

Know your
RIGHTS
about
Hospital Debt

*A handbook for
Connecticut hospital patients*

- ☛ How to get financial assistance for a hospital bill
- ☛ What to do about debt collectors
- ☛ What to do if the hospital sues for the bill
- ☛ What happens if the hospital wins a lawsuit

Introduction

If you are having trouble paying a hospital bill or face a collections lawsuit, you have rights that can keep you out of catastrophic debt. In these pages you can learn the basics on where to look for financial assistance and how to defend yourself from aggressive collections practices. In addition to describing existing protections and programs, this pamphlet has the first user-friendly explanations of the *new protections for Connecticut hospital patients that go into effect on October 1, 2003* under Public Act 03-266: “An Act Concerning Hospital Billing Practices.” These laws can help keep our community hospitals accountable to their charitable missions. No one deserves a lifetime of debt and financial disaster for the “crime” of getting sick or injured!

This summary of the law is only for basic awareness of the rights of hospital patients and people who may become financially responsible for hospital care. It is no substitute for advice from a qualified lawyer, which should be obtained whenever possible in a specific situation where hospital charges are being made. For information on free legal assistance, call **Connecticut Statewide Legal Services: 800-453-3320**.

How can I get financial assistance for my hospital bill?

Government medical assistance programs

There are a number of government health insurance programs, including Medicaid/Title 19 and State Administered General Assistance/SAGA (state programs for patients who are low-income, disabled, pregnant etc), HUSKY (the state program for uninsured children and teenagers), Medicare (for the disabled or elderly), and Tricare/CHAMPUS (military and family members). If you were uninsured at the time of your hospital visit, you may be able to get your hospital bill covered retroactively if you enroll within 3 months. To learn whether you might be eligible and for free help applying for these programs, call **Student Health Outreach (SHOUT)**, a New Haven-based non-profit organization: **203-777-9540** or toll free, **877-24-SHOUT**. You can also get information by calling United Way's **Infoline: 2-11**.

Hospital free care programs

Almost all Connecticut hospitals are non-profit and required

to provide some “*free care*” or “*charity care*” to patients who can't afford their bills. Contact your hospital's social services or billing office for eligibility information and an application. Make sure to *follow up* after filing an application to make sure the hospital received all necessary information. If you are rejected but are in serious need of assistance, try to appeal the rejection and speak to a supervisor. If you are having difficulty finding information about free care at your hospital, or to receive free help filling out an application, call **Student Health Outreach (SHOUT): 203-777-9540**, or toll free, **877-24-SHOUT**.

Free bed funds

In addition to free care programs, most Connecticut hospitals also have “*free bed funds*,” special donations they received to provide free care to patients who can't pay for all or part of their hospital stay (including insurance co-payments and deductibles). Connecticut law (Sec. 19a-509b) requires hospitals to: post signs about the funds, in English and Spanish; train admitting staff, billing staff, collection agencies and attorneys to give you information about the funds and give you an application; and, as of October 1, 2003, include information about free bed funds and other free care programs in all bills and collection notices sent to you.

The law gives you the right to apply, and if you are rejected, *reapply*, for free bed funds at any point in the billing or collection process. You should be able to apply for free bed funds regardless of your immigration status, since the donors of these funds did not limit them to citizens or documented immigrants. The hospital must give you a written notice and explanation of your rejection or acceptance.

Also, as of October 1, 2003, *a hospital with free bed funds is prohibited from suing you for a bill unless it determines you are not eligible for the free bed funds*. If your hospital is not following these steps, call the **Connecticut Attorney General's Charity Division: 860-808-5020**. For free help applying for free bed funds, call **Student Health Outreach (SHOUT): 203-777-9540** or **877-24-SHOUT**.

Some *churches* have free bed funds in their names and can nominate patients to receive funds, even if they don't meet the hospital's income requirements. The church can also demand that

its free bed funds be used to cover charges related to your hospital stay but not billed directly by the hospital, such as doctor fees. If you belong to a church, ask your church leader about help with your hospital bill.

Connecticut Uninsured Patient Discount

The actual *cost* of hospital services is usually much less than the list price or “gross charge” hospitals bill to uninsured patients—often just half as much. Connecticut law (Section 19a-673) states that hospitals cannot collect more than the *cost* of services from certain low-income “uninsured” patients. *You qualify as “uninsured” under the law and should receive this major discount if:*

- 1) Your income is at or below 250% of the federal poverty income guidelines (see table, below);
- 2) You applied to and were rejected from SAGA and Medicaid because your income was too high, and you aren’t eligible for Medicare or Tricare/CHAMPUS; and
- 3) You are not eligible for coverage under any other government assistance, private health plan, or awards to cover your injury from worker’s compensation or a lawsuit.

