



Medical Debt: Its Impact and Potential Interventions

Issue brief from the Colorado Department of Law

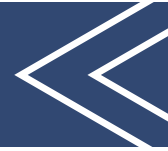
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Medical debt impacts Coloradans profoundly. It can damage or ruin credit records, destroy families' financial stability, deter seeking needed medical treatment, or lead to bankruptcy. This issue brief identifies some of the challenges presented by medical debt and outlines some efforts in Colorado and nationwide to address this crisis.

The Impact of Medical Debt



There is \$88 billion in medical debt on consumer credit records nation-wide.¹ Overall, an estimated 41 percent of American adults – or about 100 million people – have medical debt, with 12 percent of those adults owing more than \$10,000.² Medical debt has significant financial consequences beyond any impact on credit scores. Consider, for example, that 63 percent of people with current or recent medical debt surveyed recently said that the debt caused them to reduce the amount they spent on food, clothing, and other basic necessities.³ This included over 50 percent of those with annual household income above \$90,000. Moreover, roughly one in seven people said medical debt can impede them from accessing medical care, and about two-thirds of people have put off care for them or a family member due to medical debt.⁴

Nearly half of those with medical debt reported that they used all or most of their savings to make debt payments. Medical debt often becomes so crushing that families are forced to file for bankruptcy. In fact, 530,000 families nationwide enter bankruptcy each year due to medical issues and bills. These bankruptcies account for 66.5 percent of all bankruptcies nationwide.⁵

[1] Consumer Financial Protection Bureau, Medical Debt Burden in the United States (March, 2022), available at https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

[2] Kaiser Family Foundation, Health Care Debt In The U.S. The Broad Consequences Of Medical And Dental Bills (June, 2022), Page 9, available at <https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/>.

[3] Kaiser Family Foundation, Health Care Debt In The U.S.: The Broad Consequences Of Medical And Dental Bills (June 2022), Page 11, available at <https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/>.

[4] Kaiser Family Foundation, 100 Million People in America Are Saddled With Health Care Debt, (June 2022), available at <https://khn.org/news/article/diagnosis-debt-investigation-100-million-americans-hidden-medical-debt/>.

[5] National Library of Medicine, Medical Bankruptcy: Still Common Despite The Affordable Care Act (March 2019), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6366487/>.

In a recent study, over 12 percent of Coloradans have medical debt in collections, with the median debt totaling \$748.⁶ For Coloradans who reported having problems paying off medical debt, a survey found that 46.2 percent accumulated credit card debt; 37.2 percent were unable to pay for necessities like food, heat, or rent; 15.7 percent took out a loan; and 5.4 percent declared bankruptcy.⁷

The challenges of medical debt impact consumers areas across Colorado. The impacts of medical debt are not uniform and exacerbate systemic issues. Communities of color, younger households (particularly those with children), veterans, and those with lower postsecondary educational attainment are more likely to be burdened by medical debt.⁸ Consider, for example, that while nearly one in every three white adults has medical debt, more than half of Black adults have medical or dental debt.⁹ Further, compared to white adults, Black adults are roughly twice as likely (19 percent) to be denied care, twice as likely to take out a loan due to medical debt (30 percent), and twice as likely to have their living situation changed due to medical debt.¹⁰

Recent Policy Changes Addressing Medical Debt



In Colorado, policymakers have taken steps to address medical debt, protect consumers, and mitigate its harms.

In 2021, the Colorado General Assembly enacted HB21-1198, which took important initial steps to make healthcare more affordable for Coloradans. Among its provisions, HB21-1198¹¹ imposes requirements that health-care facilities must now:

[6] Quote Wizard, States with the Most Medical Debt and Rising Health Care Costs (April 2021), available at <https://quotewizard.com/news/disparity-between-healthcare-costs-and-middle-class-income>.

[7] Colorado Health Institute, 2017 Colorado Health Access Survey: The New Normal (updated Sept. 2021), available at <https://www.coloradohealthinstitute.org/research/colorado-health-access-survey-2017>.

[8] U.S. Census Bureau, Who Had Medical Debt In The United States, (April 2021), available at <https://www.census.gov/library/stories/2021/04/who-had-medical-debt-in-united-states.html>.

[9] Noam Levy, Why Black Americans Are More Likely To Be Saddled With Medical Debt, NPR (Oct. 27, 2022) available at <https://www.npr.org/sections/health-shots/2022/10/27/1131984451/medical-debt-racial-inequities>.

[10] Kaiser Family Foundation, Knoxville's Black Community Endured Deeply Rooted Racism. Now There Is Medical Debt, (Oct. 2022) available at <https://khn.org/news/article/knoxville-tennessee-medical-debt-racial-disparities/>.

[11] Health-care Billing Requirements For Indigent Patients, HB21-1198, (June 2021), available at <https://leg.colorado.gov/bills/hb21-1198>.

- Uniformly screen patients for eligibility for various for public health insurance programs, discounted care through the Colorado indigent care program, and other options;
- Inform patients about their billing rights, including in languages other than English; and
- Limit billing rates and collection process for qualified patients below the federal poverty line.

These changes provide increased protections for patients and seek to limit exposure to medical debt.

HB22-1285, enacted in 2022, provides increased transparency for Colorado patients with outstanding medical debt.¹² Under the new law, hospitals in Colorado cannot attempt to collect medical debt if the hospital is not in compliance with the federal hospital transparency laws. These federal laws require that hospitals provide accessible and clear pricing information prior to a patient purchasing a medical service or product. By requiring more transparency, patients can know about future charges and better prepare for upcoming medical bills. Under the new Colorado law, patients also have the right to sue hospitals for non-compliance, and the patient's medical debt and legal fees will be waived if a court agrees the hospital was non-compliant.

