



DISCHARGED INTO DEBT

A PANDEMIC UPDATE

**NEW YORK'S CHARITABLE NON-PROFIT HOSPITALS SUED 4,000 PATIENTS
DURING THE FIRST NINE MONTHS OF THE CORONAVIRUS PANDEMIC**



About the Authors

Amanda Dunker, MPP, is a Health Policy Associate at CSS, where she focuses on consumer advocacy around payment and delivery system reform. Previously, she worked as a Senior Policy Analyst for the Health Division at the National Governors Association Center for Best Practices. She attended the University at Buffalo and the University of Chicago's Harris School of Public Policy.

Elisabeth R. Benjamin, MSPH, JD, is Vice President of Health Initiatives at CSS where she oversees the Society's health policy, advocacy, and health consumer assistance programs. Previously she worked at the New York Civil Liberties Union, The Legal Aid Society, and Bronx Legal Services. She attended Columbia Law School, Harvard School of Public Health, and Brown University.

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The Community Service Society of New York (CSS) is an informed, independent, and unwavering voice for positive action representing low-income New Yorkers. CSS addresses the root causes of economic disparity through research, advocacy, litigation, and innovative program models that strengthen and benefit all New Yorkers. www.cssny.org



Executive Summary

This brief investigates the medical debt collection practices of New York’s powerful non-profit charitable hospitals during the COVID-19 pandemic between March and November 15, 2020. During this time, 55 hospitals sued nearly 4,000 New Yorkers for medical debt. The lawsuits were brought even though these hospitals received millions of dollars—in some cases hundreds of millions—in government funding to offset their losses during the pandemic. Litigation against patients occurred across the state, however the predominately downstate Northwell system was the most litigious. The brief concludes that policymakers have several policy options at their disposal—a moratorium on all medical debt litigation and the Patient Medical Debt Protection Act—that would insulate patients from these aggressive medical debt collection practices.

Introduction

In March 2020, CSS issued a report, *Discharged Into Debt*, that identified over 30,000 medical debt lawsuits brought by 139 New York non-profit charitable hospitals against their patients over five years (2015–2019).¹ Since its initial report, CSS has expanded its search of the state’s court databases for lawsuits by all 215 of New York’s hospitals and identified over 40,000 cases brought during those years. An electronic map of these results is available at www.cssny.org/hospital-map. Several important findings emerged from this expanded research, including:

- Just a handful of hospitals are responsible for a majority of lawsuits against patients. For example, the Northwell system and its affiliated hospitals collectively sued nearly 20,000 patients over the period in question.
- Despite their charitable non-profit status, some hospitals charge a commercial 9 percent interest rate on outstanding medical debt—which is allowed under New York’s debt collection statutes.
- Hospitals commonly sue patients for relatively small sums. The median amounts were just \$1,900.
- The hospitals that are most aggressive in suing their patients typically received more Indigent Care Pool funds—government funding designed to offset their uncompensated care losses—than they reported providing in financial assistance to patients. Yet they still pursued patients who could not pay in court.
- The vast majority of these cases are resolved on “default”—meaning the patients are unable to attend court to defend themselves.
- The few patients that do go to court almost never have a lawyer; while the hospitals bringing suit are always represented by counsel.
- Medical debt has a disparate impact on communities of color.

Hospital Debt Litigation Against Patients During the COVID-19 Pandemic

Since these findings were released, New York State and the nation have been overwhelmed by the COVID-19 pandemic. New York's non-profit hospitals valiantly cared for the sick and saved thousands of lives.² For months, nearly all elective procedures were delayed or foregone entirely, exacerbating many hospitals' difficult financial straits. Nationally, the federal CARES Act has allocated over \$175 billion to health care providers to offset these losses and to stabilize the nation's health care system, including \$9 billion allocated to New York's hospitals through the end of October.³

The economic downturn caused by the COVID pandemic has had harsh consequences for New Yorkers. Between January and October 2020, the unemployment rate leapt from 3.9 percent to 9.2 percent, peaking at nearly 16 percent in July 2020.⁴ According to the Pew Research Center, 46 percent of lower-income adults report having difficulty paying their bills during the pandemic.⁵ For example, 24 percent of New Yorkers are behind on their rent and 13 percent do not have enough food to eat.⁶ Finally, the health impact has been devastating as well: 34,000 New Yorkers lost their lives and 653,000 have contracted the virus.

