Few hospitals aggressively sue patients to pay bills, and some don't bother at all

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Not-for-profit health systems like the University of Virginia Health System and Ballad Health have been thrust into the spotlight in recent weeks for suing thousands of patients over unpaid bills.

There's no data on how common the practice is nationwide, although a recent JAMA study found 36% of Virginia hospitals used lawsuits to garnish wages.

The attention on lawsuits can overshadow an important point: There are still many health systems that don't sue patients.

"The practice of aggressively suing patients represents a small fraction of hospitals," said Dr. Marty Makary, an author of the JAMA study and a Johns Hopkins Medicine surgeon.

UPMC, for example, has a collection policy that precludes it from filing lawsuits, placing liens on property or reporting patients to credit agencies over unpaid bills. The 40-hospital academic health system is one of the country's largest not-for-profit health systems.

"We try and work with the patients wherever we can and not go to the extreme lengths to collect that perhaps other healthcare providers would do," said Dominick Peluso, a director of patient advocacy in Pittsburgh-based UPMC's revenue-cycle department. "We like to think of ourselves as part of the community."

There's a major philosophical divide over whether not-for-profit health systems should sue patients over unpaid bills. On one hand, health system leaders have argued it's necessary to stay financially viable. Patient advocates, by contrast, maintain the practice abdicates their responsibilities as not-for-profit organizations.

THE FRUITS OF GARNISHMENT IN VIRGINIA

$2,783
Average amount garnished per patient

$722,342
Average annual amount garnished per hospital

82
Average number of garnishments per hospital

8,399
Number of patients whose wages were garnished

48
Number of hospitals that sued patients to garnish wages

34
Number of hospitals suing that were not-for-profit

5
Number of hospitals that accounted for 51% of all hospital cases

$806 million
Average annual gross revenue of garnishing hospitals

Source: JAMA Research Letter, published online June 2019

Of the Virginia hospitals that sued to garnish wages in 2017, the average amount garnished annually was about $722,000 per hospital, or 0.1% of gross revenue, according to the JAMA study, which appeared online in June. That's less than health system CEOs typically make in a year, said Makary, who served as a White House policy adviser under Presidents Obama and Trump. Makary's new book, The Price We Pay, highlights hospital collection lawsuits./p>

"The argument that we have to do something this ugly in order to stay afloat is not supported by the data," he said.

The JAMA study found about 8,400 patients had an average of $2,800 in wages garnished in 2017.

It was difficult to find health systems that said they never sue patients. One source suggested for-profit HCA Healthcare. Harlow Sumerford, a spokesman for the Nashville-based company, wrote in an email that it rarely reaches a point where it needs to sue. Sumerford also said HCA recently decided to no longer report bill payment information to credit bureaus.

At Boston-based Partners HealthCare, lawsuits and liens are "extremely rare," spokesman Rich Copp wrote in an email. They only happen when the not-for-profit health system has reason to believe the guarantor has the means to pay the bill and is not considered low-income. Partners does not report to credit agencies, he added.

UPMC has had its no-sue collection policy in place for at least five years, spokeswoman Susan Manko wrote in an email. The policy includes sending patients three statements for services. The statements advertise payment options, including interest-free payment plans of up to 24 months, and financial assistance for people with out-of-pocket balances.

UPMC does send bills to a collection agency if they haven't been paid within 120 days of the initial statement, but that agency operates under the same policy as the health system, meaning no lawsuits, no liens, no credit reporting, said Kathleen Whalen, director of patient advocacy in the academic health system's revenue-cycle department. If the collection agency is unable to collect, it is not allowed to sell the debt to a third-party debt collector, she said.

Despite drawing $18.8 billion in annual operating revenue, UPMC has been running on razor-thin operating margins for several years. Its margin was 0.9% in the six months ended June 30, down from 1.9% in the prior-year period. Including income tax and interest expenses, that margin was 0% as of June 30. UPMC's operating margin was 0.2% in its health services division, compared with 1.6% in its insurance services division.

UPMC did not report the amount of money it wrote off as bad debt.

Recognizing that not all patients can complete financial assistance applications or hand over the necessary documents, UPMC uses a vendor that engages in so-called presumptive eligibility for financial assistance. That means it estimates patients' income and scores them to see who would qualify. The health system notifies patients who are determined to qualify and encourages them to take advantage.

