Questions and Answers on the Patient Medical Debt Protection Act (PMDPA)
A3470A/S2521A

Question: How prevalent is medical debt in New York?

Answer: New Yorkers cannot afford health care, even when they have insurance.[1] When they cannot avoid medical care, costs pile up quickly: a recent study found that 40% of Americans who incur health care costs within a year incur half of those costs after just one visit.[2] In New York, patients suffer a variety of serious financial repercussions trying to pay for health care:

- Over 50,000 patients have been sued by New York's non-profit hospitals since 2015, including 4,000 sued after the pandemic started.[3]
- 8% of New Yorkers have delinquent medical debt that appears on their credit reports. This is highest in upstate counties: in Oswego County, this increases to 23% of residents and there are 16 other upstate counties where between 16 and 23% of residents have an adverse credit entry for delinquent medical debt.[4]
- 35% of New Yorkers say they have experienced other financial problems to pay for health care including using up all of their savings, racking up credit card debt, skipping payments for other basic necessities like housing and heat, or taking out loans.[5]

Medical billing and debt problems are so pervasive in New York that the following 28 organizations asked the Legislature to enact the PMDPA (A3470A/S2521A): Community Service Society, Consumer Reports, AARP, NAACP New York State Conference, Hispanic Federation, ACR Health, Actors Fund, Children's Defense Fund-New York, Empire Justice Center, Medicare Rights Center, New York Immigration Coalition, New York #insulin4all, Young Invincibles, Health & Welfare Council of Long Island, Finger Lakes Community Health, Robin Hood, New York StateWide Senior Action Council, Inc., New York Legal Assistance Group, Metro New York Health Care for All, South Asian Council for Social Services, Center for Independence of the Disabled, NY, Legal Aid Society, Citizen Action New York, NYPIRG, Make the Road New York, United Jewish Organizations of Williamsburg and North Brooklyn, NYC Democratic Socialists of America (NYC-DSA), and Commission for the Public's Health System.

Question: Why is medical debt a health equity issue?

Answer: Organizations like the Hispanic Federation and the NAACP New York Chapter support A3470A/S2521A because health care affordability problems affect people of color more than other New Yorkers.[6] For example, 3.8% of White New Yorkers are uninsured, compared to 13.9% for American Indians and Alaska Natives, 6.7% of Asian people, 5.6% of Black people, and 10.1% of people who are Hispanic or Latino of any race.[7] One symptom is drastic disparities in medical debt's impact on credit reports between white communities and communities of color in many areas of New York:

Share of Residents with Delinquent Medical Debt on Their Credit Reports[8]				
County	Overall	White Communities	Communities of Color	Difference
Onondaga	20%	14%	41%	292%
Monroe	11%	7%	26%	371%
Albany	12%	10%	26%	260%
Erie	10%	8%	22%	275%

Question: How does the Patient Medical Debt Protection Act protect New Yorkers from medical debt?

Answer: The bill would prevent New Yorkers from accruing medical debt by making medical billing fairer. Some medical debt is the result of charges that patients should not be responsible for.

- Parts B-C of the bill would require hospitals to provide patients with one itemized bill written in plain language so that patients are able to understand the charges and identify errors. This would also help patients understand what they owe, when, and to whom. This is difficult when patients receive many different versions of bills and don't know whether the hospital has submitted a claim to their insurer. For example, one patient received 27 different bills after going to a hospital for his kidney stones.
- Part I would hold patients harmless for surprise out-of-network bills caused by misinformation provided by their health plan or their health care provider. When patients use provider directories or call their plan to find out if a provider is in-network, they should be able to use that information to prevent out-of-network bills. However, if the plan has made an error, the patient has no recourse. Likewise, the patient is on the hook for the bill when the provider misinforms the patient about their in-network status.
- Part D would bar facility fees when patients' insurers are not covering them. Facility fees are hospital overhead charges. As hospitals increasingly add providers who operate outside their walls to their systems, patients are being charged for these overhead fees even for outpatient visits. For example, one patient was charged facility fees when she went for her free mammogram even though the Affordable Care Act prohibits cost-sharing for preventive care.
- Part G would simplify the eligibility rules for hospital financial assistance and standardize financial assistance polices across all hospitals through one uniform State Department of Health developed form. Many of the patients that incur medical debt have incomes that would make them eligible for hospital financial assistance under New York State law. However, patients do not find out about this assistance and when they do, difficult application processes and strict time frames keep them from successfully applying.[9]
- Part E would standardize patient financial liability forms. Some providers ask patients to sign forms that make them liable for charges that they have no way of anticipating. For example, one patient was refused outpatient surgery when he questioned the "blank check" financial liability form they asked him to sign.[10]
- Part F would prohibit hospitals from including provisions in their contracts with insurers that block cost information from being shared with the state. The state collects this cost information as part of efforts to increase price transparency. There are large variations in what different providers charge for the same services. Without an accurate database of charges, patients will never be able to know when a provider is charging a fair price for services.
- Another provision of the bill would help patients who have already accrued medical debt. Part H would reduce the maximum interest rate on medical debt judgments to the U.S. Treasury rate, which is around 1%. Some hospitals apply a 9% interest rate, more akin to commercial actors than charities. This can add thousands of dollars to patients' existing medical debt.

