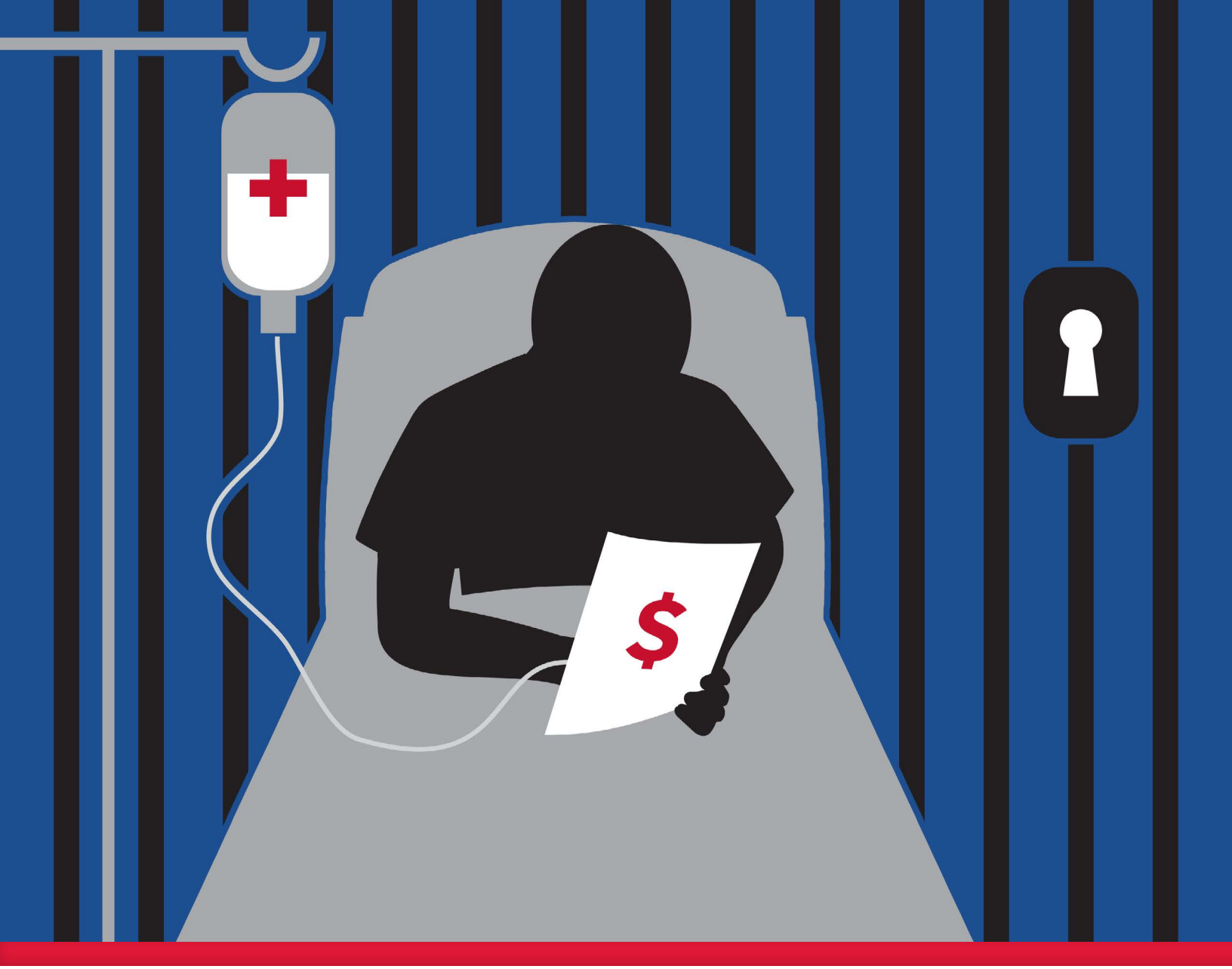

MEDICAL DEBT BEHIND BARS

THE PUNISHING IMPACT OF COPAYS, FEES, AND OTHER CARCERAL MEDICAL DEBT

National Consumer Law Center
Fighting Together for Economic Justice

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ABOUT THE NATIONAL CONSUMER LAW CENTER

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services; and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state governments and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

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ABOUT THE AUTHOR

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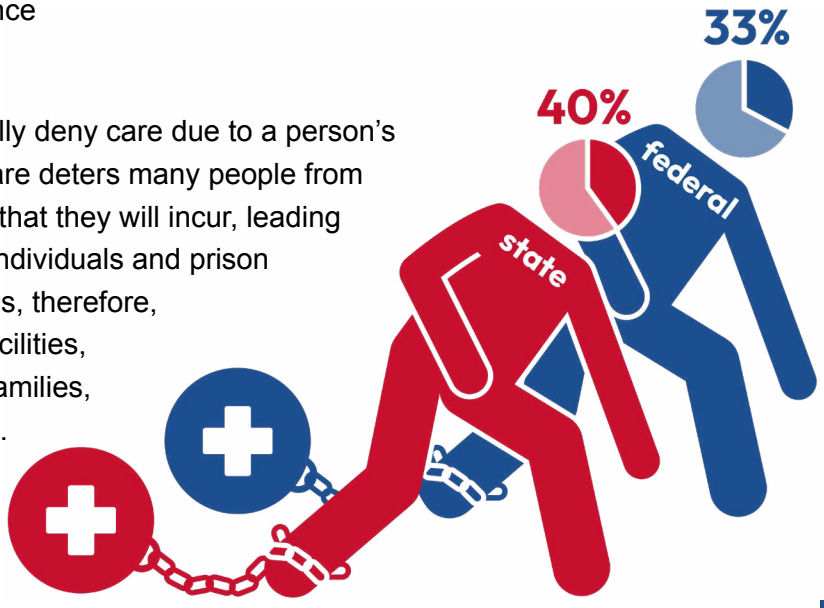
EXECUTIVE SUMMARY

The population of individuals incarcerated in jails and prisons across the United States is getting sicker and older. In 2021, the Department of Justice found that 40% of incarcerated people in state prisons and 33% of incarcerated people in federal prisons reported having a chronic health condition.[1] Unsurprisingly, the cost of caring for incarcerated individuals is increasing. While medical debt is a burden that too many Americans are familiar with, the acute impact of this continuing crisis on incarcerated people is less well known.

At first glance, carceral medical fees may seem modest compared to the costs people pay for healthcare outside of prison or jail–some prison copays may be as little as a few dollars per visit. However, in practice, these fees make it nearly impossible for the majority of incarcerated people to afford medical assistance without accumulating debt.[2] Incarcerated people are more than twice as likely to suffer from chronic health issues and disabilities than the general population.[3] And unlike the general population, people who are incarcerated are forced to be entirely dependent on the prison or jail system to care for them.

Incarcerated people are disproportionately low-income[4] and, if they are paid at all for their work, make abysmal wages (often "pennies per hour"[5]). As a result, many people who are incarcerated do not have the income to pay even the most modest medical fee without significant help from their already-burdened and often low-income families. For those with chronic conditions and disabilities who are unable to work and earn any income while incarcerated and those without outside financial support, these fees can turn a prison sentence into a death sentence.

Percent of People in State or Federal Prisons Who Reported Having Chronic Health Issues



While jails and prisons cannot legally deny care due to a person's inability to pay, charging fees for care deters many people from seeking care because of the costs that they will incur, leading to worsening health outcomes for individuals and prison populations as a whole.[6] These fees, therefore, unnecessarily strain correctional facilities, incarcerated individuals and their families, and ultimately, American taxpayers.

For-profit corporations and private-equity-backed firms are also increasingly the healthcare providers in prisons and jails. This raises concerns that bottom lines will take priority over health outcomes.

Carceral medical debt is a racial justice issue. Incarceration rates for Black and Hispanic/Latino people are significantly higher than for white people.[7] Medical debt also disproportionately impacts Black communities.[8] As a result, charging carceral medical fees may exacerbate racial disparities in medical debt and health outcomes.