Seemingly ignoring the economic toll the pandemic has had on their patients, and even though new non-essential civil filings were prohibited for at least two months, many of New York's non-profit charitable hospitals have continued to sue their patients at an unabated rate.⁷ During the first surge of the pandemic, between March 1 and November 15, 2020, New York's non-profit hospitals sued nearly 4,000 New Yorkers. Altogether in 2020, 55 hospitals have sued nearly 5,900 patients. Accordingly, despite the COVID pandemic, New York's non-profit charitable hospitals are suing patients at nearly the same pace as in the previous five years when there was no pandemic (they sued around 8,000 in 2019 and 7,000 in 2018).

Lawsuits Filed Against New Yorkers by All Hospitals

Month	# of lawsuits
March	633
April	48
May	99
June	401
July	532
August	484
September	614
October	845
November (through Nov. 18)	339
TOTAL	3,995

These lawsuits are being filed at a time when the healthcare system was massively disrupted, when patients had little control over where they were able to get healthcare, and when hundreds of thousands of New Yorkers have lost health insurance. Many of these debts may have been incurred before the pandemic began. Nevertheless, suing patients in the midst of a global pandemic leaves patients in a terrible position. Patients report that hospital billing departments have been difficult to reach, complicating the resolution of billing errors, insurance denials, and requests for financial assistance.⁸

CSS previously investigated hospital lawsuits in its *Discharged into Debt* report. Some of the most aggressive hospitals have slowed down during the pandemic. For example, Crouse Hospital, a clinical affiliate of Northwell, was responsible for 5,546 lawsuits against patients between 2015 and 2019. But since the pandemic, it has sued only 13 patients.⁹ That said, other hospitals affiliated with Northwell Health are still at the top of the list—one of those, John T. Mather Hospital in Long Island, filed the most lawsuits during the pandemic of any hospital in the state. Twelve other Northwell-affiliated hospitals showed up in the research. Altogether, 36 percent (1,420) of the lawsuits in the CSS database were filed by Northwell Health’s hospitals.

Lawsuits Filed Against Individuals by Hospitals Affiliated with Northwell Health, March – November, 2020

Hospital	# of Lawsuits
John T. Mather Memorial Hospital	661
Long Island Jewish Medical Center	197
North Shore University Hospital	146
Southside Hospital	128
Huntington Hospital	71
Staten Island University Hospital	60
Lenox Hill Hospital	53
Plainview Hospital	34
Long Island Jewish Valley Stream	29
Glen Cove Hospital	14
Crouse Health Hospital	13
Long Island Jewish Forest Hills	12
Peconic Bay Medical Center	2
Total	1,420

Although the downstate-based Northwell system has been the most litigious against patients, other much smaller regional systems are also suing their patients during the pandemic. As the chart below shows, hospitals in nearly every region of New York appear to have sued their patients during the pandemic. The Albany area-based St. Peter's Health Partners sued 571 patients, the Utica area-based Mohawk Valley Health System sued 196 patients, Orange County's Garnet Health sued 171 patients, Cortland County's Guthrie Health sued 106 patients, and Binghamton's United Health Services sued 104 patients. Notably, most hospitals in Western New York sue far fewer patients than elsewhere in the state.

Lawsuits filed between March 1 and November 18, 2020

Hospital System	# of Lawsuits
Northwell Health	1,420
Unaffiliated (multiple individual hospitals)	965
St. Peter's Health Partners	571
Mohawk Valley Health System	196
Garnet Health	171
Guthrie	106
United Health Services	104
Albany Medical Health System	92
Bassett Healthcare Network	70
Ascension	56
NYU Langone Health	50
Stony Brook	45
Westchester County Healthcare Corporation	36
Montefiore (St. Luke's Cornwall)	27
Samaritan Health	20
Universal Health Services (UHS)	20
Arnot Health	16
St. Lawrence Health System	12
Cayuga Health System	6
UR Medicine	6
Kaleida Health	2
Mount Sinai Health System	2
Oswego Health	2
TOTAL	3,995

