

## Self-Pay Balances by the Millions... Are We Ready?

### Here We Go

The controversial and complicated path of the collection of self-pay balances continues to be a major challenge faced by hospital patient account directors, managers and CFO's. Hospitals are now challenged with dramatic growth of their AR related to patients who are uninsured and under-insured. To aggravate the issue, recent popularity of Consumer Directed Health Plans bring high deductibles and limited coverage. Now more than ever, the path to collection of these self-pay balances has become a critical issue faced by managers of self-pay accounts.

### Point A to Point B

As a collection attorney focused on the collection of healthcare debt, I often observe the conflicting goals of my hospital clients, relative to their desire to collect self-pay accounts while balancing that desire with the hospital's mission. The hospital struggles with its role of a community based, not-for-profit hospital, needing to serve the charitable aspect of its mission while being fiscally responsible to carry out that mission. Typically in collections we teach our staff to politely and diplomatically move from point A in the collection process to point B with as little deviation as necessary. Point A is defined as talking with the patient or responsible party. It is no easy task to get to point A which requires multiple attempts by phone, numerous letters, the assistance of technology such as predictive dialers, the struggles around caller ID, answering machines and the like. When we finally reach point A, our goal is to proficiently move to point B, resolution of the account through payment in full. Even with the challenges of contacting someone regarding their delinquent account, the even greater challenge is assisting them with options in resolving the debt. By examining these challenges the hope is that we can resolve a larger percentage of self-pay accounts.

### Is it a Debt?

Some of the questions that we need to ask ourselves are as follows. Is a self-pay balance a debt due a creditor that must be paid based on certain terms and by a certain time? Instead, do we allow the patient the ability to set their own terms of repayment, both in terms of dollar amount and time of payment? Should we incorporate the payment of interest and collection fees in the patient's consent form? Should the hospital business office continue to help the patient avoid payment of the debt by finding either alternate payers of the debt or allowing the debt to be written off as charity? Healthcare is a unique breed unlike any other creditor. The path to payment (point B) is certainly a winding road with many obstacles.

Some other considerations are the following. Should a full credit application be completed prior to discharge? In addition to discussing charity

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- Arnie Harris, Esq., President & CEO, Harris & Harris, Ltd.

applications should we also focus on gathering critical information for payment follow up?

As accounts grow stagnant and delinquencies move to our patient accounts department, at what point do we tighten up and require repayment from those who have the means to do so? Let's look and decide. Most industries have a set time period during which they attempt to collect internally and then a policy as to how to treat a matter as a bad debt. At times we let the debts age as we search for alternate payers and do little to attempt collection. Our focus is clearly to find alternate payers and if not found, to write off the debt to charity. We rarely turn our sights on the patient or responsible party for payment of the debt.

### Debt Collection for Smarties

As the self-pay balance ages, we eventually place the debt to a professional collection firm. We negotiate as low a contingent fee as possible, however our real concern should be fees that we pay net of collections. The dollars collected less the fees paid is the key to recoveries. Instead of looking only at the fee paid, consider the fact that a low contingent fee may result in less dollars collected. I would rather have \$150,000 collected at a 25% fee then \$100,000 collected at a 20% fee. At the higher fee my net back return was \$112,500. However, at the lower fee my net back return was just \$80,000. Paying the lower contingent fee would have cost the hospital an extra \$32,500!

Healthcare should consider alternate collection strategies enjoyed by other industries. The healthcare collection arena has been slow to adopt debt sale strategies as a viable option to raise money from bad debt. Healthcare has also been unable to support profitable healthcare financing strategies. This is where a lender promotes the creation of turning the self-pay balance into an actual debt with repayment terms, interest, and penalties for non-payment. Another penalty that may be considered is enforcement of collection of the self-pay balance through litigation. Obtaining a judgment and garnishing wages continues to be one of the most common methods of enforcement of collection of a debt.

With the explosion of large self-pay balances, some of the options noted above may need to be utilized. There are currently many self-imposed obstacles that prevent hospitals from quickly and efficiently reaching what we call point B. As the industry has instituted these obstacles, case law and legislation has followed their lead. Long existing legislation under the Fair Credit Reporting Act and the Fair Debt Collection Practices Act favors the classification of balances due as debt with expectations of payment under a certain time frame.



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### Here Comes the Judge

A recent Federal appeals court has examined the classification of debt under the Fair Credit Reporting Act. In *Pintos v. Pacific Creditors* 2007 WL 2743502 (9th Circuit September 21, 2007), the court held that a debt must arise from a voluntary credit transaction to allow certain creditors the rights to access a consumer's credit bureau report. Would a medical debt be considered a voluntary credit transaction? We should begin to set standards in hospital business offices to ensure that self-pay debt is viewed as a voluntary credit transaction while at the same time we examine our charity care standards.

### Murky Waters...

As the industry continues to face mounting self-pay balances, the murky waters that exist between point A (talking with the patient) and point B (obtaining payment) must be examined. Hospitals may turn to their debt collection professionals for assistance in developing a proper road to follow from registration through collection. That road includes expectation of payment from the patient and/or the responsible party. However, the road also includes a sound method of determining everything from those that qualify for charity care, to those that need their third party payer to pay the proper contractual amount, to those that will require enforcement of a newly drafted consent form ... now referred to as a credit agreement.

Collection of self-pay balances has always been a challenge. As the amounts and numbers continue to grow, they will also grow into more collectable accounts. Most self-pay balances are owed by individuals gainfully employed and willing to enter into payment terms. We are even seeing more pure self-pay balances owed by those who are gainfully employed yet have chosen to be uninsured due to the cost. Methods exist to properly identify, early in the process, those that should fall within charity care guidelines, those that have the ability to pay voluntarily, and those that may need that extra push. Implementation of these identification methods to re-classify debt appropriately will be critical to success of collection in the self-pay arena.

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