This National Consumer Law Center (NCLC) report provides an overview of the carceral medical debt problem and policy recommendations and solutions to address the issue. The report begins by giving background on the nature of carceral medical debt, including the complex healthcare needs of people who are incarcerated, what fees are assessed and why, how these fees impact health outcomes and lead to medical debt, how carceral medical debt affects families and reentry, and private equity and for-profit contractors' roles in this problem. The report includes an extensive review of the common sources of medical debt and how these debts are collected. It details recent policy victories in the effort to eliminate carceral medical debt, as well as some troubling setbacks. The report concludes with consumer-focused policy reforms to address medical debt related to incarceration.

This report draws on NCLC's expertise in policy changes designed to protect low-income consumers from the harms of medical debt and NCLC's expertise in addressing fees imposed on justice-involved people. The policy changes suggested at the end of this report aim to ensure better financial and health outcomes for incarcerated and formerly incarcerated people, their families, and their broader communities. The recommendations are discussed in detail in Section VI of this report and can be summarized as the following four key goals:

- **Eliminate medical fees and provide free medical care to people in prisons and jails;**
- **Stop collection of carceral medical debt;**
- **Prevent private contractors from profiting off incarcerated individuals, jeopardizing their health and financial well-being;** and
- **Increase access to Medicaid and Medicare in prisons and jails.**

Lastly, it is essential to recognize that we cannot resolve the issue of carceral medical debt without also taking meaningful steps to end mass incarceration. Reducing prison populations, and particularly aging populations, is critical to decreasing costs and strains

on the system and delivering better healthcare to people who are incarcerated.[9] While recommendations for reducing incarceration rates are beyond the scope of this report, leading criminal justice researchers and advocates have proposed an array of significant reforms toward that end.[10]

I. THE PROBLEM

The Eighth Amendment of the U.S. Constitution prohibits the infliction of cruel and unusual punishment, a protection the U.S. Supreme Court has interpreted to require provision of medical treatment to incarcerated individuals.[11] As the Court explained in *Estelle v. Gamble*:

> **An inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met. In the worst cases, such a failure may actually produce physical "torture or a lingering death," the evils of most immediate concern to the drafters of the Amendment. In less serious cases, denial of medical care may result in pain and suffering, which no one suggests would serve any penological purpose.**[12]

But while the Supreme Court has concluded that incarcerated individuals must be provided with necessary care to address serious medical needs, courts have stopped short of banning jails and prisons from charging incarcerated individuals for such care.

A. The Complex Healthcare Needs of Incarcerated Individuals

Due to failures in the healthcare and social services systems outside of prison walls, as well as policy choices regarding the criminal justice system, the healthcare needs of people in jails and prisons in the United States are substantial, complex, and growing. As the Department of Justice has noted, "jail administrators, public health officials, and other stakeholders recognize that jails have become the default health care system for individuals with complex behavioral health and chronic medical conditions."[13] Studies have found that almost half of all people incarcerated in state prisons are suffering from substance use disorder.[14] Mental health issues are also common among people who are incarcerated.[15] Lack of health insurance and limited resources for substance and mental health treatment in many communities can worsen physical and mental health issues even before a person is incarcerated, and problems intensify when people cannot access adequate care behind bars.

"Jails have become the default health care system for individuals with complex behavioral health and chronic medical conditions."

Incarceration disproportionately impacts underinsured people from low-income communities of color.[16] According to a 2016 survey of people in state prisons, nearly half of all individuals lacked health insurance prior to their arrests.[17] As a result, many individuals enter prison with untreated medical conditions and in poor health generally. In addition, incarcerated individuals are more likely to suffer from chronic illnesses or disabilities that require more care.[18]

Once incarcerated, medical needs tend to increase. Prisons and jails are not conducive to healthy living. Overcrowding,[19] poor nutrition,[20] family disconnection,[21] and violence[22] are all common elements of carceral life, leading to adverse physical and mental health outcomes. Early intervention and regular screenings are widely recognized as the most effective ways to improve health outcomes. However, because medical fees deter individuals from seeking treatment, many only receive necessary care once their health concerns become emergencies. This delay in treatment not only results in more intensive and expensive care but also puts the health and lives of those individuals at risk.[23]

Finally, because of policies that lead to longer sentences and limited early release, prison populations are aging rapidly.[24] Instead of releasing sick and frail older adults back into the community to receive care, prisons are increasingly providing specialized hospice and nursing home care at significant cost.[25]

Women's Health Issues in Prison and Jail

Providing for the healthcare needs of women in jails and prisons is also challenging, and correctional facilities are largely failing women in their care. Women are more likely than men to enter incarceration with health problems, and two-thirds of women lack health insurance before they are incarcerated.[26] Incarcerated women also have additional medical needs related to pregnancy, menopause, cervical cancer, breast cancer, and more, and they tend to utilize medical services within prisons more than men.[27] These issues often require more preventative measures and early screening to achieve better health outcomes. However, incarcerated women rarely receive free routine screenings for these medical conditions, and many women report having to struggle with prison officials just to receive basic screenings and treatment.[28] Moreover, a majority of women choose to delay or even skip medical visits despite experiencing painful and alarming symptoms simply because they cannot afford the copays and other fees.[29] Women held for short-term periods in jails are more than twice as likely to die in jail than men.[30] A 2020 investigation by Reuters found that 70% of women who died in jails during a 12-year period were still awaiting trial.[31]

B. Background on Carceral Medical Debt and Fees

Medical debt related to incarceration may stem from several sources, including:

- **copays, "man-down,"[32] and other medical fees[33];**
- **commissary fees for over-the-counter medications, medical devices, and hygiene products;**
- **medical bills incurred while on medical release bond;**
- **medical billing errors and mistakes;**
- **failure by the prison or jail to pay third-party medical providers;** and
- **post-release medical debt for health issues incurred while incarcerated.**

People in prison generally do not have access to private or public health insurance coverage that could pay for their medical care or cover these fees.[34] They cannot search for more affordable medical services outside the prison system. Incarcerated individuals who can secure work receive meager wages, on average of between 86 cents and $3.45 per day, if they are paid any wages at all.[35] Additionally, many people who are incarcerated are low-income and from low-income families, making it impossible in most cases to afford any medical fees they are charged.

Even a fee of a few dollars per visit can add up to thousands of dollars of debt over a period of incarceration. In a recent survey of formerly incarcerated individuals in Nevada conducted by the Fines and Fees Justice Center and Return Strong, more than 82% of respondents reported avoiding getting medical help because of how much the fees cost.[36] Almost one-third of all those who did seek care reported that they had medical debt as a result of getting treatment, averaging more than $4,500 per person. In Nevada, a debt of $4,500 would typically take an incarcerated person over five years to pay off if they were earning the average rate of pay – $72 per month – unless they had outside help from their family and loved ones.[37] Another study found that the majority of respondents had avoided seeking healthcare at least once in the prior three months due to a $5 copayment.[38] The same study concluded that a $5 copayment posed a greater barrier to access to healthcare treatment for women, people of color, and those with chronic conditions.[39] Without help from their family and friends, many people who are incarcerated accumulate significant debt to pay for their medical care, and even nominal medical fees may be difficult for the majority of incarcerated people to afford.[40]

C. People Who Are Incarcerated Do Not Have Access to Public or Private Health Insurance to Cover Their Medical Care

Incarcerated people are generally not eligible to have their care covered by public or private health insurance, and most health insurance is terminated or suspended shortly after a person becomes incarcerated.[41] There is not an option for most incarcerated people to purchase private health insurance through the Health Insurance Marketplace until after their release,[42] and Medicaid and Medicare will generally not provide payment for healthcare services received during incarceration.