County	Lawsuits	% of Statewide Lawsuits
Albany	481	12%
Bronx	8	<1%
Broome	163	4%
Cayuga	185	5%
Chemung	30	<1%
Chenango	24	<1%
Columbia	1	<1%
Cortland	28	<1%
Dutchess	2	<1%
Erie	2	<1%
Fulton	164	4%
Herkimer	42	1%
Jefferson	21	<1%
Kings	8	<1%
Madison	324	8%
Montgomery	33	<1%
Nassau	287	7%
New York	30	<1%

County	Lawsuits	% of Statewide Lawsuits
Oneida	296	7%
Onondaga	25	<1%
Ontario	1	<1%
Orange	193	5%
Oswego	3	<1%
Otsego	34	<1%
Queens	102	3%
Rensselaer	134	3%
Richmond	64	2%
Saratoga	24	<1%
Schenectady	1	<1%
St. Lawrence	37	<1%
Steuben	69	2%
Suffolk	1064	27%
Tompkins	7	<1%
Ulster	5	<1%
Warren	59	2%
Westchester	44	1%
TOTAL	3,995	

Long Island and the Capital Region continue to be hotspots. Over 1,300 people were sued during the pandemic in Long Island, and over 600 in Albany and Rensselaer Counties. Like the COVID virus, medical debt has a disparate impact on communities of color. In Albany County, for example, medical debt is experienced by 26 percent of people of color versus 10 percent of their white counterparts.¹⁰ In Nassau County medical debt is experienced by 5 percent of people of color versus 3 percent of white people.¹¹

In spite of the goal of offsetting hospitals' losses during the pandemic, the allocation of CARES Act funds to New York's private and voluntary hospitals appears to have had no impact on their medical debt collection practices during the pandemic. The 55 hospitals that are suing patients during the pandemic collectively received \$2.5 billion in CARES ACT funds. The complete list of hospitals suing patients during the pandemic, and the amount of CARES Act funding they received through October 2020, is here:

Hospital	#of Lawsuits	CARES Act Funding through October 2020
John T. Mather Memorial Hospital	661	\$28,100,000
Oneida Healthcare Center	436	\$7,500,000
St. Peter's Hospital	217	\$26,100,000
Long Island Jewish Medical Center	197	\$409,000,000
Auburn Community Hospital	188	\$7,600,000
Albany Memorial Hospital	180	N/A
Samaritan Hospital	174	\$6,600,000
Nathan Littauer Hospital	171	\$9,500,000
Garnet Health Medical Center	168	\$65,400,000
North Shore University Hospital	146	\$218,600,000
Southside Hospital	128	\$100,600,000
Faxton St. Luke's Healthcare	109	\$26,900,000
United Health Services Hospitals, Inc.	104	\$35,200,000
St Elizabeth Medical Center	87	\$4,300,000
Huntington Hospital	71	\$62,300,000
Long Island Community Hospital	65	N/A
Corning Hospital	64	\$7,900,000
Ellis Hospital	62	\$8,700,000
Staten Island University Hospital	60	\$156,800,000
Glens Falls Hospital	57	\$23,200,000
Our Lady of Lourdes Memorial Hospital Inc	56	\$14,100,000
Lenox Hill Hospital	53	\$117,300,000
NYU Winthrop	45	\$33,800,000
Stony Brook Medicine	45	N/A
Westchester Medical Center	36	\$178,300,000
Plainview Hospital	34	\$32,700,000
Long Island Jewish Valley Stream	29	N/A
Little Falls Hospital	28	\$4,400,000
Guthrie Cortland Medical Center	27	\$12,200,000