This law applies even if the hospital has already obtained a court judgment against you. Also, as of October 1, 2003, *the hospital is prohibited from suing you for the bill until it has determined whether you qualify for the discount.* The hospital’s collectors must provide you with written notice and explanation of whether you qualify before the hospital can sue. If you think you qualify for but are not receiving this discount, contact the hospital’s billing department or the **Connecticut Attorney General Insurance Advocacy Department: 860-808-5355.**

Federal Poverty Income Guidelines, 2003		
Family size	Poverty level	250% of poverty level
1	\$ 8,980	\$22,450
2	\$12,120	\$30,300
3	\$15,260	\$38,150
4	\$18,400	\$46,000
5	\$21,540	\$53,850
6	\$24,680	\$61,700
7	\$27,820	\$69,550
8	\$30,960	\$77,400
Each add'l person, add:	\$3,140	

Setting up a payment plan and negotiating a discount

If you don’t qualify for the above types of financial assistance, but still have a hospital debt that is too difficult pay off all at once, ask your hospital billing office about setting up a payment plan. Also ask for a discount on your bill. Hospitals bill uninsured patients at the full “gross charge,” the sticker price for its services, far more than what it cost to treat you. At the same time, hospitals give most insurance companies discounts of as much as 30-60% off the gross charge. Connecticut law currently only guarantees discounts for uninsured patients below 250% of the federal poverty line (see above). But, hospitals have the choice to voluntarily discount your bill. Tell the hospital: better to discount your bill than to leave you with a debt that could drive you into bankruptcy.

Debt collectors are harassing me. What can I do?

Collectors must provide information on your debt

Collectors in Connecticut are required to send you a letter stating the amount you owe, the name of the creditor (hospital or doctor), where to write to dispute the bill, and information on how to apply for free care at the hospital.

Collectors must stop if you are eligible for free care or are covered by Medicaid/insurance

As of October 1, 2003, Connecticut law (Public Act 03-266) prohibits your hospital from sending collection agencies or attorneys after you unless it has found that you don’t qualify for free bed funds and has determined whether you qualify for the Connecticut Uninsured Patient Discount (see above).

Also after October 1, 2003, *hospital collectors must stop contacting you if they find information showing that you may qualify for free bed funds, other hospital free care programs or any other program that could reduce your debt* (such as Medicaid, other government programs or commercial insurance). Tell the collector *in writing* if: a) you think you are eligible for free care, free bed funds or the Connecticut Uninsured Patient Discount; b) your hospital visit was covered by government or private insurance; or c) your insurance has now agreed to cover the claim. Include *proof* with your letter, such as tax returns to prove your income,

or letters from your insurance company. The collector will have to wait for the hospital to make a determination on your case before it can continue pursuing you. If the collector does not stop, contact the **Attorney General Fraud Division: 860-808-5355**.

How to stop abusive collection

The Fair Debt Collection Practices Act, a federal law, prohibits collection agencies and attorneys from lying to you, intimidating you, calling at unreasonable times, or calling at work if you tell them not to. If a collector is harassing you, get their name and address, and send a letter stating that they should stop contacting you and any further contact will be reported to the Federal Trade Commission. If they continue to harass you, file a complaint with the **Federal Trade Commission: 877-FTC-HELP** or on the web at www.ftc.gov. For more advice on how to deal with abusive collectors, call **Connecticut Statewide Legal Services: 800-453-3320**.

What do I do if the hospital sues me for my bill?

If you can, consult a lawyer, especially if you are sued in Superior Court (civil court). Contact **Statewide Legal Services (800-453-3320)** for information on obtaining free legal advice or representation. If you can't get a lawyer, or can't get a lawyer right away, below are some guidelines to follow so you can claim your rights.

When and who hospitals can sue

The hospital can sue you if you do not pay your bill, but *only after it has found that you are ineligible for free bed funds and has determined whether you qualify for the Connecticut Uninsured Patient Discount* (see above). Hospitals must make these determinations for deceased patients before they can sue those patients' estates for a debt. In Connecticut, hospitals can sue spouses for one another's medical debts (unless you are legally separated), and can sue both parents for the care of a minor child (even non-custodial parents). A hospital cannot sue you for the debt of a child 18 or older at the time of treatment or for the debt of other relatives, unless you signed a contract ("guarantor agreement") binding you to be liable for their debt.

Filing an appearance

Do not ignore notice of a lawsuit. Otherwise, the hospital can

win a judgment against you by "default" (automatically). File an "Appearance" form in the court clerk's office before the "Return Date" on your notice. If you don't meet that deadline, the hospital can win the lawsuit by default. The address of the court clerk's office should be on the notice of the lawsuit. Court clerks can offer advice on filling out paperwork, and can instruct you on how to apply to waive court fees usually charged for filing documents.