The Social Security Amendments Act of 1965, which created the Medicaid and Medicare programs, specifically prohibits the use of Medicaid funds for "inmate[s] of a public institution."[43] This prohibition is known as the "Medicaid Inmate Exclusion Policy." Since the enactment of the Affordable Care Act in 2010 and subsequent Medicaid expansion efforts, the number of people eligible for Medicaid has increased significantly. However, the Medicaid Inmate Exclusion Policy remains in place and, as a result, state correctional facilities are responsible for covering the costs of care for their incarcerated populations, "despite the fact that these same individuals, if not incarcerated, would now be covered by federal Medicaid funding."[44] While states can apply for waivers from this policy, the approval process can be cumbersome, and waivers are often limited to coverage of care for a short period leading up to an incarcerated person's release.[45] Furthermore, the Medicaid Inmate Exclusion Policy currently permits the use of Medicaid funds in some cases to cover in-patient care for eligible incarcerated individuals at hospitals or other facilities outside of the prison or jail. However, only a limited number of states actively seek Medicaid reimbursement for this care, potentially missing out on millions of dollars that could help offset expenses for correctional facilities and incarcerated patients.[46]

Likewise, Medicare, a program for adults over the age of 65 and adults with disabilities, generally does not provide coverage for a person's healthcare while they are incarcerated, based on the presumption that the correctional facility is financially responsible for providing care.[47] However, if a person is enrolled in Medicare during their incarceration, Medicare regulations do currently allow for state prisons and jails to seek Medicare reimbursement for medical care, but only if the state or local correctional facility can first satisfy a number of complex requirements.[48]

To seek reimbursement from Medicare, the state prison or local jail must demonstrate, among other things, that the incarcerated person with Medicare coverage is required by law to repay the cost of the care and that the state or local government actively pursues collection of carceral medical fees and debts.[49] Limited research is available analyzing

how state and local correctional facilities seek Medicare reimbursement where eligible, suggesting that these criteria may prove too difficult for many facilities to pursue.

Medicare Premiums and Incarceration

If a person is enrolled in Medicare prior to their incarceration, to maintain their coverage without being disenrolled, they have to continue making premium payments while incarcerated, even though Medicare generally does not cover any of the care they receive during incarceration.[50] Similarly, if a person becomes eligible for Medicare while incarcerated because they turned 65, they can enroll in Medicare, but they are required to pay their premiums or face disenrollment.[51]

Previously, failing to enroll or make premium payments as required resulted in steep late enrollment penalties, leading to higher premiums upon signing up for Medicare after release.[52] In 2023, the Centers for Medicare and Medicaid Services (CMS) implemented a new rule to reduce financial barriers for incarcerated individuals who could not afford Medicare premiums while they were in custody.[53] The rule established a special enrollment period to allow people who are released from custody to sign up for Medicare without facing penalties and higher premiums during the first 12 months of their release.

CMS is in the process of proposing additional changes to Medicare rules to benefit individuals coming out of prison and jail, which is discussed in more detail in Section IV of this report. However, these new and proposed rules do not change the fact that Medicare will not cover healthcare costs for people while they are incarcerated in prison or jail.[54]

Many government officials and criminal justice advocates have argued for the elimination of policies, such as the Medicaid Inmate Exclusion Policy, that limit access to Medicaid and Medicare coverage during incarceration.[55] Enacting reforms to expand Medicaid and Medicare coverage of carceral medical care would help reduce costs for facilities and justice-impacted individuals, improve quality and access to care, and reduce recidivism.

D. How Prisons and Jails Attempt to Justify Carceral Medical Fees

Because of high costs, officials have historically tried to justify carceral medical fees as cost-saving measures that benefit taxpayers and the criminal justice system.[56] Yet, the costs of administering and collecting fees often exceed what is eventually collected.[57] Moreover, in federal prisons, copays and medical fees are not necessarily used to cover the cost of the care itself. Fees that are collected can be directed into the federal Crime Victims Fund, applied to victim restitution, or used to cover the administrative costs to collect the fees.[58]

Many state prisons and jails began instituting medical copays in the 1990s, and federal prisons followed in 2000 with the enactment of the Federal Prisoner Health Care Copayment Act.[59] Proponents of prison healthcare fees argue that their purpose is not only to recover costs but also to discourage individuals from abusing the system. For example, the Federal Bureau of Prisons's Program Statement regarding its copay policy says:

> The Federal Bureau of Prisons (Bureau) current health care system does not include incentives for appropriate use of health care services by inmates. Charging inmates for health care services will likely increase the inmate's respect for health care and will encourage inmates to be more responsible for their health care.[60]

The Program Statement then lists the objectives of imposing a copay for medical visits to encourage incarcerated individuals to "be more responsible for their own health care" and "promote appropriate use of health care services" for those seeking help.[61] Although these fees have been shown to reduce usage of healthcare services[62], the available evidence indicates that such reduction worsens health outcomes, increases reliance on emergency services, and leads to less appropriate use of healthcare services.

Additionally, charging incarcerated people copays or other medical fees for healthcare does not appear to help bring down healthcare costs for prisons or jails, as documented in studies out of Pennsylvania, Virginia, and California.[63] Even when fees are charged, the amount collected may be minimal and insufficient to reduce costs effectively. A 2024 report from the Iowa Office of Ombudsman evaluating these fees found that the total cost of medical services for fiscal year 2022 in one county jail was $368,256.86. The jail assessed $7,440 in medical copays that year but only collected $2,925.43, less than 1% of the jail's overall healthcare costs.[64]

In light of these and other concerns, some states have recently been moving away from charging medical fees.[65]

E. The Impact of Fees on Health Outcomes

Medical professionals have reported that medical fees in prisons and jails do not help encourage appropriate use of care, and instead can be highly harmful to people who need medical care, can increase total healthcare costs for prisons, and can contribute to disease spread both inside and outside of prisons.[66]

"I avoid medical as much as possible because I cannot afford it."

Survey Respondent, Fines and Fees Justice Center, Return Strong, Fines and Fees Justice Center & Return Strong Survey (PowerPoint Slides) (2023), available at the ***Nevada Legislture's website****.*

Incarcerated individuals regularly avoid seeking medical treatment because they cannot afford the fees.[67] Many only seek help when their conditions deteriorate to the point that they require expensive emergency services. Timing is critical in treating severe illness and disease, and any delay in receiving treatment while incarcerated can lead to devastating impacts.

When people cannot afford to be seen by prison medical providers, contagious illnesses such as hepatitis C, COVID-19, and the flu can spread quickly among prison populations.[68] A study conducted by the Centers for Disease Control in 2003 found that medical copays and a lack of access to essential hygiene items, such as soap, contributed significantly to the spread of MRSA infections in correctional facilities.[69]

The COVID-19 pandemic also illustrates that prison health outcomes affect public health beyond prison walls: COVID-19 spread rapidly within prisons and jails, which in turn led to community spread from people who were exposed while working in those prisons and jails.[70] For this reason, many prison systems eliminated copays and other medical fees associated with COVID-19 treatment. However, some institutions quickly reinstated these same fees, even before the height of the pandemic ended.[71] As a result of reinstated copays, many incarcerated people experienced worse health outcomes due to an inability to afford medical help.[72]

F. How Much Medical Debt Do People Incur While Incarcerated?

Medical debt is often the most common type of past-due bill that consumers report being placed in collections.[73] A 2023 Consumer Financial Protection Bureau (CFPB) report found that 57% of bills in collections and on people's credit records were a result of medical debt.[74] While this figure is alarming, it does not include a breakdown of which, if any, of these medical debts were related to incarceration. Carceral medical debt is not explicitly categorized on credit reports or civil judgments filed in courts.

According to Fines and Fess Justice Center, an audit of the Nevada Department of Corrections found that the state had attempted to collect over $100,000 from one man after he was released from prison for outstanding carceral medical debt.

There is no comprehensive data showing how much medical debt people incur as a result of incarceration. Still, available data suggests that the numbers are substantial, especially relative to the limited financial resources most incarcerated and formerly incarcerated people have. In interviews with 400 formerly incarcerated people in Nevada, advocates

from the Fines and Fees Justice Center (FFJC) reported that people left prison in Nevada with an average of $4,500 in medical debt stemming from copays and "man-down" fees.[75] According to FFJC, an audit of the Nevada Department of Corrections found that the state had attempted to collect over $100,000 from one man after he was released from prison for outstanding carceral medical debt.[76]

Determining the amount of medical debt that incarcerated and formerly incarcerated individuals have for data analysis purposes is challenging, as there are multiple sources of carceral medical debt that are difficult to track. Criminal systems may not itemize all of the sources of debt that an individual owes, which could include both medical and non-medical debt. Jails and prisons, which should be in the best position to provide data on carceral medical debt, do not release such data to the public and may not collect data comprehensively and consistently. Thus, while the survey data cited above is instructive, without further transparency by prisons and jails and studies on this issue, we may not know the full scope of the problem.