Hospital	#of Lawsuits	CARES Act Funding through October 2020
St. Luke's Cornwall Hospital	27	\$43,300,000
Claxton-Hepburn Medical Center	25	\$6,900,000
Albany Medical Center Hospital	22	\$43,200,000
A.O. Fox Memorial Hospital	21	\$6,700,000
Bassett Medical Center	21	\$4,300,000
Chenango Memorial Hospital	20	\$8,800,000
Samaritan Medical Center	20	\$7,100,000
Arnot Ogden Medical Center	16	\$6,700,000
Guthrie Robert Packer Hospital	15	N/A
Community Memorial Hospital, Inc.	14	\$5,000,000
Glen Cove Hospital	14	\$28,900,000
Crouse Health Hospital	13	\$8,400,000
Saratoga Hospital	13	\$7,000,000
Long Island Jewish Forest Hills	12	N/A
Massena Hospital, Inc.	12	N/A
Schuyler Hospital, Inc.	6	\$4,900,000
NYU Langone	5	\$427,200,000
Southern Tier Credit Center, Inc.	4	N/A
Catskill Regional Medical Center	3	\$22,600,000
St. Johns Riverside Hospital	3	\$40,600,000
Jones Memorial Hospital	2	\$4,700,000
Kaleida Health	2	\$69,600,000
Oswego Hospital	2	\$7,600,000
Peconic Bay Medical Center	2	N/A
Richmond University Medical Center	2	\$77,100,000
New York Community Hospital of Brooklyn	1	\$46,000,000
GRAND TOTAL	3,995	\$2,473,700,000

Recommendations and Conclusion

How can New York protect patients against medical debt lawsuits? One option is to impose a medical debt lawsuit moratorium during the pandemic—much as Attorney General James and Governor Cuomo have issued for the SUNY hospital system.¹² Another option is to enact the Patient Medical Debt Protection Act (PMDPA), which would help by making hospital billing fairer and ensuring that everyone eligible for hospital financial assistance is able to access it. All New York’s hospitals must offer hospital financial assistance in order to access the \$1.2 billion in Indigent Care Pool funds. However, multiple reports and the state Department of Health’s own auditors have found pervasive problems with hospitals’ ability to comply with the law.¹³ The PMDPA modernizes and simplifies the hospital financial assistance law so that more patients will benefit from these government funds. The PMDPA would also lower the interest rate on medical debt judgments from the commercial 9 percent interest rate to the U.S. Treasury rate (currently around 1 percent). Last year, 19 state Senators and 35 state Assemblymembers co-sponsored the bill.

The COVID-19 pandemic has underscored the urgent need for New York policymakers to revisit the rules that guide how charitable hospitals managed their patient medical debt collection practices. Suing patients for nominal sums does little to offset their losses, but does much to ruin their patients’ lives.



Notes

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5. “Economic Fallout from Covid-19 Continues to Hit Lower-Income Americans the Hardest,” Pew Research Center, September 24, 2020, available at: <https://www.pewsocialtrends.org/2020/09/24/economic-fallout-from-covid-19-continues-to-hit-lower-income-americans-the-hardest/>.
6. Center on Budget and Policy Priorities, “Tracking the COVID-19 Recession’s Effects on Food, Housing, and Employment Hardships,” November 20, 2020, <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and>.
7. Administrative Order 78/20, issued March 22, 2020, <http://www.nycourts.gov/whatsnew/pdf/AO-78-2020.pdf>. The list of essential civil matters in the order is as follows: applications addressing landlord lockouts, serious code violations, serious repair orders, post-eviction relief, or “any other matter that the court deems essential.” New non-essential filings were allowed in some counties outside of New York City by the end of May (Administrative Order 115/20, <http://www.nycourts.gov/whatsnew/pdf/AO-115-20.pdf>). See also Administrative Order 149/20 for more information on the timing of civil filings during the pandemic (<http://www.nycourts.gov/whatsnew/pdf/AO-149-20.pdf>).
8. Community Health Advocates internal data and press accounts. See, e.g., Sarah Kliff, “A Hospital Forgot to Bill her Coronavirus Test. It Cost Her \$1,980,” New York Times, August 3, 2020, available at: <https://www.nytimes.com/2020/08/03/upshot/nj-coronavirus-medical-bill.html>.
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13. See, e.g., Carrie Tracy, Elisabeth Benjamin and Amanda Dunker, “Unintended Consequences: How New York State Patients and Safety-Net Hospitals are Shortchanged,” Community Service Society, January 2018.

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