The goal is to help get financial assistance even to patients who choose not to or can't engage with the process, Peluso said. The vendor uses a scoring system that is repeated in a standardized way across all patients.

Hospitals that don't sue patients should instead maximize payment from third-party payers by helping patients fill out forms with their commercial insurers or get enrolled in Medicaid or Medicare, said Ira Rheingold, executive director of the National Association of Consumer Advocates. They should also send patients letters and, if they're able, offer financial counseling and other services for those struggling with debt, he said.

The lawsuits are a symptom of a larger issues: Medical care costs too much, Rheingold said.

"You're sympathetic to a hospital that needs to run a business and try to stay in a community that's completely underserved, but then you have an underserved community that can't afford the cost of healthcare," he said. "The question is, 'How do you maximize payment and collection so you can continue to do the good work you're doing?' "

Some revenue-cycle management vendors are seizing on the patient lawsuits controversy by offering their services as a patient-friendly alternative to the courts.

Among them is Waystar, whose CEO, Matt Hawkins, described suing patients as "an unhealthy practice." One problem is that many health systems rely on outdated, manual collection processes that elongate the reimbursement process, Hawkins said. Waystar uses artificial intelligence that searches health systems' patient accounts for missing charges or coverage detection errors, instead of hospitals having to do that themselves. "When you think about it, if manual work is required, then oftentimes the hospital just gives up on it," he said.

Some of the health systems called out in news reports have since walked back their practices in response to the public outcry.

Charlottesville-based UVA, for example, announced in September it would rely less on the legal system after Kaiser Health News reported it had sued more than 36,000 patients over six years. The academic health system did not say what that meant for lawsuits currently in the pipeline, according to Kaiser Health News.

Memphis, Tenn.-based Methodist Le Bonheur Healthcare announced it was temporarily suspending legal actions and conducting a review of its practices following a June ProPublica investigation that turned up 8,300 lawsuits against patients over five years, according to ProPublica.

Mary Washington Healthcare in Fredericksburg, Va., in June suspended all pending lawsuits against patients after NPR reported that Makary's team determined it sued more patients than any other hospital in Virginia, according to NPR.

A Modern Healthcare investigation found that not-for-profit Ballad Health, based in Johnson City, Tenn., filed 5,700 lawsuits against patients in its first full year as a health system following a merger of two systems. Ballad has not announced changes to its practices.

In some states, hospitals are influenced by pressure from state regulators.

The Massachusetts attorney general, for example, has issued voluntary guidelines that preclude hospitals from seeking to garnish patients' wages, file liens on their property or sell debt to a third-party entity without specific approval from the hospital's board of directors. The guidelines also preclude a hospital's attorney from commencing legal action against a patient without the hospital's written consent.

"It's a higher bar than might exist in other states," said Mark Rukavina, business development manager in Community Catalyst's Center for Consumer Engagement in Heath Innovation.

That's likely why Community Catalyst's sister organization, the Boston-based legal aid group Health Law Advocates, doesn't encounter health system lawsuits against patients.

"By and large, if not entirely, we do not see the hospital systems suing people for bills," said Matt Selig, executive director of Health Law Advocates.

That's not to say Massachusetts hospitals don't send patients to collections, he said. In those cases, Selig's group works to "aggressively leverage" any third-party payments.

"We can do a pretty good job at that," he said.

Makary, of Johns Hopkins, said the idea that health systems are suing wealthy people who aren't paying for plastic surgery is not true. His June JAMA study found that the most common employers of patients having their wages garnished were Walmart, Wells Fargo, Amazon and Lowe's.

"I think sometimes there's a disconnect between those who lead large organizations and the everyday lives of hardworking Americans, who have full-time jobs and health insurance, but simply live paycheck to paycheck and are not able to pay the bills," Makary said.

In a system that lets low-income consumers fall through the cracks, hospitals filing lawsuits, placing liens or sending patients to collections feels unfair, said Jessica Curtis, senior adviser in Community Catalyst's Center for Consumer Engagement in Health Innovation. The forces are especially stacked against uninsured patients, who receive bills that aren't negotiated down like bills that insured patients receive, she said.

"In the work that we've done, we've really seen how porous the safety net is for many low-income people who are going through the financial assistance and collections policy," Curtis said.