G. Leaving Incarceration with Medical Debt Makes Reentry More Challenging

People face many barriers to successful reentry after incarceration, including difficulty securing housing, employment, and medical care. Older adults, especially those with chronic health conditions or those requiring long-term care, face unique challenges navigating access to basic income and housing.[77]

Criminal justice debts, including those stemming from fees, make successful reentry harder, including by burdening an individual's finances at a time of particular financial vulnerability, continuing entanglement with the criminal system while the debt is outstanding, and, in some states, precluding record clearing.[78] If not paid before release, medical debt accrued as a result of incarceration can likewise undermine an individual's ability to reenter their community successfully. Further, the burden of the debt can grow over time with collection fees and interest, making it difficult to make progress in paying off the debt and even leading the debt to balloon in some cases.[79]

Medical debt can be a substantial financial burden and, if left unpaid, can lead to collection calls, lawsuits, wage garnishments, license suspensions, and ruined credit.[80] In some states, a missed court appearance for a debt collection case could even land a person back in prison.

H. An Added Tax on Families

Charging medical copays and other healthcare fees can result in shifting the cost of hygiene and medical care in prisons and jails onto the families and loved ones of people who are incarcerated. Incarcerated individuals regularly rely on their families to deposit funds into their accounts to cover their necessities. These funds supplement the meager amount they can receive for their work while incarcerated, and people use the funds to purchase essential items such as food, clothing, phone cards, medicine, and hygiene products. People who cannot afford medical copays and fees are frequently forced to ask their families for funds to cover these expenses. Often, these family members are already financially vulnerable and experiencing even greater financial distress as a result of their loved one's incarceration. Despite these challenges, family members, disproportionately women and women of color, take on significant responsibilities to provide financial support to their loved ones while they are incarcerated.[81]

According to one study, "families are often forced to choose between supporting incarcerated loved ones and meeting the basic needs of family members who are outside."[82] When families deposit funds into an incarcerated person's account, correctional facilities can offset those funds to pay outstanding debts, including medical fees. In practice, these fees create an additional tax on incarcerated peoples' families, negatively impacting the financial stability of those beyond the prison walls.

I. Private Equity and For-Profit Corporations Contribute to Carceral Medical Debt

In the 1970s and 1980s, prison and jail systems across the country began contracting more and more with private companies to provide services, including medical care.[83] Prisons and jails are big business for private equity investors. Every year, nearly 4,000 private corporations make approximately $80 billion on contracts with prison and jail systems.[84] This corporate profiteering results in exorbitant markups on necessary commissary items and lower quality nutrition and medical services. Incarcerated people are captive consumers; there is no open market available to them, and they have no other option but to rely on the offerings of these companies to obtain medical care, food, and essential hygiene products.[85]

Private contractors prioritize maximizing profits. As they usually receive a fixed rate for the services they provide, contractors have no financial incentive to spend more to ensure that incarcerated individuals receive the highest quality of care. Hundreds of lawsuits, complaints, and news stories have documented how financial motives in prison healthcare have led to devastating consequences, including horrific deaths.[86] For example, Wellpath, which is owned by a private equity company, is the largest prison health contractor in the country, providing

services to jails and prisons in at least 34 states.[87] Wellpath has faced numerous accusations regarding improper denials of care.[88] In one California jail, monitors found that 18 of the 19 deaths reviewed at the facility could have been prevented if Wellpath had provided adequate care.[89] Corizon Health, another private-equity-backed prison healthcare contractor that operates across the country, has also been accused numerous times of failing to provide and adequately oversee medical care, leading to worsening health outcomes, avoidable deaths, and even sexual assaults perpetrated by its medical providers.[90] But holding these companies accountable for their actions is difficult, as evidenced by Corizon Health's recent attempts to declare bankruptcy to avoid paying out claims filed by incarcerated individuals, hospitals, and other creditors.[91]

Many of the largest companies in this industry have cornered the market on the services they provide, meaning that even when governments want to cancel contracts or find new companies to partner with, they are unable to do so without being forced to select another equally problematic company to replace them, or even the same company that has simply been rebranded.[92] Undoubtedly, jails and prisons that do not outsource healthcare services to private companies also have significant problems, but continuing to rely on private equity-backed and for-profit corporations to provide critical food, medical, and commissary services increases the risk of financial exploitation of incarcerated individuals and their families. Moreover, little evidence supports the claim that contracting with these companies saves money for prisons and jails. On the contrary, increasing evidence indicates that privatization of prison and jail healthcare systems leads to increased costs for state and county governments while also resulting in declining health outcomes for incarcerated individuals.[93]

There is a growing awareness of the need for federal and state governments to address the issue of profiteering and private equity in the carceral system. In January 2021, President Biden issued an executive order to the U.S. Department of Justice directing the Department not to renew contracts with privately operated correctional facilities, taking a critical step towards undoing the commercialization of the prison system.[94] However, private companies continue to operate and accumulate huge profits at the expense of individuals incarcerated in federal and state prison and jail systems today.

Increasing evidence indicates that privatization of prison and jail healthcare systems leads to increased costs for state and county governments while also resulting in declining health outcomes for incarcerated individuals.

Concerningly, private equity firms are reportedly looking to increase their hold on the incarcerated population beyond release, engaging in steps to create nursing homes to house people who have been medically furloughed or released on parole needing long-term care but cannot secure placement in other facilities due to their criminal records.[95] Private equity's increasing role in the nursing home and long-term care industry is leading to worse outcomes for patients and families.[96] The private-equity-backed "prison-to-nursing home pipeline" now threatens worse long-term outcomes for formerly incarcerated people.

II. COMMON SOURCES OF MEDICAL DEBT RELATED TO INCARCERATION

While copays are one of the most common ways individuals accrue this type of medical debt, medical debt from incarceration can stem from a wide array of sources, including:

Copays, "man-down" fees, and other medical fees

Commissary fees for over-the-counter medications, medical devices, and hygiene products

Medical bills incurred while on medical release bond

Medical billing errors and mistakes

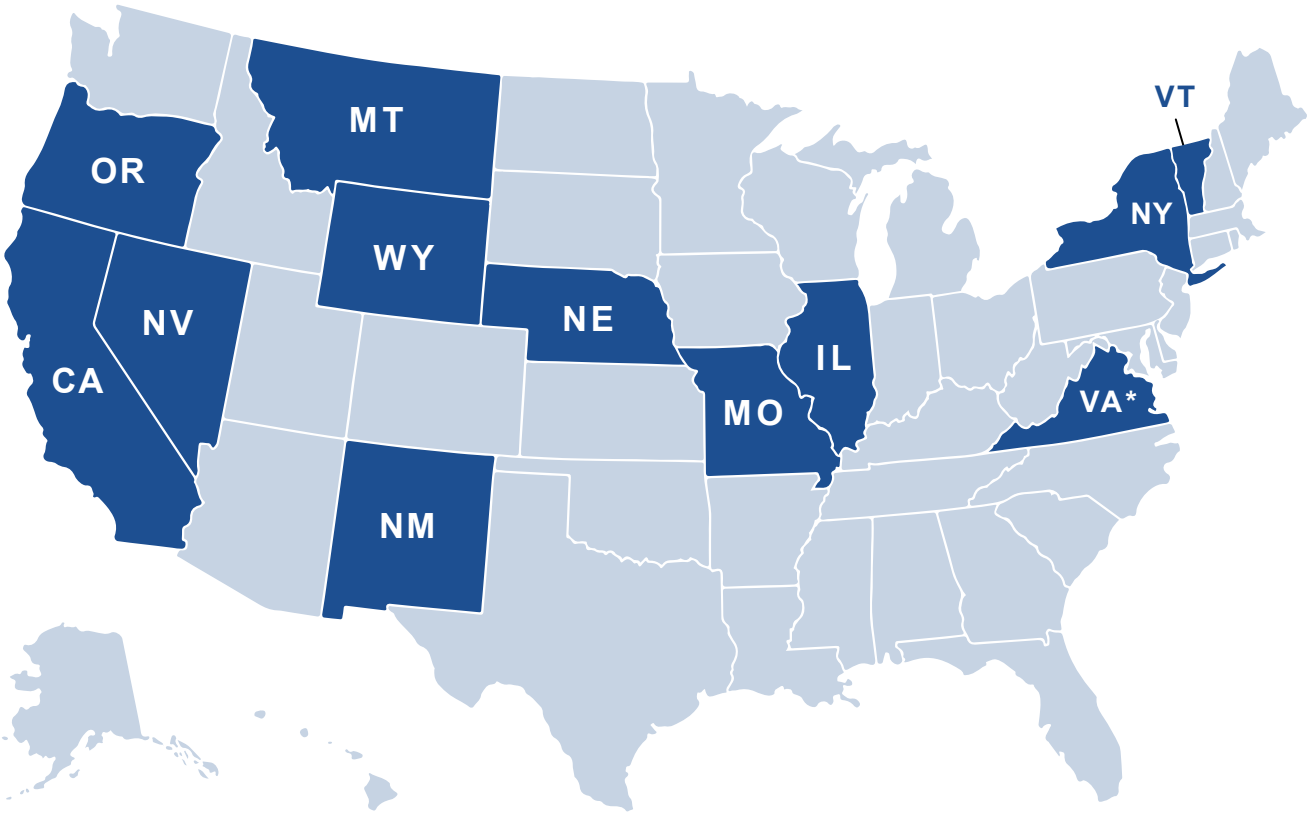
Failure by the prison or jail to pay third-party medical providers