One of the federal transparency laws hospitals must comply with is a federal law banning certain types of surprise medical bills. The No Surprise Act, which became effective in 2022, prevents patients from being billed at out-of-network rates when having inadvertently received care from out-of-network hospitals, doctors, or other providers they did not choose. This bill provides important protections for patients who lack meaningful choice of provider for certain services. Other recent federal efforts have also sought to limit medical debt as a consideration in credit programs. The Federal Housing Administration, for example, which provides loans for over 12 percent of new home purchases nationwide, eliminated medical debt from consideration when evaluating a borrower's creditworthiness.¹³ While more work is required at a federal level, efforts like these are steps in the right direction to address some of the challenges medical debt poses.

[12] Prohibit Collection Hospital Not Disclosing Prices, HB22-1285 (June 2022) available at <https://leg.colorado.gov/bills/HB22-1285>.

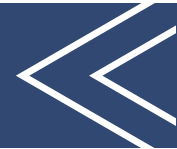
[13] U.S. Department of Housing and Urban Development, Fair Housing Authority: Single Family Market Share (Dec. 2022) available at <https://www.hud.gov/sites/dfiles/Housing/images/FHASFMarketShare2021Q4.pdf>.

In the face of criticism from the Consumer Financial Protection Bureau, consumer credit reporting companies have also taken some steps to mitigate the adverse impact of medical debt. Notably, the three credit reporting bureaus - TransUnion, Equifax and Experian - agreed, as of July 1, 2022, that:

- Paid medical debt will no longer be included on consumer credit reports from these companies;
- Unpaid medical debt will not be included in credit reports unless it has been in collections for one year, providing consumers with more time to pay off or negotiate medical debt before it impacts their credit score; and
- Beginning in 2023, medical debt in collections under \$500 will not appear on credit reports at all.

Consumers themselves are also enacting laws to address medical debt. For example, in 2022, Arizona voters enacted Proposition 209 to decrease medical debt interest rates from 10 percent to 3 percent. The measure also exempts certain assets from debt collection, such as homes, household items, cars, and bank accounts. The measure was enacted overwhelmingly with 72 percent of the vote.¹⁴

Senate Bill 23-093: Increasing Medical Debt Protections for Coloradans



More work remains to be done for Colorado consumers. Senate Bill 23-093 (SB23-093) proposes additional protections for consumers. The following subsections describe the bill's major components.

Capping Medical Debt Interest at 3 Percent.

Medical services are often unplanned or unexpected and can have a huge impact to a household budget. High interest rates increase the cost of already high medical bills and extend the time to resolve the debt which, as discussed above, can have profound consequences on Coloradans. Reducing Colorado's interest rate cap for medical debt from 8 percent to 3 percent significantly reduces long-term debt growth and allows consumers greater chances to make reasonable payments towards paying off their principal owed.

[14] Nicole Ludden, Proposition 209 to decrease interest rates on medical debt passes, Arizona Daily Star (Nov. 9 2022) available at https://tucson.com/news/election/arizona-prop-209-to-decrease-interest-rates-on-medical-debt-likely-to-pass/article_b06e03b4-5bc0-11ed-adf9-57126d9eb1a6.html.

Pause Collections During an Insurance Appeal.

If a patient appeals their coverage to their insurance, a health care provider should not be able to sell medical debt or initiate debt collections primarily because the final balance due is unknown. Waiting until the appeals process is concluded avoids unnecessary debt collection efforts and allows consumers to exhaust any appellate options and ensures they have full awareness of the debt owed.

Debt Verification and Disclosure.

A medical creditor or debt collector must provide information about the medical debt to consumers upon request and provide a copy to the consumer of any agreed-to payment plan. This increased transparency helps the consumer better understand the debt, ensure that the debt is accurate and matches the medical care and bills they received, and allows them to properly budget for a payment plan.

Transparency in Legal Proceedings.

In a lawsuit to collect on medical debt, the creditor must include documentation to help the consumer understand the debt, including an statement concerning the debt and information about the creditor. This type of transparency provides important information for a consumer to advocate for themselves and is a key tool to ensure fairness in the process.

The largest segment of complaints received by the CFPB regarding debt collection involved attempts to collect a debt that the consumer said is not owed.¹⁵ When a consumer has essential information regarding their debts, they are more able to understand the terms of such debt and can avail themselves of applicable protections during the collections process.

[15] Consumer Financial Protection Bureau, Office of Servicemember Affairs Annual Report (June 2022) available at, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2021.pdf.

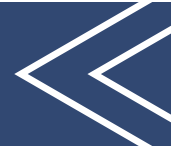
Self-pay Transparency & Disclosures.

When a consumer decides to forgo insurance and pay for medical services out-of-pocket, the consumer no longer has their insurance company to act on their behalf to dispute medical charges. Providing consumers with a good faith estimate for any medical services can avoid overcharging and help consumers to better understand upfront the cost of health care. This transparency aids consumers in making more informed decisions about medical care and provides necessary information to budget for medical costs.

Surprise Billing.

2022 legislation attempting to clarify the authority of the Colorado Attorney General's Office around surprise billing unintentionally limited the authority. SB 23-093 reinstates the Office's authority so that the Attorney General's Office can once again better protect consumers from harm.

Conclusion



Colorado has made many improvements to better protect patients facing misleading payment and debt collection challenges, but we need to do more. To that end, SB23-093 will provide a set of additional protections and will protect patients from facing a deeper financial hole on account of necessary health care treatment. Together, we can continue to improve such protections and ensure that consumers are not forced into making stressful and painful choices between health care and financial strains and hardships.