling in the FTC's consumer alert, *New Bankruptcy Law Requires Credit Counseling Before Filing* at www.ftc.gov.[m] You can obtain a list of organizations approved for providing pre-bankruptcy credit counseling from the U.S. Trustee Program at www.usdoj.gov/ust.[n]

In order to get your debts discharged at the conclusion of the bankruptcy proceeding, you also will be required to complete a government-approved financial management education program. Financial management education agencies are allowed to charge you a reasonable fee for their services. They must reduce or waive the fees if you are unable to pay the full amount. You should be able to get a list of approved financial management educational courses for your district from the clerk of the bankruptcy court.

Can I file for bankruptcy again?

You must wait eight years between filing Chapter 7 bankruptcy petitions. Generally, you cannot obtain a new discharge in a Chapter 13 bankruptcy within two years of a previous Chapter 13 filing or within four years of a Chapter 7 bankruptcy filing. Note that these restrictions apply only if you actually received a discharge in the prior bankruptcy proceeding.

Chapter 5

Credit Reports and Scores

Many—but not all—debts are reported to consumer reporting agencies that use the information to create credit reports. Your credit reports contain a detailed financial history, including the amount of debt you owe, how much credit you have available, and your track record for paying bills and debts. Medical debts are likely to be included in a credit report.

Your medical debts probably will be included in a credit report if any of the following things happen to you:

» Debts are referred to an outside debt collector.
» The health-care provider sues you and obtains a judgment stating that you owe them money.
» You file for bankruptcy.

Consumer reporting agencies sell credit reports to banks, insurers, credit card companies, employers, landlords, and utility companies. These recipients use the information to evaluate your applications for credit, insurance, employment, leases, and utility service.

In addition, the information in your credit report is used to calculate a credit score. Think of your credit score as a summary of your financial information. Your credit score is a number (usually ranging from 300 to 850) that is calculated using a formula that compares your financial history to others. It is used to predict how likely you are to repay your bills. The higher your credit score, the better your chances at getting credit on good terms.

Having overdue debts, judgments, or bankruptcy filings on your credit report can lower your credit score. This could make it harder to rent an apartment or obtain a credit card at a favorable interest rate. It might make it very difficult to obtain a home mortgage loan or insurance. You might be turned down for a mortgage or credit card, or have to pay higher interest rates for such loans.

You can obtain more information about credit reports and credit scoring from the FTC. The FTC has a number of brochures available on these issues, including *Credit Scoring,* which explains how credit scores are created and used; *Building a Better Credit Report,* which discusses how to improve your credit report and credit score; and *Credit and Your Consumer Rights*, which has information about consumer rights and credit reports. Search for these brochures at www.ftc.gov.[o]

How long do debts stay on my credit report?

Information about most late or unpaid debt stays on your credit report for seven years.

A bankruptcy can be reported on a credit report for 10 years from the filing of the case. After debts are discharged, a history of delinquent payment will still be on the report until the 10-year period expires. However, under federal law, the balance of each discharged debt must be reported as zero.

Can my medical condition be used against me when I apply for credit or loans?

Under recent rules issued under the Fair and Accurate Credit Transactions Act, creditors such as banks and credit

Acceptable Use of Medical Debt
Jackie owes Mercy Oncology Clinic $5,000. When she applies for a mortgage loan from her bank, Jackie lists this debt. The bank generally must treat Jackie's $5,000 debt for health care the same as it would treat a $5,000 debt to a furniture store.

card companies *cannot* use your medical condition *against* you when they are deciding whether to give you credit or when establishing the terms of the credit. To help prevent this from happening, your credit report cannot include the name of a health-care provider if it would disclose your medical condition. Although the amount of medical debt will appear, the name of the health-care provider/creditor will be encoded.

Creditors *can* use financial information that happens to be related to a medical condition the same as any other financial information. In addition, banks and credit card companies are able to use medical information for your benefit if you request assistance with paying bills. For example, if you ask, creditors can use medical information to see if you qualify for a loan forgiveness or forbearance program due to illness.

Credit repair

You may be tempted to respond to ads that promise to clean up your credit report—for a fee—so that you can get a new house, car, or credit card. The FTC warns that most of these services are fraudulent. After you pay hundreds or thousands of dollars in fees, these companies do nothing to improve your credit report; most simply vanish with your money. The FTC's brochure, *Building a Better Credit Report*, discusses how to improve your credit report and credit score, and is available at www.ftc.gov. Another FTC brochure, *Credit Repair: Self Help May Be Best*, discusses credit repair scams and alternatives in detail. This brochure can be found at www.ftc.gov[p] as well.

How can I check my credit report or credit score?

One way to help improve your eligibility for credit is by making sure your debts and, most importantly, your payments are accurately reported. You can get a free copy of your credit report from the three major credit bureaus, Equifax, Experian, and TransUnion, once every 12 months if you ask. You can find a link for ordering a free credit report and obtain other information about free credit reports on the FTC's Web site at www.ftc.gov (search for "Free Credit Reports").[q]

You also have the right to obtain your credit score from the major credit reporting bureaus. However, they are allowed to charge a reasonable fee for providing your credit score. You can read more about your right to get your credit score on the Web site of the Federal Deposit Insurance Corporation (an independent agency that supervises banks) at www.fdic.gov (search for "Free Credit Reports").[r]

Chapter 6

For More Information

At www.privacyrights.org[s], the Privacy Rights Clearinghouse has a fact sheet on debt collection practices along with attachment "A," which has links to:

» Resource guides published by state or city consumer agencies that provide an overview of debt collection
» Citations and links to state debt collection laws

The National Consumer Law Center has a variety of information on consumer debt and bankruptcy at www.consumerlaw.org.[t] A free consumer brochure on debt collection also is available from the National Consumer Law Center. Call NCLC's publications department at 617-542-9595 and ask for a copy of *What You Should Know About Debt Collection*.