Post-release medical debt for health issues incurred while incarcerated

We discuss each of these sources of medical debt below.

A. Copays and Other Medical Fees

Today, incarcerated people in all federal prisons and 38 states are charged some form of copay or other fee when they seek medical care.[97] While many jurisdictions put in place temporary copay waivers during the pandemic emergency, and those waivers are still standing in a few states, many states, and all federal prisons, have since reversed those waivers and reinstated their medical fees.[98] Additionally, county jail systems throughout the country routinely charge copays and other medical fees.[99]



No copays (12 states)

Charges copays

**Virgina's ban on medical fees is currently in a pilot project and has not yet been made permanent.*

The following states currently ban medical copays: California, Illinois, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, Oregon, Wyoming, Vermont, and Virginia. For more detailed information about the state of prison copays, see the work of the Prison Policy Initiative on this issue: Tiana Herring, Prison Policy Initiative, COVID Looks Like It May Stay. That Means Prison Medical Copays Must Go (Feb. 1, 2022).

Copays are the most common type of fee that correctional facilities charge for medical services, but fees for medical services may be categorized and referred to in prison and jail data as:

- "man-down" fees,
- “inmate-user" fees, or
- fee-for-service (FFS).

A 2017 report found that federal and state prison systems charge between $2 to $13.55 per visit for copays and other medical fees.[100] While these costs might seem low compared to many private health insurance copay requirements, these costs are often unaffordable for incarcerated patients. Approximately 80% of incarcerated people are indigent before their incarceration,[101] meaning they enter incarceration with extremely limited financial resources. Once incarcerated, their ability to earn income to pay medical fees is further limited: on average, incarcerated individuals earn only between 86 cents and $3.45 *per day* for their work,[102] and seven states do not pay wages for work performed while incarcerated at all.[103] As a result, any medical fees can be very difficult to afford while incarcerated without having to go into debt or rely on family to cover them.[104]

Some jails and prisons charge higher fees for emergency medical services, commonly known as "man-down" fees.

Some jails and prisons charge higher fees for emergency medical services, commonly known as "man-down" fees. When an incarcerated person has a medical emergency, it prompts a man-down call from prison guards and a response from medical staff. During a man-down response, the person receiving the emergency services is often unable to consent to or refuse treatment. Man-down fees are often double the amount of standard copays, if not more, making them unaffordable for many.[105] Even if a person is healthy while incarcerated, they may still be subject to medical fees for mandatory medical screenings and testing instituted by jails and prisons. For example, Louisiana requires people who are eligible for parole to pay for mandatory infectious disease testing before they are released.[106]

Certain states waive copays and other medical fees for indigent people or people with particular conditions, such as contagious diseases. However, indigency waivers have significant limitations. In many cases, prisons define indigency not by reference to traditional poverty standards–which the vast majority of incarcerated people would meet–but instead by whether the person has more than a set amount of funds, ranging from $5 to $20, in their account within a certain amount of time (typically 30 to 180 days) leading up to the medical

visit for which a copay would be assessed.[107] Having just $1 over the accepted limit in an account would make a person ineligible for an indigency waiver. Additionally, prisons and jails rarely advertise these waivers, meaning that even among people who would qualify for a waiver, some will avoid care because they believe they will be charged.[108]

Incarcerated people often express that prison medical fees can be arbitrary or even punitive and make them feel nickel and dimed.[109] They frequently must pay a copay for every visit to a medical unit, even just to receive test results or pick up a prescription ordered from a previous visit. In some facilities, if the prison or jail believes a person lied about their condition in requesting medical help, they can face additional charges and loss of funds as "restitution" to the facility, and there is little information about whether these types of charges can be challenged. This harsh punishment can have a chilling effect and make people more hesitant to seek help.[110]

In a recent survey of formerly incarcerated individuals in Nevada, more than 20% of respondents described being charged man-down fees during their incarceration.[111] At that time, Nevada charged over $50 per man-down fee, more than five times the amount of the regular $8 copay.[112] Nevada eliminated both of these fees in 2023.[113]

In addition to copays and man-down fees charged directly by correctional facilities, some systems also make incarcerated individuals fully responsible for any medical services they receive from providers outside of the prison, including ambulance fees and hospital bills.[114] For example, in Texas, county jails are not legally required to pay for an incarcerated person's medical care. As a result, people may be billed directly for any medical care they receive while in jail, including steep bills for ambulance rides and hospital stays.[115] Therefore, "getting emergency care while incarcerated can have long-term financial ramifications."[116]

B. Fees for Over-the-counter Medications, Medical Devices, and Hygiene Products

Prisons and jails rarely provide free hygiene products, medications, or medical devices, such as eyeglasses, knee braces, and prosthetic limbs. "Prescription charges" for these items are common in prisons and jails.[117]

Some medical devices, such as prosthetics and wheelchairs, can cost incarcerated people tens of thousands of dollars, leading to significant debt and lower quality of life for people with disabilities in prison.[118] These costs deter incarcerated people from seeking necessary medical devices, resulting in substantial injuries and

further medical expenses. In one case in Oregon, the Department of Corrections denied an incarcerated individual a necessary repair for his prosthetic limb. The prosthetic ultimately failed, causing a fall that resulted in severe injury and surgery, leading to almost $50,000 in medical expenses that the incarcerated individual was then responsible for.[119] The Oregon Department of Corrections was sued for these issues, leading to a settlement for the individuals impacted and a recent policy change that ended the practice of charging incarcerated people in Oregon state prisons for medical devices.[120]

While medical devices can represent significant costs to people with disabilities in prison and jails, fees for common medications and over-the-counter treatments can also lead to medical debt; even just a few aspirins or allergy pills can be costly.[121] While correctional facilities are supposed to provide a basic level of subsistence to incarcerated people, they often fail to do so, meaning that incarcerated people and their loved ones must pay for everyday necessities, including clothing, shoes, and sufficient food, along with essential hygiene products such as toothbrushes and soap, at prison and jail commissaries.[122] These items are often marked up substantially from retail prices.[123] A state audit in 2022 from Nevada found prisons were marking up prices on commissary items by more than 40%, including basic healthcare and hygiene products.[124]

Commissary markups can be major revenue generators for prison systems. As a result, few incentives exist to lower prices to benefit incarcerated people. Private equity-backed and for-profit companies managing prison commissary systems have made record profits on commissary sales despite rising costs from inflation.[125] However, because of copays, medical fees, and high commissary prices, incarcerated people often have to make difficult decisions between seeing a doctor, buying basic hygiene items, calling their families, or going into debt.[126]

C. Failure by the Prison, Jail, or Healthcare Contractor to Pay Third-Party Medical Providers

Although most prisons and jail systems have some level of care available inside the facility, many facilities can only provide some of the basic medical services required to care for the people in their custody. Some larger prison systems offer specialty healthcare complexes, where individuals needing more acute treatment for cancer and other serious conditions are transferred. However, many smaller prison and jail systems rely on outside medical providers and hospitals for more acute care.

