Protect Consumers from Medical Debt

Summary

As millions of Americans lose their jobs, it is expected that many will also lose their health insurance coverage. When people are uninsured, they are more than four times more likely not to seek care from a doctor or clinic despite having a medical problem than those with those with health insurance. During a pandemic, when people's care-seeking behavior affects not just themselves, but also their loved ones, co-workers and community, we must remove all barriers to accessing health care. Medical debt is a problem that influences individual and family care choices and severely threatens people's ability to balance competing basic needs. Patients with bills in collection are more likely to postpone care, or not seek recommended testing or treatment than those not facing collection actions.

Within the first 100 days, the Biden-Harris administration should promptly use its authority to issue an executive order to:

- Prohibit health providers that accept federal COVID-19 relief funds during the public health emergency from billing any uninsured patient, regardless of immigration status, for COVID-19 testing, treatment and vaccination.
- Issue guidance on the implementation of the No Surprise Act.

Beyond the first 100 days, the President should work with Congress to:

- Enact *The COVID-19 Medical Debt Collection Relief Act of 2020* and *The Strengthening Consumer Protections and Medical Debt Transparency Act*, sponsored by Senators Van Hollen and Murphy. These two bills would: (1) provide immediate relief for patients from certain medical debt collection efforts during and immediately after the COVID-19 public health emergency; and (2) put in place standard practices to make sure that health care entities communicate with consumers any debt that is owed and alerts the consumers of any assistance they qualify for before any debt is sent into collections.
- Take additional action to address the affordability issue for consumers – which includes, but is not limited to: (1) issue guidance on the implementation of the *No Surprise Act,* as well as put in place policies to end surprise medical bills for ground ambulance services; and (2) implement policies to strengthen coverage and improve affordability for low-income individuals and families.

The Problem

Medical debt is accrued when patients are unable to pay their medical bills. According to Finra Investor Education Foundation, in 2018 more than one in five American (23 percent) report having unpaid medical bills; the number rises to 33 percent among those who are uninsured. As health care services are not shoppable consumer goods, medical debt often arises not from purchases people chose to make, but from unexpected and unavoidable illnesses and injuries. Ample evidence shows that people are unable to pay their medical bills because:

- They are uninsured and cannot pay the full cost of the treatment they receive; or
- They are underinsured and cannot afford to pay high deductibles, copayments and coinsurance; or
- They get hit by surprise – often exorbitant – medical bills from out-of-network providers.

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Protect Consumers from Medical Debt

Although medical debt affects people across socioeconomic and demographic backgrounds, Black Americans incur substantial medical debt compared with whites, with nearly one in three Black Americans ages 18 to 64 having past-due medical bills. Medical debt is a problem that influences individual and family care choices and threatens people's ability to make ends meet. Those with medical debt, whether insured or uninsured, are three times more likely to postpone care than those not experiencing medical bill problems.

As the pandemic continues to wreak havoc across the country, and as many as 30 million Americans lose their jobs due to broad shutdowns of economic activity, it is expected that many will also lose their health insurance coverage, causing increases in all the problems associated with medical debt – not just for bills for COVID-specific treatment. News outlets continue to document stories of COVID-19 survivors who receive massive medical bills. To make matters worse, some hospitals – despite receiving federal relief funds – continue to deploy aggressive medical debt collection practices, seizing funds from bank accounts. Debt collectors are grabbing federal stimulus checks before needy Americans can use them to buy food or pay the rent. Such practices can disproportionately harm particular groups. Research has revealed that legal debt collection actions and wage garnishments are more frequent within Black communities. With Black households earning markedly less than white households, they are less financially secure to begin with and aggressive collection actions put them at even greater risk.

Problems resulting from medical debt go beyond access to care. Nearly two-thirds of those in debt used up all or most of their savings trying to pay their medical bills and more than one-third borrowed from friends or family. Not surprisingly, more than one-third of those with medical debt also struggle to pay for food, heat and housing. In the long run, medical debt has significant impacts on individual wealth. Those reporting problems paying medical bills are much less likely to have a credit card, retirement accounts or other savings. Further, the damaging effect of medical debt on credit ratings can have lasting impacts on the ability to obtain loans and can even impact job opportunities. Families with lower incomes, credit problems, lacking liquid financial assets, or equity investments are already more vulnerable to the impacts of medical debt on their economic security and quality of life. With its significant financial consequences, medical debt can be viewed as a major, growing contributor to the cycle of economic and health inequity.

The COVID-19 outbreak has prompted call for robust consumer protections against medical debt. In addition, as the issue of longstanding inequity in access to resources and health care takes center stage during the pandemic, it is important to directly respond to the disproportionate effects on people of color and protect them from further harm.