Question: Why shouldn't hospitals aggressively pursue payments from patients?

Answer: Our society does not permit any other charitable industry to actively work against the interests of its purported beneficiaries. For example, the humane society protects the welfare of animals and no longer practices euthanasia.

All of New York's hospitals are non-profit charities that receive state and federal support to operate. This includes the privilege of paying no taxes and billions of dollars in funding from programs like the $1.1 billion Indigent Care Pool (ICP) to help hospitals when they care for uninsured patients. However, this support is not linked closely enough to the patient populations served by different hospitals. The hospitals that sue the most patients typically sue for far less than they received in ICP funds. Further, the Community Service Society of New York has reviewed thousands of court documents and discovered that patients are typically sued for small amounts. The hospitals engaging in that strategy are not making an impact on their bottom line by pursuing individual patients – but they are causing long-lasting harm to patients who turned to them for help.

Patients are not incurring medical debt frivolously. New Yorkers are so wary of medical bills that they avoid even needed care: almost half (45%) say they have delayed procedures, skipped a recommended medical test or treatment, cuts pills in half, skipped doses of medications, or failed to fill a prescription because of costs.[11] When patients cannot avoid medical care, they do not have control over many aspects of the care they will receive.[12] Even when patients can plan ahead, they do not have access to price information that would inform their decisions about where to go. Many types of care that are considered "shoppable" actually aren't – for example, labor and delivery may seem routine on paper, but in practice often involves unforeseen complications.

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[1] Altarum Healthcare Value Hub and Community Service Society of New York, "New Yorkers Struggle to Afford High Healthcare Costs; Support a Range of Government Solutions Across Party Lines," March 2019, https://www.cssny.org/news/entry/new-statewide-healthcare-affordability-survey.

[2] Nona Tepper, "Most consumers hit with high bills after just one healthcare visit, study says," Modern Healthcare, February 3, 2021.

[3] Amanda Dunker and Elisabeth Benjamin, "Discharged Into Debt: New York's Nonprofit Hospitals Are Suing Patients," March 2020, https://www.cssny.org/publications/entry/discharged-into-debt and "Discharged Into Debt: A Pandemic Update," January 2021, https://www.cssny.org/publications/entry/discharged-into-debt-a-pandemic-update.

[4] Urban Institute, "Debt in America: An Interactive Map," December 2019, https://apps.urban.org/features/debt-interactive-map/?type=overall&variable=pct_w_medical_debt_in_collections&state=36&county=36075. The counties are Cattaraugus, Cayuga, Chautauqua, Columbia, Cortland, Greene, Jefferson, Madison, Onondaga, Rensselaer, Schenectady, Schuyler, Seneca, Steuben, Sullivan, and Washington.

[5] Altarum Healthcare Value, *supra* note 1.

[6] Amanda Dunker and Elisabeth Benjamin, "How Structural Inequalities in New York's Health Care System Exacerbate Health Disparities During the COVID-19 Pandemic: A Call for Equitable Reform," June 2020, https://www.cssny.org/publications/entry/how-structural-inequalities-in-new-yorks-health-care-system-exacerbate-heal.

[7] United States Census Bureau, "Table S2701: Selected Characteristics of Health Insurance Coverage in the United States," 2019, https://data.census.gov/cedsci/table?q=selected%20characteristics%20of%20health&g=0500000US36087&tid=ACSST1Y2019.S2701&hidePreview=true.

[8] Urban Institute, *supra* note 4.

[9] Carrie Tracy, Elisabeth Benjamin, and Amanda Dunker, "Unintended Consequences – How New York Patients and Safety-Net Hospitals Are Short-Changed," Community Service Society of New York, January 2018, https://www.cssny.org/publications/entry/unintended_consequences.

[10] C. Lewis, "Patient Who Questioned 'Blank Check' Financial Liability Form Turned Away Right Before Medical Procedure," Gothamist, January 15, 2020, https://gothamist.com/news/patient-who-questioned-blank-check-financial-liability-form-turned-away-right-medical-procedure.

[11] Altarum Healthcare Value Hub, *supra* note 1.

[12] Altarum Healthcare Value Hub, "Revealing the Truth about Healthcare Price Transparency," Research Brief No. 27, June 2018, https://www.healthcarevaluehub.org/advocate-resources/publications/revealing-truth-about-healthcare-price-transparency.