Possible Defenses

After filing an Appearance, you should bring to the court clerk's office a written defense, your "Answer" in response to the hospital's "Complaint," within 30 days after the Return Date. The hospital may win by default if you don't submit an Answer in time. Your Answer should state your name, the date, the court docket number, and the legal reasons why the plaintiff (the hospital) should not win its demand. List *all* defenses that apply to your personal situation in your Answer. The following are possible defenses:

- 1) **Plaintiff violated the law on free bed funds, Sec. 19a-509b.**
This defense applies if the hospital didn't inform you of the availability of free bed funds (in English and Spanish), didn't include notice in all bills and collection notices sent to you of the availability of free bed funds and other free care programs, and/or didn't allow you to re-apply for the funds.
- 2) **Plaintiff failed to determine insurance status under Sec. 19a-673 or eligibility for free bed funds before filing the collection lawsuit, as required by Public Act 03-266.** This defense applies if the hospital sent a collection agency after you and/or sued you over your hospital bill before determining: a) your eligibility for the Connecticut Uninsured Patient Discount and b) that you didn't qualify for free bed funds. If you use this defense, the hospital will have to prove in court that it gave you written notice of both determinations before it sued you.
- 3) **Plaintiff didn't offer uninsured discount under Sec. 19a-673.** This defense applies if you are eligible for the Connecticut Uninsured Patient Discount and the hospital is trying to collect the full price and/or is overcharging you due to a billing error.

- 4) **Medicaid balance billing.** This defense applies if the hospital sued you for a bill when you were a Medicaid recipient at the time of your hospital visit or you received retroactive Medicaid coverage after the hospital visit. It is illegal for a hospital to sue a patient for a bill covered by Medicaid.
- 5) **Equitable estoppel.** This defense may apply if something a hospital employee said or did led you to do something that changed your debt situation for the worse. For example, you chose to undergo hospital treatment because a hospital employee led you to believe that you qualified for financial assistance, but afterwards you did not qualify.
- 6) **Immunity from ex-spouse's debt under Connecticut General Statute 46b-37.** This defense applies if you are being held liable for a debt your former husband or wife acquired at a time when you were legally separated, unless you agreed to pay for your former spouse's medical care in your divorce settlement.

☛ **What happens if the hospital wins a lawsuit against me?**

Court-ordered weekly payments

If the hospital wins a judgment against you, the judge will order you to make weekly or monthly payments. If the court-ordered payment is too high, or becomes too high because of a loss of income, you can ask to have it reduced by filing a “*claim for modification*” form through the court clerk’s office. Whether you are charged interest is up to the judge, so ask the judge to waive interest. As of October 1, 2003, the maximum interest on hospital debt is 5% per year.

Be cautious about signing a “*stipulated agreement*” with the hospital’s lawyers, because they may ask you to agree to payments and interest charges that are higher than what the judge would order, and you will be unable to appeal this payment rate if you suffer a loss of income. Stipulated agreements are the same as a judgment in the court’s eyes, and will allow the hospital to place a lien on your home and, if you miss payments, to garnish your pay or bank account.

Protections from aggressive post-judgment collections tactics

Unfortunately, if you or your spouse own a home, the hospi-

tal can place a lien on it at any time after receiving a judgment. Also, if you do not follow the court-ordered payment plan, the hospital may try to garnish up to 25% of your or your spouse’s wages, drain (“execute”) your bank account(s), foreclose on your property, and hold a court hearing to “examine” your assets. As of October 1, 2003, *the hospital can only do this if you miss weekly payments and the judge makes a special determination that you are in default.* This is why you should file a “claim for modification” through the court clerk’s office to lower the payment if it is unaffordable, or if you suddenly become unemployed or sick and have to miss payments.

You have additional rights if the hospital seeks an execution of your wages, bank accounts or property:

- *The hospital cannot garnish your pay so that you take home less than the weekly minimum wage* (40 times the Connecticut hourly minimum wage, currently \$276/week, \$284/week starting Jan. 1, 2004). If you normally earn less than the weekly minimum wage—often the case for part-time workers—the hospital cannot attach your pay. If you earn more than the weekly minimum wage, the hospital can garnish your wages up to a maximum of 25% of your take-home pay.
- *You can petition the court at any time to lower a wage attachment* if you can’t afford the deduction. Ask to pay what you can afford (such as \$10 per week if you are having major financial difficulties) and explain why you need the deduction. You can find the necessary form in the court clerk’s office.
- *The first \$1,000 in your bank account is exempt from a bank execution.* So are any additional savings from welfare, social security, unemployment compensation, court approved child support, or worker’s compensation. The execution notice will include a form that you must fill out and return to the court by the indicated deadline in order to claim any of these exemptions, but you must do so within 20 days after receiving the notice. Instructions are listed on the back of the form.
- If the hospital obtains a foreclosure on your home, you are entitled to keep the first \$125,000 of your home’s value over the amount of any mortgages or tax liens (under the “*homestead exemption*”).

