

FROM EMERGENCY ROOM TO COURTROOM

How Medical Bills and Court Costs
Trap Arkansans in Debt Cycles

Policy Recommendations for Change



Grantmakers Advancing Economic Equity



On January 27, 2022, the Arkansas Asset Funders Network, Arkansas Community Institute, and Hope Policy Institute joined together for a pressing announcement highlighting the escalating debt issues in Arkansas.

This virtual gathering moderated by *Talk Business and Politics* host Roby Brock provided an overview of medical debt and court costs, described how debt cycles disproportionately harm lower income communities, ALICE households, and people of color. ALICE (an acronym for Asset Limited, Income Constrained, Employed) is a way of defining what a household must earn to afford a bare-bones household budget.

This unique event featured national and Arkansas-based speakers to frame the debt issues Arkansans face and closed with arming attendees with recommendations and action steps for change.

Speakers

HEATHER LARKIN

Arkansas Community Foundation

ROBY BROCK

Talk Business and Politics

BILL BYNUM

Hope Credit Union

JOANNA SMITH-RAMANI

The Aspen Institute Financial Security Program

SIGNE-MARY MCKERNAN

Urban Institute

NEIL SEALY

Arkansas Community Institute

THE HONORABLE RITA F. BAILEY

Maumelle/Jacksonville District Court Judge

PROFESSOR KEVIN RYAN

University of Arkansas Medical Sciences

Contributors to the Recommendations

ABBY HUGHES HOLSCRAW

Sr. Director, Asset Funders Network

KAREN MURRELL

Program Officer, Special Projects

NEIL SEALY

Executive Director, Arkansas Community Institute

CALANDRA DAVIS,

Senior Policy Analyst, Hope Policy Institute

DIANE STANDAERT

Sr. Vice President, Policy and Advocacy
Hope Policy Institute

Medical Debt

Medical debt is overwhelming Arkansans, and the COVID-19 pandemic only increased the burden. Changes in federal and state regulations and how hospitals handle patients' claims can relieve the strain on American families.



Beneficial **federal changes** to alleviate and prevent medical debt include:

- **Implementing** the No Surprises Act, which increases consumer protections for those receiving medical care from out-of-network providers. Under the No Surprises Act, which is slated for implementation in 2022, patients will only be required to pay the in-network cost-sharing amounts when they receive emergency care or when they unknowingly receive non-emergency care from an out-of-network provider at an in-network facility.
 - **Increasing** attention to the harms of medical debt by the Consumer Financial Protection Bureau.
- Specifically, the Bureau could act to limit medical debt reporting on credit reports; create and publish new data on the impact of medical debt on consumers, particularly in communities of color; and increase consumer safeguards against debt collectors and health care providers.
- **Broadening** federal protections that limit wage garnishment, including by hospitals.

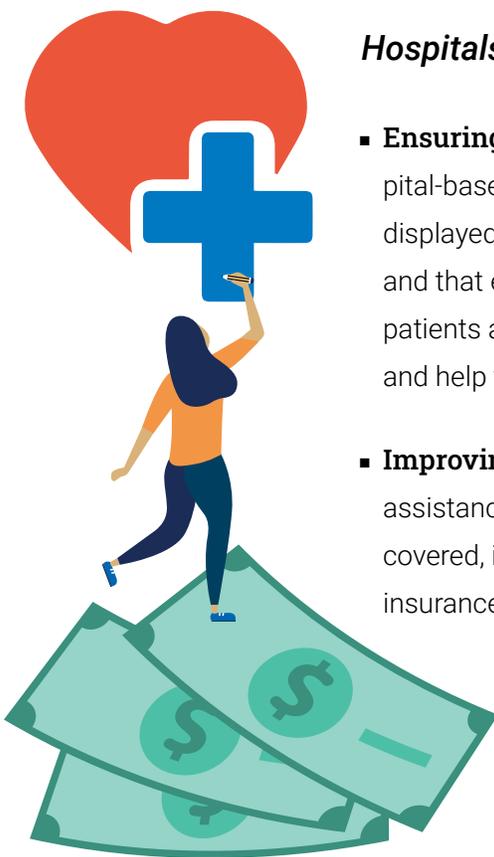
Medical Debt *(Continued)*

Action at ***the state level*** can alleviate the burdens of medical debt by:

- **Enacting** comprehensive legislation to protect consumers from surprise (out-of-network) medical bills.
- **Centering** medical debt elimination and protections in the state's COVID-19 recovery plans.
- **Regulating** and expanding hospital-based financial assistance programs.
- **Providing** state-level protections from abusive medical debt collection practices, limiting reporting of medical debt to credit reports, and limiting the amount of interest that can be charged on medical debt.



- **Dedicating** more resources to providing greater access to affordable health care.
- **Expanding** access to Arkansas Works by removing the work requirement and red tape required to qualify for Arkansas Works, restoring funding for outreach and enrollment, and giving local DHS offices the funding and authority to determine eligibility, resolve problems, and enroll participants.



Hospitals can lessen the burden of medical debt by:

- **Ensuring** that information about hospital-based assistance is prominently displayed at all points of patient contact and that employees are trained to tell patients about assistance programs and help them apply.
- **Improving** the quality of hospital-based assistance so that more people are covered, including those with health insurance.
- **Collecting** debts in-house instead of sending unpaid patient bills to debt collection.
- **Holding** returned checks and actively creating payment plans or offering other options for patients rather than sending returned checks to collection agencies or district courts.

Court Costs

The court system, state legislature, and local governments can each play a role in ending the criminalization of poverty in Arkansas and reforming debt collection practices.



Legislators, court administrators, and local elected officials can enact a range of reforms to reduce the impact of court costs on poor Arkansans, including:

- **Identifying** jurisdiction-local fines and fees that can be eliminated entirely, including discharge of accumulated debt, noting that costs for collections may decrease overall budget costs.
- **Ending** suspension of driver licenses for failure to appear or failure to pay a fine.
- **Offering** alternatives to fines and fees, such as community service or programs that address underlying issues that cause a person to need to appear in court.
- **Creating** a clear method for proactively determining a person's ability to pay a fine or fee, such as bench cards for each district judge outlining procedures to determine ability to pay.
- **Changing** the state's "hot check" law so that it does not apply to patients who bounce checks for health care services, and instead using civil debt collection procedures to collect those debts.
- **Amending** the state's debt collection laws to include provisions that protect consumers who have medical debt, such as prohibiting lawsuits and wage garnishments for low-income patients and eliminating interest charges on medical debts.
- **Increasing** state turn-back funds to lessen dependence of city and county governments on fines and fees as revenue sources.
- **Enforcing** the state's speed-trap law to prevent excessive ticketing for revenue generation.

Funder Recommendations

Funders can alleviate the burden of medical debt and court costs on Arkansans by:

- **Increasing** access to legal representation for debt collection cases, either directly or through support for advocacy organizations.
- **Calling** for reform and elevating stories that demonstrate the wealth-stripping results of debt that disproportionately impact individuals earning lower incomes and communities of color.
- **Funding** advocacy and research that identifies the specific changes needed to increase racial equity in the medical and courts systems and supporting pilot initiatives to demonstrate proof of concept for promising models.
- **Sparking** a public-private pilot program that enables courts to offer both parties in a debt dispute the right to pre-litigation mediation to resolve the dispute.
- **Working** with the state bar association to explore ways to invest funds to increase legal aid or pro bono representation for debt collection cases.
- **Exploring** employer-sponsored legal counseling as part of employee benefit packages. Public-private models for this, sometimes called Judicare, are in operation around the country.
- **Funding** legal aid agencies to provide counsel for defendants with income up to 200% of the federal poverty line or endowing a “chair” for a specialist debt-defense lawyer at a local legal aid agency or a law school clinic.
- **Supporting** courts’ adoption of data systems to track innovative changes and monitor results, especially with regard to racial disparities.
- **Advocating** for legal financial assistance standards at the state level that create transparency about the help available to individuals at the hospital system, city, county, and state levels.





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