

Defenses to claims for unpaid medical bills



COMMUNITY
DEVELOPMENT
PROJECT

You were eligible for Medicaid or Emergency Medicaid

Depending on your individual circumstances, you may have been eligible for Medicaid or Emergency Medicaid at the time you were charged for medical services. Medicaid is a federal government insurance program that will cover some or all of the cost of care for eligible patients. Generally, you will qualify for Medicaid coverage if you have an income below a certain amount. Hospitals have a duty to determine whether a patient is eligible for Medicaid or emergency Medicaid. If you would have been eligible and the hospital failed to determine so, you may have a defense to the hospital's claim against you. This defense may only be available to you if the medical charges are being claimed by a hospital, and not a doctor's office.

Billing errors

A plaintiff has the right to collect only a correct bill. You should request that the plaintiff produce the complete bill, and carefully check it against any records you have. For example, compare the plaintiff's documents with any paperwork the doctor or hospital provided you, and with what you remember about the medical treatment you were given. You also should check that you haven't already paid any of the amounts the plaintiff is claiming. Check your credit card bill or bank statement that shows your payment.

Duress

Duress exists if you were pressured by an unlawful act or wrongful threats to make a contract under circumstance which deprived you of the exercise of free will.

Consider the following example of duress. The mother of a twenty-one year old is called to the hospital one night; her son has been hit by a car. The hospital admissions representative tells the woman: "You must sign this document if you want to see your son." The woman signs, believing she has no choice. The document was a guaranty agreement calling for the woman to pay for the adult child's hospital expenses. It is later ruled that the agreement is unenforceable as the mother was deemed to have

signed under duress. If you think that you may have been forced to sign something under duress, talk to an attorney.

Reasonableness

Another defense that you can raise is that the hospital bill is unreasonable. You can establish that a hospital's charges are unreasonable by showing that the charges are not similar to those of other hospitals in the area. You also can show that the charges are not similar to what this hospital charges other patients and the insurance companies of other patients.

Inadequate Hospital Financial Assistance

New York State law and other laws place limitations on how much and in what ways hospitals can charge you for medical care. The law also limits the tactics hospitals and collections agencies can use to collect medical debt.

Here is a list of **hospital financial assistance defenses** available to defendants in medical debt collection cases:

1. The hospital did not reduce your charges, as required by law. All public and private hospitals are required to reduce charges for patients who do not have insurance and who can show their income is below a certain amount.
2. The hospital did not offer you an installment plan and your income is below a certain amount.
3. The hospital did not notify you that financial assistance may have been available or notify you in a language you understand.
4. The hospital did not help you apply for financial assistance or offer assistance in a language you understand. The law requires that applying for hospital financial assistance not be difficult or complicated.
5. You had a financial assistance application pending, and the hospital sent your debt to a collection agency.
6. You were eligible for Medicaid or had Medicaid coverage, and the hospital sent your debt to a collection agency.

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7. The collection agency did not notify you of the hospital's financial aid policy, or otherwise failed to follow the hospital's financial aid policy.
 8. The collection agency has sued you without the written consent of the hospital.

Creditor Failed to Charge Your Insurance Company

If you have insurance, Medicare or Medicaid, and have provided the relevant information to the doctor or hospital, the doctor should charge the insurance company. If you have private insurance or Medicare, the doctor can charge the remaining amount to you. Hospitals and doctors have a limited time period after they administer care during which they can make a claim to your insurance company, usually about one to two years. If the doctor or hospital fails to make that claim in time, they may try to collect from you more than you would otherwise owe.

Here are some tips for determining whether the doctor's office or hospital may be trying to collect money from you that they should have claimed from your insurance company:

- Your bill does not indicate any amount charged to your insurance company. If you have insurance, the bill for your medical expenses should include an amount that is charged to your insurance company.
- You have insurance, and the plaintiff is claiming you owe a very large sum of money. However, be advised that even if you have insurance, you can owe a very large sum of money. All insurance policies have limitations, and if the care you received has exceeded those limitations, even a legitimate medical bill can be very expensive. Additionally, a medical debt may include interest and other additional fees that you may or may not owe. See the other defenses in this area for the ways in which those fees can be challenged.
- Your insurance company has no record of a claim being made for the medical care that is the subject of your case. If the plaintiff is not the original creditor (not the doctor's office or hospital that provided you with care), it may be difficult to obtain the original bill. Without the original bill, it may be impossible to determine whether your insurance company was charged. You should check with your insurance company to determine if they were ever billed.

Other Defenses

Some of the standard credit card debt collection defenses may be available to you if you are facing a plaintiff who claims you owe a medical debt. These include:

- No personal jurisdiction
- Too late (Statute of Limitations)
- Not the original creditor
- Identity theft
- Don't owe the money