When the prison or jail system cannot provide the care needed, they transfer the patient to outside hospitals or other third-party medical providers. These providers then submit claims to the facility or the facility's healthcare contractor for payment. If the claims go unpaid, the hospitals and providers sometimes take steps to collect directly from the patient, even if they are still in the custody of the jail or prison system.[127] Sometimes, the jail or prison resolves these bills, but in other cases, medical providers turn the bills over to collection agencies to seek payment directly from the patient.

As healthcare needs and costs continue to rise, more prison and jail systems are relying on outside private equity-backed companies to run medical programs in their facilities. Unless more is done to regulate these companies and ensure they are providing sufficient in-house services and paying the bills for any outside medical services, incarcerated and formerly incarcerated individuals may be at risk of mounting medical debts for care that private equity companies were already paid to provide. Hospitals and medical providers filed an alarming $88 million in claims for unpaid bills and other services against Corizon Health, one of the largest prison healthcare companies in the nation, in its recent bankruptcy case, which is discussed in more detail in Section V below.[128]

Incarcerated and formerly incarcerated individuals may be at risk of mounting medical debts for care that private equity companies were already paid to provide.

D. Medical Bond

Another way some jails shift medical care costs to incarcerated people is through medical bonds or medical furloughs.[129] Jails in at least 25 states currently place medical care costs on incarcerated people released on medical bonds or furloughs.[130] When an incarcerated person suffers from an acute medical issue that requires care that the jail cannot provide in-house, some sheriffs will release the person on "medical bond" before transporting them to a hospital so that the jail will not have to pay the medical bills. Once the person receives treatment and recovers, the sheriffs then often quickly move to rearrest and book the person back into jail.[131] Some jails even have individuals sign forms consenting to the conditions of the release while they are experiencing a medical emergency and may not have the capacity to understand what they are agreeing to. Jails may also require individuals to wear ankle monitors during their release. Sheriffs can then track and rearrest individuals when they leave the hospital.[132]

The jails and sheriffs that engage in these practices do not hide that they are doing so solely to avoid paying for the care of people in their custody. In 2019, ProPublica found that sheriffs in Alabama were increasingly using medical bonds to avoid having to pay for an incarcerated person's medical care that the county governments would otherwise be responsible for.[133] The administrative process of releasing someone on medical bond can detrimentally delay the time it takes for the person to get to a hospital, leading to devastating health consequences, more expensive care, and, in some cases, death.[134]

Most people lose their health insurance when they go to jail. Individuals who are released on medical bonds without insurance can wind up with significant medical debt, even if the medical emergency they experienced was due to an accident or injury incurred during their incarceration or made worse by the jail's delay in getting them treatment. Some formerly incarcerated individuals who were released on medical bond reported being left with medical bills of tens of thousands of dollars they could not pay.[135]

Medical bond and related programs can be valuable in helping to ensure that people can access better healthcare options in those situations when in-prison or jail services are inadequate to meet their needs.[136] These programs should not be used, however, merely as a tool to allow carceral systems to avoid having to provide healthcare to the people they are charged with caring for. Unfortunately, this practice is becoming more common as healthcare needs grow more complex for people incarcerated in county jails.[137]

E. Billing Errors and Mistakes

Billing errors are not uncommon in the carceral healthcare system and can result in either the wrongful seizure of funds from an incarcerated person's trust account or the accrual of medical debt.

Disputing bills and fees with the prison can be difficult, and incarcerated consumers have little leverage, particularly if their account is already debited, and it can take months before funds are returned when a challenge is successful.[138] The Federal Bureau of Prisons has a policy allowing incarcerated individuals to appeal any copay charges wrongly assessed. However, how the appeal process works in reality has not been studied, and there is little data to show what, if any, success individuals have in challenging these fees.[139]

A recent state investigation by the Iowa Office of Ombudsman highlights the problems of medical billing errors and how they affect due process rights.[140] The investigation found that at least nine jails failed to follow state law and improperly charged and collected medical fees from incarcerated people. After receiving multiple complaints from justice-impacted

The investigation found that at least nine jails failed to follow state law and improperly charged and collected medical fees from incarcerated people.

individuals about being charged improper medical expenses, the Ombudsman found that sheriffs were charging and collecting medical fees from people in jail awaiting trial who had not been convicted, in violation of the Iowa Code. Additionally, the investigation revealed that jails were offsetting an incarcerated person's financial accounts to collect medical fees without court orders, in violation of Iowa law. According to the Ombudsman's report, only one Iowa jail has since changed its practices to comply with the law, while other jails refused to make any changes even after being told they were not in compliance.[141]

F. Post-Release Medical Bills for Health Issues Incurred as a Result of Incarceration

Incarceration can significantly harm a person's physical and mental health. Contributing factors include contagious diseases spreading through overcrowded facilities, poor nutritional offerings, lack of connection to family and friends, violence, and inadequate healthcare. Incarcerated and formerly incarcerated individuals have raised the alarm for years about the lack of quality healthcare in jails and prison systems across the country through negligence and personal injury lawsuits, regulatory complaints, investigative reports, and more.[142]

The injuries and worsening health outcomes people face as a result of being incarcerated can last beyond their time behind bars. For example, hospitalization rates are higher for people in the immediate weeks following their release from incarceration than for the general public.[143] Additionally, the physical and mental effects of being incarcerated can exacerbate chronic conditions and mental illness, making these conditions harder to manage post-release. Health issues that continue after release can lead to devastating medical bills and subsequent medical debt that complicate recovery and reentry, especially when people do not have adequate insurance coverage or support.[144]

Even people jailed for brief periods can face medical debt they would not otherwise have accrued but for their incarceration. Any time in detention can result in losing insurance, either due to job loss and loss of employer-backed health coverage or termination of Medicaid benefits upon incarceration.[145] Concerningly, a jail stay of just a few days could lead to post-release medical debt.[146]

III. HOW CARCERAL MEDICAL DEBTS ARE COLLECTED

While a person is incarcerated, medical copays and other healthcare fees are often collected directly through "inmate trust" accounts or commissary funds.[147] After a person is released, there is no consistent data as to how collections proceed, but some prison and jail systems may hire third-party debt collection companies to collect outstanding medical debts.[148]

Hiring debt collection agencies to collect carceral medical debts post-release is concerning, as collection agencies often engage in aggressive collection tactics and add high collection fees to the underlying debts. This is particularly an issue for people of color, who are subjected to higher rates of aggressive and abusive collection practices across all types of debt.[149] If someone fails to pay, they can be sued and subjected to court orders allowing collectors to garnish their wages, seize money in their bank accounts, and place liens on their homes. In worst-case scenarios, individuals can also face incarceration for failure to appear in court to resolve medical debt collection lawsuits, even if they are indigent and have no ability to pay the debt.[150]

Collection actions from carceral medical debts may appear on credit reports,[151] making it challenging to get a job, bank account, or loan to help resolve the debt.[152] Furthermore, if an individual is ever rearrested and incarcerated again, their "inmate trust" accounts and commissary funds could be offset to pay back any outstanding medical debts owed from previous periods of incarceration.

