



THE ReCOREder

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Editors Note: Included in this issue is an excerpt from Collector magazine, dated August, 2006 entitled, "ACA Releases Landmark Study on Debt Collection Industry's Economic Value." Many of our clients are reluctant to turn accounts to collections; however, it is a necessary process in order to keep costs down and remain financially viable. By trying to perform the complete collection function yourself, you may risk increased liability and possible damage to your public image. Unless your staff is thoroughly trained in everything from consumer debt counseling to state and federal credit and collection laws, the potential exists to mishandle accounts and lose future patients. As always, we welcome your comments and suggestions. Please email them to support@corerecovery.biz.

Bankruptcy Update: Filings Increase; New Law Challenged

The passage of the Bankruptcy Abuse Prevention and Consumer Protection Act on October 17, 2005 essentially halted new bankruptcy case filings. Since then, reports indicate that filings have increased at least four-fold since the initial slowdown and are continuing to trend upward. Industry and legal experts maintain that the financial pressures on consumers that drove bankruptcy filing prior to the passage of the new legislation remain and will continue to strain the American consumer for the foreseeable future.

These factors that negatively impact household budgets include:

- Increasing credit card and other unsecured debt balances;
- High interest rates and penalties;
- Larger minimum payments;
- The continued absence of financial sophistication by the average American;
- Increasing numbers of Americans without adequate health insurance

In addition, there are other emerging obstacles to solvency such as increasing mortgage interest rates, teaser mortgage rates set to expire and higher energy and gasoline costs.

Credit Counseling Required

Despite the increase in filings, access to the bankruptcy courts is notably more difficult. Case in point: The credit counseling requirement. Anyone contemplating filing for bankruptcy must undergo credit counseling at his or her own expense. The national Foundation for Credit Counseling has stated that credit-counseling agencies are becoming inundated with requests for pre-bankruptcy services.

Attorneys at Risk

Consumer bankruptcy attorneys are also feeling the impact of the new bankruptcy legislation, and are finding themselves faced with increased legal exposure. A recent lawsuit filed by the Connecticut Bar Association and the National Association of Consumer Bankruptcy Attorneys against the United States challenges constitutionality of the "debt relief agency" provision of the new bankruptcy laws as it applies to attorneys.

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According to the complaint, the US Justice Department has taken the position that attorneys are “debt relief agencies” as defined by the Bankruptcy Code. The effect of this, according to consumer attorneys, is that they are constrained in the advice they can give their clients. For example, “debt relief agencies” are prohibited from advising that an individual incur more debt in contemplation of bankruptcy. However, the Code does not have a blanket prohibition of the practice and the circumstances in which a client obtaining more debt is not only permissible but in the best interests of the prospective debtor.

“Debt relief agencies” are also required to provide lengthy written statements to assisted persons, which, according to consumer attorneys, contain incomplete and inaccurate explanations of the bankruptcy system. Finally, bankruptcy attorneys must place the following statement in advertising media: “[w]e are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.” The lawsuit contends that these requirements impair the attorneys’ ability to give accurate and complete legal advice, alter client-attorney relationship and mislead consumers by implying that there is no discernable difference between attorneys and “debt relief agencies.”

Whether the consumer bar will succeed through this lawsuit in obtaining an exemption from the requirements placed upon “debt relief agencies” remains to be seen. However, at a time when demand for bankruptcy practitioners is increasing, relieving some of the burdens on consumer attorneys created by the new legislation may have to be accomplished one way or another.

ACA International released a new study on June 28, 2006 that demonstrates, for the first time, the value of the third-party collection industry to the U.S. economy. The landmark study reveals that the industry returned \$39 billion in 2005 to businesses that extend consumers credit.

Included in the price of all goods and services is the cost of business losses arising from bad debt. Consumers benefit from the work of debt collectors through real reductions in prices and greater purchasing power. The study reports that the amount of debt returned by collection agencies in 2005 saved the average American household \$351. This amount represents dollars households would have spent if businesses were forced to raise prices to cover bad debt.

“The annual savings is the average household equivalent of 19 bags of groceries, 155 gallons of gas or more than four months of electric bills,” ACA Chief Executive Officer Gary Rippentrop said. “We would all pay higher prices to cover the unpaid bills of others if they were not collected.”



Gaps in Coverage More Common

Survey: Moderate to middle class affected

Are you seeing more under- or uninsured individuals in your facility or medical practice? If so, it is not surprising, according to a new study. Two of five (41 percent) working-age Americans with incomes between \$20,000 and \$40,000 a year were uninsured for at least part of the past year—a dramatic and rapid increase from 2001 when just over one quarter (28 percent) of those with moderate incomes were uninsured, according to a new report from The Commonwealth Fund, *Gaps in Health Insurance: An All-American Problem*, prepared for the Fund’s Commission on a High Performance Health System.

Lower-income adults were still the most likely to be uninsured. The vast majority of the uninsured are in working families: of the estimated 48 million working-age Americans uninsured during the year, 67 percent were in families where at least one person was working full time.

“The jump in uninsured among those with modest incomes is alarming, particularly at a time when our economy has been improving,” said Commonwealth Fund president and study co-author Karen Davis. “If we don’t act soon to expand coverage to the uninsured, the health of the US population, the productivity of our work-force and our economy are at risk.”

Paying Medical Bills

The study finds a startling number of adults are now grappling with medical debt—unpaid medical bills. One of five adults, (21 percent) including insured and uninsured, currently has medical debt they are paying off over time and one third (34 percent) either had medical bill problems in the past year or were paying off accrued medical debt. The survey of adults ages 19 to 64 reveals that medical debt is not an issue for the underinsured alone. Nearly two thirds (62 percent) of adults with medical bills or debt problems said that they or their

family members were insured when they incurred the debt.

For an uninsured person who is unlucky enough to get sick, it is easy to see how quickly they can fall into a downward spiral of debt, forgone care and poorer health.

This would also explain why there has been an upsurge in the number of personal bankruptcies, too.

Efficiency Suffers

Researchers also found that being uninsured exacerbates existing problems with efficiency in health care. The uninsured are less likely than the insured to have a regular doctor and are more likely to endure the effects of our fragmented health care system as they move from one place of care to another.

Other key survey findings that impact health care providers include the following:

- ◆ More than two of five (44 percent) of all working-age adults with medical debt reported it was \$2,000 or more.
- ◆ More than four of five (82 percent) uninsured adults had been uninsured for one year or more.
- ◆ 63 percent of working uninsured adults were solo business owners or were working for firms with fewer than 100 employees.
- ◆ More than half (51 percent) of uninsured adults reported medical debt or bill problems. Of those, nearly half (49 percent) used up all their savings to pay their bill and two of five were unable to pay for basic necessities like food, heat or rent because of medical bills.





Halloween Humor

One Halloween Trick-or-Treater came to my door dressed as “Rocky” in boxing gloves and satin shorts. Soon after I gave him some goodies, he returned for more. “Aren’t you the same ‘Rocky’ who left my door just several minutes ago,” I asked? “Yes”, he replied, “But now I’m ‘Rocky II’.”

You might be a redneck if the pumpkin on your porch has more teeth than your spouse.

Why don’t witches fly when they’re angry? They’re afraid they’ll fly off the handle.



Sources: “Bankruptcy Update: Filings Increase; New Law Challenged”, *Health Care Collector* August 2006.

“Gaps In Coverage More Common”, *Health Care Collector* August 2006.

Disclaimer: This information is not presented to be used as legal or professional advice on specific facts or matters. Readers with specific questions should refer them to their attorneys.

