

Daily Journal

www.dailyjournal.com

TUESDAY, NOVEMBER 4, 2025

GUEST COLUMN

The high cost of health care and the relief bankruptcy brings

Medical debt is a leading cause of consumer bankruptcy in the U.S., and attorneys play a critical role in guiding clients through Chapter 7 or Chapter 13 filings, evaluating timing, exemptions, and alternative remedies, while also considering recent protections such as California's SB 1061.

By Larry D. Simons
and George Basharis

Medical expenses are a leading cause of consumer bankruptcy in the United States. Studies identify medical bills and illness-related income loss as leading contributors to bankruptcy filings. Experienced attorneys advise clients on the relief bankruptcy may provide when their debtor clients are burdened by this debt. This article considers bankruptcy as one option for addressing the financial strain of medical debt and offers guidance on available remedies and strategies.

Prevalence of medical debt

According to a 2022 survey by the Kaiser Family Foundation, approximately 41% of adults report having health care debt. Moreover, a study in the American Journal of Public Health found that nearly 67% of bankruptcies involved medical issues, either from treatment costs or income loss due to illness. The COVID-19 pandemic further exacerbated the extent of the crisis.

The burden is not limited to the uninsured because insured individuals often face high deductibles, co-payments and unanticipated costs. A fragmented system of private insurance and public programs leaves gaps that contribute to medical debt exposure, where a single emergency room visit can create insurmountable financial hardship. These consequences extend beyond finances



This art was created with the assistance of Shutterstock AI tools

because medical debt often delays treatment, worsening conditions and increasing costs.

Bankruptcy as a path to relief

Individuals burdened by consumer debt can seek meaningful relief through bankruptcy. Two primary chapters of the Bankruptcy Code provide different approaches, each with distinct attributes.

Chapter 7 allows for the prompt discharge of unsecured debt such as medical bills. Eligibility depends

on the “means test,” which compares household income to the state median income. Individual debtors who fall below the threshold income qualify for Chapter 7 automatically, while those with income above the median amount above must show that they have little disposable income after accounting for permitted expenses.

Although a bankruptcy trustee may sell assets in a Chapter 7, most debtors have assets that are exempt and are able to retain their property through federal or state exemptions.

Medical debt is treated as unsecured and non-priority debt, meaning it is fully dischargeable unless incurred through fraud or misrepresentation. Chapter 7 cases usually conclude within four to six months. However, the filing remains on a credit report for 10 years and a debtor must wait eight years before seeking Chapter 7 relief again.

The second type of bankruptcy available to individuals, Chapter 13, allows individuals with regular income to reorganize their debt through court-approved repayment plan. Once eligibility is established, debtors propose a plan lasting three to five years. Plan payments are based on disposable income and may satisfy all or only part of the debtor's financial obligations. An important feature is the ability to retain non-exempt assets and cure arrears on secured debts, including mortgages. When the plan is completed, remaining dischargeable debts, including unpaid medical bills, are eliminated. Although Chapter 13 requires a longer commitment and greater budgetary discipline, it also provides advantages over Chapter 7 by allowing debtors to preserve assets and benefit from a shorter seven-year credit reporting period.

Strategic considerations

Attorneys should weigh several factors when advising clients who are considering bankruptcy. Although most medical debts are dischargeable, each claim should be reviewed for potential exceptions, such as ob-

ligations from elective procedures or debts incurred through fraud. The effect on co-debtors also requires attention. A Chapter 7 discharge eliminates only the debtor's liability, leaving co-debtors responsible, while Chapter 13 may provide limited protection for co-debtors.

The timing of bankruptcy can be critical when major procedures are anticipated, since filing afterward ensures related expenses are included in the discharge. Attorneys also should weigh the feasibility of a Chapter 13 plan for clients with chronic health conditions or unstable income and be mindful of privacy concerns. Filings may require disclosure of medical information when a debtor's health affects income, expenses, or eligibility for a hardship discharge, and such information should be submitted in accordance with applicable court procedures protecting personal and confidential data.

Post-bankruptcy enforcement and protections

Collection efforts by creditors on debts incurred before bankruptcy, including medical obligations, may violate the discharge order, which bars further creditor action. Post-bankruptcy representation includes educating clients about their rights and monitoring for any unlawful attempts to collect discharged debts. Attorneys also should remain attentive to potential violations of federal

and state consumer protection laws and be prepared to pursue enforcement when necessary.

Credit consequences and recovery

Bankruptcy provides immediate relief from collection efforts but carries lasting credit consequences. Filings remain on credit histories for years, and scores typically decline before a consumer is able to rebuild credit and begin recovery within 12 to 18 months. Beyond credit, debtors may face added difficulty securing employment, housing, or financing.

In response to concerns about the enduring effects of medical debt, several states have enacted measures to limit its credit impact. For example, California's Senate Bill 1061, effective Jan. 1, 2025, prohibits medical debt from appearing on credit reports and renders the debt unenforceable if knowingly furnished. Other states have adopted similar provisions aimed at reducing the long-term financial harm associated with medical obligations. Nonetheless, unpaid medical expenses can still affect credit indirectly through missed payments on other accounts, increased borrowing, or the filing of a bankruptcy case itself.

Exploring non-bankruptcy options

Before recommending bankruptcy, attorneys should assess whether alternative debt resolution paths

might resolve a client's medical debt. Many providers are open to negotiation, offering prompt-payment discounts or adjusting charges to match insurer-negotiated rates. Others may extend income-based hardship plans, and patient advocates can review complex or inflated bills and dispute errors.

Relief from charity care may be available, though many eligible patients remain unaware of these programs. And government programs such as Medicaid, including retroactive coverage, and Hill-Burton hospital benefits may provide substantial relief. Additionally, medical debts may be unenforceable due to statutes of limitations.

Conclusion

Medical debt remains a leading driver of bankruptcy filings, but the Bankruptcy Code provides relief through liquidation or reorganization. Chapter 7 offers a swift discharge of unsecured obligations, while Chapter 13 allows asset preservation and repayment flexibility. Counsel must weigh eligibility, timing, and exemptions, while also considering recent legislative developments such as California's SB 1061 and similar measures in other states. Together, these tools underscore the importance of tailored guidance and client advocacy for addressing the hardship of unmanageable medical debt expense.

Larry D. Simons is a certified specialist in bankruptcy law at Janus Law, and **George Basharis** is an analyst at Stretto and a former attorney.