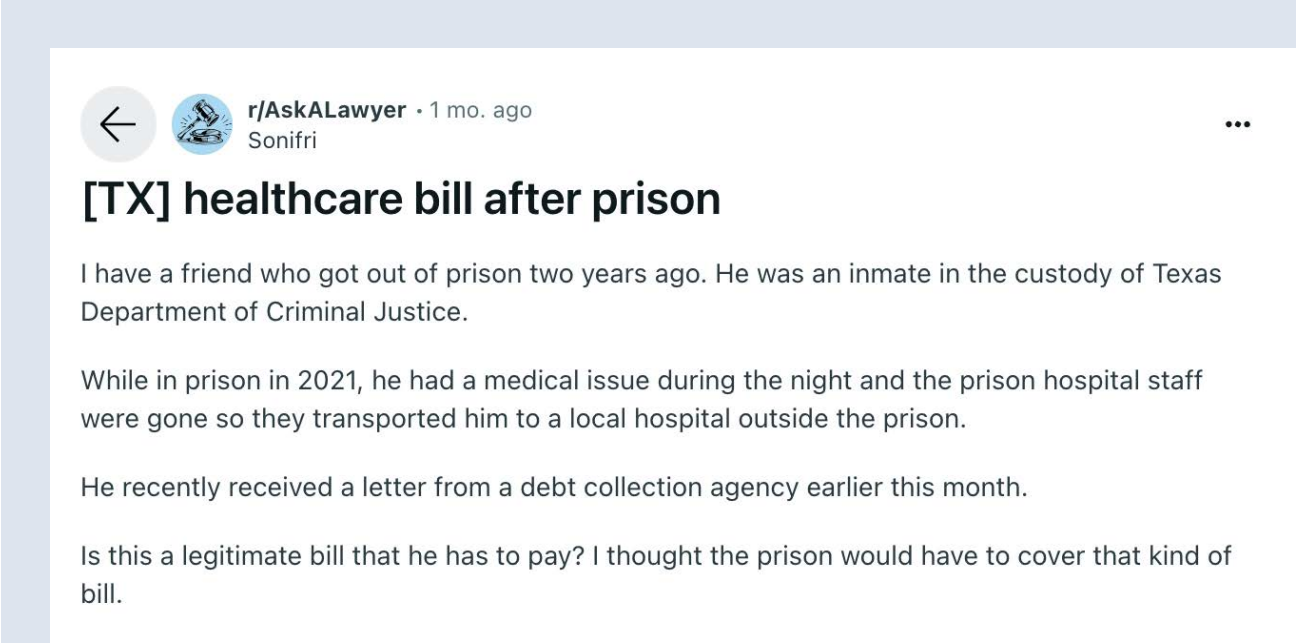
Carceral Medical Debt Collection Consumer Stories

The two stories below, as shared by formerly incarcerated people and their friends, illustrate how debt collectors may pursue formerly incarcerated people for medical expenses incurred while in the corrections system.

Consumer complaint narrative

ABLTY RECVRY- states that I have a past debt of {$890.00} this has been reported on my credit report with negative status and now sent to collections. At the time when I was seen as a patient I was recently released from prison and living in a half way housing before returning to the general population. I shouldn't have been charged any medical fees because all medical treatments are covered under the federal correction system and I also had medicaid coverage as well.

This complaint was filed with the CFPB in 2018 by a formerly incarcerated person in Ohio and raises issues of potentially improper billing and navigating reentry while dealing with carceral medical debt.[153]



This question was posted in February 2024 on the social media platform Reddit, in the "Ask a Lawyer" thread, by a friend of a formerly incarcerated person who was dealing with a hospital collections issue for treatment received while incarcerated in Texas.[154]

Even when an individual has a legitimate dispute to a medical debt collection action stemming from incarceration, the individual's avenues to resolve the dispute may be more limited while they are in prison or jail than someone dealing with a typical medical debt dispute in the community. Incarcerated people often have limited access to phone services and the internet, meaning they can usually only file disputes by mail, which can be a slow and cumbersome process.

Additionally, incarcerated people are typically not eligible for free legal assistance for civil legal issues due to restrictions set by law for legal aid organizations funded by the Legal Services Corporation. In response to this issue, the federal Bureau of Prisons (BOP) recently conducted a civil legal needs survey of incarcerated individuals in its custody.[155] Of the 50,000 people who responded to the survey, more than 81% reported that they "could use civil legal assistance to deal with a healthcare issue, such as medical debt, enforcement of rights under the Patient Protection and Affordable Care Act, or access to medical benefits or services outside of BOP."[156]

On July 25, 2024, the Federal Prison Oversight Act was signed into law, which will establish an independent ombudsman to investigate complaints filed by people incarcerated in federal prisons, including complaints related to healthcare access issues.[157] However, how this will affect complaints and disputes related to carceral medical fees and debts still remains to be seen. Given the severity of the consequences individuals face when dealing with carceral medical debts, consumer protections and oversight should be strengthened to prevent further harm at the hands of the justice system.

IV. MOVING TOWARDS JUSTICE

A. Nevada Is the Latest State to Address Carceral Medical Fees and Markups

Along with 11 other states, Nevada has recognized the severe consequences incarcerated individuals and their loved ones face as a result of debt accrued from copays, man-down fees, and commissary markups on healthcare and hygiene items.[158] After a successful campaign, Nevada's legislature passed a number of criminal justice reforms recently, including a "cost of incarceration" bill, which was signed into law in June 2023.

Prior to the passage of these reforms, Nevada had one of the highest prison medical copays in the country, at $8 per visit.[159] A 2022 state audit also found that state prisons were marking up commissary items by 40%, including critical hygiene products that are needed for good health.[160] The new legislation ends medical copays and man-down fees for routine or emergency medical care; prevents commissary markups on hygiene items; provides free and unlimited feminine hygiene products of their choosing to incarcerated women; and establishes an independent ombudsman to conduct oversight of the state prison system.[161]

Earlier versions of the legislation would have gone even further, allowing for the discharge of medical debt incurred during incarceration that was a result of an accident or self-harm.[162] Still, Nevada has gone from charging incarcerated individuals the highest fees in the country for healthcare to implementing reforms that save individuals who are incarcerated and their families an estimated $1.1 million per year.[163] Nevada's moves are a significant step in the right direction and could serve as a model for other states looking to end medical debt for incarcerated individuals.

B. California and Other States Are Expanding Medicaid Coverage for Incarcerated Individuals Prior to Release

The Medicaid Inmate Exclusion Policy prevents Medicaid reimbursement for most types of medical care provided to individuals while they are incarcerated.[164] However, Section 1115 Medicaid waivers allow states to seek approval to deviate from the federal Medicaid rules if their proposed approach meets the objectives of the Medicaid program.[165]

California used the Section 1115 waiver process to become the first state to receive approval to provide Medicaid coverage to eligible incarcerated individuals up to 90 days prior to their release.[166] California went through a lengthy negotiation with the federal Centers for Medicare & Medicaid Services (CMS) to get approval for the program. California's program offers an innovative model to address gaps in healthcare coverage for individuals as they return to their communities while reducing healthcare costs for prisons associated with care provided shortly before release.

People leaving incarceration are at high risk of suffering severe health events.

People leaving incarceration are at high risk of suffering severe health events.[167] California's program, which began in January 2023, ensures that participants have continuing health coverage and access to prescriptions immediately upon release, helping prevent the accumulation of future medical debt and ease the transition back into the community. The program also provides Medicaid reimbursement for different healthcare services in participants' last 90 days of incarceration, shifting the burden of healthcare costs from the state's prison system and incarcerated individuals to the federal government and reducing cost barriers that may have deterred prisons from offering (or individuals from seeking) the type of pre-release medical care that can make reentry more successful. Pre-release medical services include mental health treatment, reentry care management, and medication administration.[168]

In April 2023, CMS issued guidance encouraging states to apply for the new "Medicaid Reentry Section 1115 Demonstration Opportunity" to implement similar programs.[169] This approach has received broad bipartisan support from state and federal policymakers. Illinois, Kentucky, Oregon, Utah, Vermont, and Washington have now received approval to implement similar programs to California's to address costs and improve health outcomes upon reentry.[170] Congress also opened the door for more expansion of Medicaid coverage in the Omnibus Consolidated Appropriations Act of 2023, which allows states to use Medicaid funds to cover certain services for youth who are incarcerated pretrial.[171]

C. New Legislation Makes it Easier to Restore Medicaid Enrollment After Incarceration

In another recent win, Congress passed legislation in March 2024, under the Consolidated Appropriations Act of 2024 (CAA), prohibiting states from terminating enrollment in Medicaid due to incarceration.[172] The legislation is scheduled to take effect January 1, 2026. While individuals will remain largely ineligible for Medicaid benefits while incarcerated, the legislation will require states to suspend rather than terminate Medicaid benefits during incarceration to make it easier for people to access coverage and care post-release. Many states have already implemented similar policies, but more work will be needed to ensure that these new rules are implemented effectively across the country to prevent further loss of necessary medical coverage that contributes to rising medical debt for low-income populations.[173]

