

January 28, 2020

Ted Doolittle,
Chair of the High Deductible Task Force

Mr. Doolittle

I am writing to add some information about potential reforms to the judicial process related to the collection of medical debt in the Small Claims court system. Attention to this matter is in keeping with one of the Task Force areas of inquiry: *"Measures to ensure that each cost-sharing payment due under a high deductible health plan and paid by an enrollee at the time of service accurately reflects the enrollee's cost-sharing obligation for such service under such plan"*. To the extent that a high volume of law suits to recover past-due medical debt affect people with high deductible plans we recommend the following reforms.

1. Require the institution of the proposed 'Small Claims Judgment Checklist' for Magistrates which sets forth a tickler series of questions for Magistrates to review and verify before judgment is rendered. The use of the Checklist helps ensure that expected standards for evidence are being met and that the public can be confident that they are being served with consistency and fairness. Those standards should include assurances that the following situations do not occur: (a) knowingly bringing suit beyond the statute of limitations, (b) failing to verify the defendant's address, (c) using an address at which the defendant is known not to reside, (d) failing to report to the judicial authority that a mailing was returned by the U.S. Postal Service as undeliverable, (e) filing improper attorney's fee or interest claims, and (f) failing to file an appropriate military affidavit. These are recommendations once considered but not adopted by the Centralized Small Claims Steering Committee as early as 2009. (See Meeting Minutes March 3, 2009)

More recently the Health Disparities Institute in collaboration with the Office of the Healthcare Advocate initiated discussions with the Administrative Branch of the Judicial Branch to add transparency to the Small Claims process by adding the wording shown below to the **Answer** form, which is sent to the defendant/s after the *Writ and Notice of Suit* has been filed and then delivered to the defendant. The defendant returns the completed **Answer** form to the Small Claims Court and sends copies to the plaintiff/s or their representative/s. Defendants will have the option of checking the box next to the statement.

- ☐ This claim is for medical expenses. The defendant/s requests a debt validation notice from the plaintiff/s detailing individual items for which debt is claimed (CT Practice Book 2017 Sec. 24-20A, FDCPA 15 U.S. Code § 1692). Furthermore, the defendant/s requests a continuance of 60 days for the plaintiff/s to provide the requested documents and subsequent review of these documents by the defendant/s. (CT Practice Book 2017 Sec. 24-15).

In addition, it may be useful to develop a form that standardizes the reporting of the itemized costs information (i.e. debt validation notice) being requested by the defendant. The language and the format of such standard report should be readily understandable by the average consumer. The plaintiff would use this form to report the specific medical expenses for which the plaintiff is suing.

2. I also want to bring to your attention to two errors in the draft, the first is an inadvertent error in my slide deck (slide # 28). The sentence "Between 2011 and 2015, providers filed 85,136 small claims actions and obtained judgments totaling over \$110 million, most of the time without any appearance from the defending patient". The sentence should more accurately state: "Between 2011 and 2016, providers filed 85,136 small claims actions *seeking recovery of debt totaling over \$110 million*, most of the time without any appearance from the defending patient". I will submit a corrected version of slide #28 for your records.

Thank you for your consideration to these matters

Respectfully submitted

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Cc/Dherri Koss and member of the HDHP Task Force