The Federal Citizen Information Center of the U.S. General Services Administration has a list of state, county and city government consumer protection offices at www.consumeraction.gov.[u]

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Georgetown University Health Policy Institute is a multi-disciplinary group of faculty and staff dedicated to conducting research on key issues in health policy and health services research. Institute faculty include experts on issues relating to health care financing, the uninsured, health insurance regulation, quality of care and outcomes research, mental health services research, and the impact of changes in the health care market on providers and patients.

End Notes

This section provides detailed URLs for cited resources as noted.

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[a] apps.nccd.cdc.gov/cancercontacts/nbccedp/contactlist.asp

[b] www.hrsa.gov/osp/dfcr/obtain/hbstates.htm

[c] www.aarp.org/bulletin/prescription/statebystate.html

[d] www.hospitalconnect.com/aha/key_issues/bcp/content/cocweblist.pdf

[e] www.cms.hhs.gov/physicians/mpfsapp/step0.asp

[f] www.ftc.gov/bcp/menu-home.htm

[g] www.consumer-action.org/English/library/housing/

[h] www.ftc.gov/bcp/conline/edcams/credit/coninfo_debt.htm

[i] www.ftc.gov/bcp/conline/edcams/credit/coninfo_debt.htm

[j] www.consumerlaw.org/initiatives/bankruptcy/index.shtml

[k] www.uscourts.gov/bankruptcycourts/BB101705final2column.pdf

[l] www.consumerlaw.org/initiatives/bankruptcy/index.shtml

[m] www.ftc.gov/bcp/conline/pubs/alerts/banklawalrt.htm

[n] www.usdoj.gov/ust/bapcpa/ccde/

[o] www.ftc.gov/bcp/conline/edcams/credit/coninfo_reports.htm
www.ftc.gov/bcp/conline/edcams/credit/coninfo_loans.htm

[p] www.ftc.gov/bcp/conline/edcams/credit/coninfo_reports.htm
www.ftc.gov/bcp/conline/edcams/credit/coninfo_debt.htm

[q] www.ftc.gov/bcp/conline/pubs/credit/freereports.htm

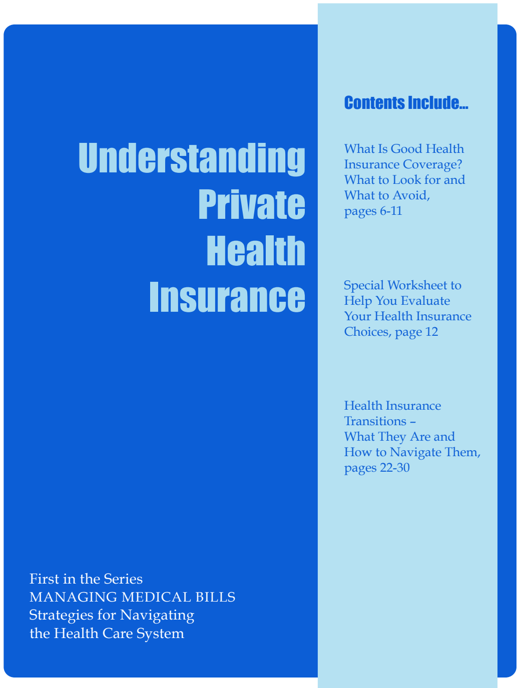
[r] www.fdic.gov/consumers/consumer/news/cnfall04/soon.html

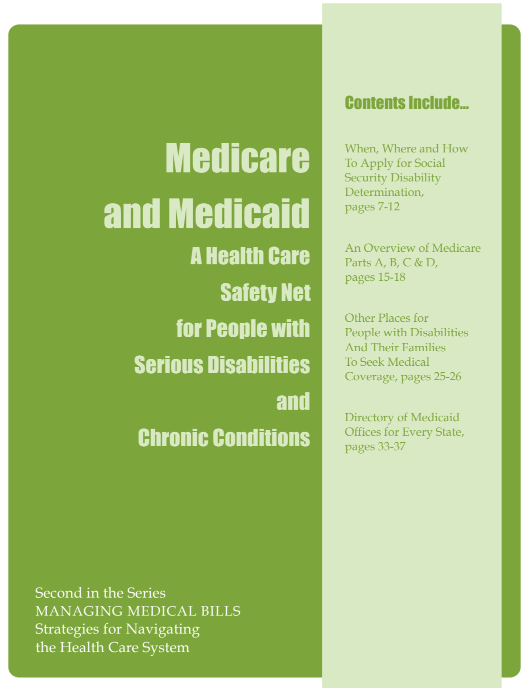
[s] www.privacyrights.org/fs/fs27-debtcoll.htm . Attachment "A" to this fact sheet, found at www.privacyrights.org/fs/fs27plus.htm has links referenced.

[t] www.consumerlaw.org/initiatives/debt_collection/help_for_consumers.shtml

[u] www.consumeraction.gov/state.shtml

Look for Our Other Publications in the MANAGING MEDICAL BILLS Series





These publications are available free of charge and can be obtained online at www.healthinsuranceinfo.net/nefe.

Please let us know what you think! Take a moment to send us feedback about this guide at feedback@healthinsuranceinfo.net.

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