The Solution

Within the first 100 days, the Biden-Harris administration should use its administrative authority to promptly issue an executive order to prohibit health providers that accept federal COVID-19 relief funds during the public health emergency from billing any uninsured patient, regardless of immigration status, for COVID-19 testing, treatment or vaccination.

Additional provisions include, but are not limited to:

- Prohibit health care providers from charging fees for protective equipment (aka COVID fees) for any patient;
- Forgive unpaid medical debt that was incurred between February 1, 2020 and 60 days after the end of the public health emergency.
- Suspend all extraordinary collection actions (e.g., wage garnishment, bank account seizure, credit reporting) by health care providers for all medical debt during the COVID-19 public health emergency and 60 days after the end of the emergency;
- Require health care providers (including, but not limited to, private, non-profit, Emergency Room visits, military hospitals, ground & air ambulance companies, surgical facilities doing out-patient procedures and dentists) to report on their authorized debt collection practices, whether pursued by health care providers or third-party collection agencies. Data reported should be disaggregated by race and ethnicity and reported in a way that is easy to access and understand.

We also urge the Biden-Harris administration to issue guidance on the implementation of the *No Surprise Act*.

Thanks to the bipartisan efforts in Congress, the No Surprise Act (as part of the omnibus spending bill) was passed and signed into law on December 27, 2020. It holds patients harmless from surprise medical bills in most emergency and non-emergency situations. We strongly urge the administration to work closely with state and national consumer health advocacy organizations to:

- Design consumer notification, as well as robust public education to ensure that consumers across the country are aware of these new protections;
- Monitor and address any issues that have negative impacts on access, premiums and overall health care costs; and
- Create a pathway to navigate noncompliance issues.

Beyond the first 100 days, the Biden-Harris administration should work with Congress to enact *The COVID-19 Medical Debt Collection Relief Act of 2020* and *The Strengthening Consumer Protections and Medical Debt Transparency Act*, sponsored by Senators Van Hollen and Murphy.

If passed into law, *The COVID-19 Medical Debt Collection Relief Act of 2020* would provide immediate relief for patients from certain medical debt collection efforts during and immediately after the COVID-19 public health emergency. Specifically, this bill would:

- Suspend all extraordinary collection actions by health care providers for all medical debt (e.g. wage garnishment, bank account seizure) during and immediately after the COVID-19 public health emergency.
- Implement consumer protections for medical debt that was incurred between February 1, 2020 and 60 days after the end of the public health emergency for COVID-19-related testing and treatment, including: (1) a one-year extension of federal and state health insurance appeal deadlines; (2) prohibition on collection fees and interest related to these debts; and (3) prohibition on any extraordinary collection actions.
- Ensure reasonable forbearance and repayment options for consumers. Interest or fees shall not accrue while the payment plan is suspended.
- Hold health care providers and their agents liable for failure to comply.

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The Strengthening Consumer Protections and Medical Debt Transparency Act would put in standard practices to make sure that health care entities communicate with consumers about any debt that is owed, and alert the consumer of any assistance that they qualify for before any debt is sent into collections. Specifically, if passed into law, this bill would:

- Cap Medical debt interest rates at the annual rate set by 28 U.S.C.A. § 1961, plus two points or five percentage points annual growth, whichever is lower, to protect patients from uncontrolled rate increases that multiply debts.
- Prohibit health care entities, or their contracted debt collection agencies from entering into extraordinary collection until 180 days after an initial bill is sent and the debtor's identity has been confirmed.
- Require health care entities to ensure that all insurance coverage appeals have been resolved and determine whether the patient qualifies for assistance before sending debt into collections.
- Require HHS to maintain a publicly available database of medical debt collection reported by hospitals, freestanding facilities, and large provider practices. The information should include whether they use collection agents, the process for assigning debt to a collection agent, and the number of extraordinary medical debt cases under collections.

Additionally, as medical debt and health care affordability are multifaceted problems, the Biden-Harris administration should work with Congress to put in place a broad range of solutions that could include:

- ***Strengthening coverage and improve affordability*** *for people* by: (1) eliminating premiums for all with income below 200 percent FPL; (2) capping premiums at 8.5 percent; and (3) adopting a gradual sliding scale for affordability – between 10 percent and 20 percent – to better align premiums with ability to pay, avoid undue hardship for individuals and families with lower incomes and create a standard that does not create a disincentive for people to earn additional income.
- ***Ending surprise medical bills from ground ambulance service providers***. While the legislation extends protections to out-of-network air ambulances, it only calls for a special advisory committee to recommend ways to best protect patients from surprise medical bills and improve transparency for ground ambulances. A study conducted in April 2020 found that 98 percent of 1,498,600 ambulance encounters that involved potential surprise bills were ground ambulances. Between 2013 to 2017, the sum of all ground ambulance potential surprise bills was $646 million (or $129 million per year).

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