D. Proposed Rule from Centers for Medicare & Medicaid Services Would Expand Medicare Coverage to Individuals on Parole, Probation, or Home Detention

On July 10, 2024, the CMS released a proposed rule that would increase access to Medicare for justice-impacted individuals.[174] Currently, the Medicare program considers people who are not in prison or jail but who are on parole, probation, or home detention to be in the "custody" of the carceral system and, therefore, ineligible to have their medical care covered by the Medicare program.[175] If finalized as proposed, the new rule would change the definition of "custody" for the Medicare program to no longer include people who are living in the community who are on parole, probation, or home detention. This would then allow Medicare funds to be used to pay for healthcare for older adults and adults with disabilities in these situations when otherwise eligible.[176]

The proposed rule seeks to similarly revise eligibility factors for the special enrollment period for formerly incarcerated individuals to facilitate easier access to Medicare coverage upon release.[177] As discussed in more detail in Section I of this report, the special enrollment period allows people who are released from prison or jail to enroll in Medicare without facing any late enrollment penalties during the first 12 months of their release. The proposed rule seeks to change the definition of "custody" for the purposes of the special enrollment period and would allow people who are on parole, probation, or home detention to qualify for the special enrollment period. At the time this report was published, CMS was still accepting public comments, and therefore had not yet released a final rule, but this potential change could help reduce barriers for people coming out of incarceration.[178]

V. ONE STEP FORWARD, TWO STEPS BACK

A. Jails Continue to Institute New Medical Copays

While many now recognize the problems associated with carceral medical debt,[179] progress is uneven, and some officials are instituting copays and fees for the first time to attempt to cover increasing costs.

For example, on February 1, 2024, the Vance County Jail in North Carolina instituted a new $10 copay for any non-emergency medical visit.[180] According to Vance County, a staff nurse or doctor would decide whether a visit is for emergency purposes.

Officials from Vance County claimed that misuse of the system by incarcerated individuals strained its budget, motivating them to institute a copay that is double the average for most jails and prisons across the country.[181] Reports, however, have shown that misuse was not the real reason for the budget issues; instead, one of the most significant strains on the county's budget was a result of having to find a replacement for the jail's healthcare provider late in 2022, after the previous contractor, Southern Health, abruptly canceled its contract with two weeks' notice. Further, Southern Health had raised concerns that jail officials were interfering in medical decisions about whether to send individuals off-site for care just before ending its contract.[182]

B. Ending Copay Waivers for COVID-19

The federal Bureau of Prisons and many states have ended their copay suspensions for COVID-19-related care.[183] In March 2022, Wisconsin ended its ban on medical copays for COVID-19, flu, and other respiratory illnesses.[184] Wisconsin's medical copay is one of the highest in the country at $7.50 per visit, a fee that many incarcerated individuals struggle to afford.[185] Charging copays for testing and treatment for readily transmissible diseases reduces the likelihood that people who are incarcerated will seek testing and treatment and increases the risk of disease spread both inside and outside of prisons and jails.

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C. The Corizon "Texas Two-Step"

The pending Corizon bankruptcy case may have troubling implications for the criminal justice system and medical debt related to incarceration. Corizon Health Inc. is a private

equity-backed corporation and one of the largest prison healthcare contractors in the nation, which has been accused of failing to provide adequate services to people in its care, leading to horrific patient outcomes and even, in some cases, death.[186] Corizon is attempting to split its company in two, rebranding itself as "Tehum" and "YesCare" in an attempt to shield its profits from legal claims.[187] This controversial practice in bankruptcy is known as a "Texas two-step."[188]

If courts allow companies like Corizon to engage in the Texas two-step, medical providers, correctional facilities, and incarcerated individuals may not be able to recover against these companies when they fail to pay bills, fail to provide adequate medical care, and saddle individuals with insurmountable medical debt.[189] The Department of Justice has asked the bankruptcy court to deny Corizon's attempts to avert justice.[190] Similar moves have been attempted by other large corporations, including recently Johnson & Johnson, which filed for bankruptcy to try to protect its assets from tort claims brought by cancer patients and their families.[191] Despite the Court's rejection of Johnson & Johnson's Texas two-step,[192] the outcome of Corizon's case remains to be seen, and advocates are rightly concerned that allowing the two-step will make it harder to hold companies that fail to provide appropriate carceral medical care or billing services accountable for their action.

VI. RECOMMENDATIONS

Saddling incarcerated people with medical debt leads to worse health and financial outcomes. This practice may also ultimately cost the public more money and damage public health. Despite these costs, some jail and prison systems have reinstated counterproductive copay policies or imposed new medical fees. At the same time, we are seeing positive steps towards addressing carceral medical debt. For example, Nevada passed legislation prohibiting carceral medical fees, and bipartisan support is growing for increasing Medicaid coverage during some types of incarceration and immediately post-release.

Saddling incarcerated people with medical debt leads to worse health and financial outcomes. This practice may also ultimately cost the public more money and damage public health.

Policymakers should implement reforms to lessen the impact of carceral medical debt. Some changes can be made by corrections officials and county governments without the need for legislation, while others may require regulatory or legislative action by state and federal lawmakers. To help end medical debt in the carceral system, NCLC recommends the following policy changes.

Eliminate Medical Fees and Provide Free Medical Care in Prisons and Jails

- Eliminate medical fees for people incarcerated in jails or prisons, including co-pays, man-down fees, and prescription or medical device fees.
- Provide free medical care to anyone who is incarcerated, including emergency care, substance use treatment, mental health care, and preventative care consistent with medical and public health guidelines.
- Provide free medications, medical devices, and other necessary medical and hygiene items in sufficient amounts to incarcerated people.
- Prohibit medical bond programs in which incarcerated individuals are released temporarily to receive medical treatment at their own expense and then rearrested after they receive care.
- Enact improvements in enforcement and oversight of carceral healthcare systems and appoint an independent healthcare ombudsman to resolve patient care issues.
- Implement or expand existing medical parole compassionate release programs.

Stop Collection of Carceral Medical Debt

- Require jails and prisons to track and publish data on medical fees charged per individual, the amount collected, and the costs to collect those fees.
- Stop involuntary collection of medical debts from incarcerated peoples' trust accounts and commissary funds.
- Institute effective appeals processes for incarcerated individuals to challenge carceral medical bills.
- Prohibit credit reporting and third-party collection of medical debts incurred due to incarceration.
- Cancel outstanding carceral medical debt.

Prevent Private Contractors from Profiting off of Incarcerated Individuals, Jeopardizing Their Health and Financial Well-being

- Eliminate private equity and for-profit healthcare contractors in prisons and jails.
- Prevent private prison and jail contractors from engaging in "Texas two-step" bankruptcy fraud to shield their profits from claims filed by incarcerated and formerly incarcerated individuals and medical providers.

- Prohibit commissary markups on daily essentials in prisons and jails, including food, medical, hygiene, and healthcare items.

Increase Access to Medicaid and Medicare in Prisons and Jails

- Eliminate the "Medicaid Inmate Exclusion Policy" and other policies that limit access to Medicaid and Medicare coverage for carceral healthcare.
- Create and support programs to help incarcerated individuals secure healthcare coverage, including Medicaid and Medicare, necessary medical appointments, and continuing care, before release.
- Ensure effective implementation of new rules, set to take effect on January 1, 2026, prohibiting states from terminating Medicaid enrollment upon incarceration.

VII. CONCLUSION

There has been increasing public attention to how medical debt impacts individuals and society, which has led to significant progress in addressing the larger medical debt crisis. This includes recent efforts by several states and the CFPB to attempt to ban reporting of medical debts on credit reports. Advocates and policymakers at the state and federal levels should continue to build on this momentum and ensure that people impacted by carceral medical debt are considered and included in more general medical debt reforms. Addressing carceral medical debt is crucial to ensuring fair and equitable access to healthcare for incarcerated individuals and to reducing the overall burden of medical debt. Without additional reforms, individuals in jails and prisons will continue to suffer significant financial and health consequences.

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