Visit the court clerk's office to file forms to lower a wage attachment or claim an exemption.

Your rights if you are eligible for free care or free bed funds

If you were rejected for the hospital's free bed funds in the past because your income was too high, but your financial situation has changed (loss of income, illness or injury, unemployment, increase in family size), *you have the right to apply again at any time for free bed funds*, even if the hospital has won a court judgment against you.

Also, *as of October 1, 2003, the hospital's attorneys are required by law to stop collection activity if they receive information that you qualify for free care or free bed funds*, even if the hospital already has a judgment against you. This applies if you never had the chance to apply for free bed funds before, or if your application was rejected before but your financial situation has changed (loss of income, illness or injury, unemployment, increase in family size). If the hospital receives proof that you are eligible for hospital free care, *its attorneys must stop garnishing your wages, take all liens off your property, withdraw any pending bank execution*. They must wait for the hospital to make a determination before such collections can continue.

If you believe you may qualify for free care or free bed funds, write to the collection attorneys and the court clerk. *Include copies of documents proving your financial circumstances*, such as pay stubs, tax returns, or a letter from your employer or doctor. Then contact the hospital billing office about filing a free care application. If the hospital attorneys do not stop collecting, contact the **Attorney General Fraud Division: 860-808-5355**.

Resource directory

Government medical assistance programs

Department of Social Services (Medicaid, SAGA and HUSKY): **800-842-1508** or www.dss.state.ct.us

HUSKY hotline: **877-CT-HUSKY** or www.huskyhealth.com

Social Security Administration (Medicare): **800-772-1213** or www.ssa.gov

TriCare/CHAMPUS (Military): **888-999-5195** or www.tricare.osd.mil

Help with medical assistance or hospital free care applications

Student Health Outreach: **203-777-9540** or **877-24-SHOUT** or

www.studenthealthoutreach.org

United Way Infoline: **2-11** or www.infoline.org

Connecticut Attorney General

Charities Division (problems accessing free bed funds): **860-808-5020**

Fraud Division/Insurance Advocacy Department (billing fraud): **860-808-5355** or www.cslib.org/attylgenl

Complaints about harassment by collection agencies or lawyers

Federal Trade Commission: **877-FTC-HELP** or www.ftc.gov

Professional medical bill review services (to find overcharging)

Edward R. Waxman & Associates (bills of \$5,000 or more): **877-679-7224** or www.hospitalbillauditing.com

American Medical Bill Review: **530-221-4759** or www.ambr.com

Medical Billing Advocates of America: **540-387-5870** or www.billadvocates.com

Appealing insurance denials

State of Connecticut Insurance Department Consumer Affairs Division: **800-203-3447** or www.ct.gov/cid

The Center for Medicare Advocacy: **860-456-7790** or www.medicareadvocacy.org

Legal advice/representation

Connecticut Statewide Legal Services: **800-453-3320** or www.connlegalservices.org

New Haven Legal Assistance: **203-946-4811** or www.nhlegal.org

Jerome N. Frank Legal Services Organization at the Yale Law School: **203-432-4800**

Credit reporting agencies

Experian: **888-397-3742** or www.experian.com

Equifax: **800-685-1111** or www.equifax.com

TransUnion: **800-888-4213** or www.transunion.com

Unfair debt collection by Yale-New Haven Hospital, Bridgeport Hospital or Yale School of Medicine

Hospital Debt Justice Project: **800-478-0635** or www.ctneweconomy.org/hospdebt.html

About us

This handbook was researched and written by Dana Pierce (AFL-CIO Legal Summer Intern, Boston University Law School) and Grace Rollins (research analyst for District 1199/SEIU, also author of *Uncharitable Care: Yale-New Haven Hospital's credit and collection practices*, available at www.ctneweconomy.org), with assistance from Sheldon Toubman (New Haven Legal Assistance), Ellen Andrews (Connecticut Health Policy Project) Irene Liu (Advanced Strategies for Health Access/Student Health Outreach), and the Jerome N. Frank Legal Services Organization at the Yale School of Law.

The Connecticut Center for a New Economy (CCNE) is a non-profit organization in New Haven, CT dedicated to improving the economic and social well-being of working families in Connecticut's urban centers by initiating and supporting efforts to raise wages of the working poor, improve public education and training, expand access to affordable healthcare and preserve affordable housing. For more information, visit www.ctneweconomy.org or call **203-785-9494**.

The New England Health Care Employees Union, District 1199 is a local of the Service Employees International Union (SEIU), the largest healthcare workers union in the U.S. and a leading voice for healthcare reform: standing up for a system that puts patients first and gives healthcare workers the support to provide quality care. For more information, visit www.seiu.org or call **202-898-3200**.