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Medical Bankruptcy:
Middle Class Families at Risk

by

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Introduction

No family wants to file for bankruptcy. Bankruptcy is an unmistakable sign of failure; an indelible mark that will be remembered long after the creditors have moved on and the court records have been archived.

For a family facing bankruptcy in the aftermath of a medical problem, the pill is especially bitter. Whether the problem was one of chronic disease or sudden accident, the typical family is already exhausted when it tries to cope with unpaid bills, indecipherable charges, a maze of insurance payments and denials, and time lost from work. Financial problems piled on top of health problems can be overwhelming.

For too many hard-working middle class families, a single diagnosis or accident can mean financial ruin. Even a relatively routine problem such as an appendectomy or the long-term care of diabetes can over-stretch a family's budget. Today, I will focus on data developed by my coauthors[1] and myself that document the difficulties facing these families. I will also briefly note other studies with different designs and different populations, taken over somewhat different time periods. These studies reveal similar problems.

Together, the work of many researchers strongly suggests that America is facing a crisis in health care. The current system for paying for medical care is bankrupting hard-working, middle class families. Since 2000, an estimated five million families have filed for bankruptcy in the aftermath of serious medical problems.[2] According to economists, for every family filing for bankruptcy, another sixteen families are in serious enough financial trouble that they would benefit from bankruptcy if only they were more willing to file.[3] The current health care finance system is bankrupting hard-working, play-by-the-rules American families.

The families that file for bankruptcy not concentrated among the chronically poor. Instead, they are people who have been to college, who have gotten decent jobs, and who have bought homes and started families.[4] Most are wage-earners, although about one is seven has started a small business.[5] In other words, when measured by the most enduring criteria, they are our neighbors and friends, a sample of middle class and working class America. Right up until the bills piled up or the time lost from work left them unable to cover basic expenses, most of these families never dreamed they would end up in a bankruptcy court.

Filing for Bankruptcy in the Aftermath of Medical Problems[6]

About half of all families filing for bankruptcy do so in the aftermath of a serious medical problem.[7] This was the conclusion of Drs. Himmelstein, Thorne, Woolhandler and myself in a scholarly article published in *Health Affairs*.[8] We reported on the concept of a medical bankruptcy—that is, a bankruptcy filing that was significantly influenced by

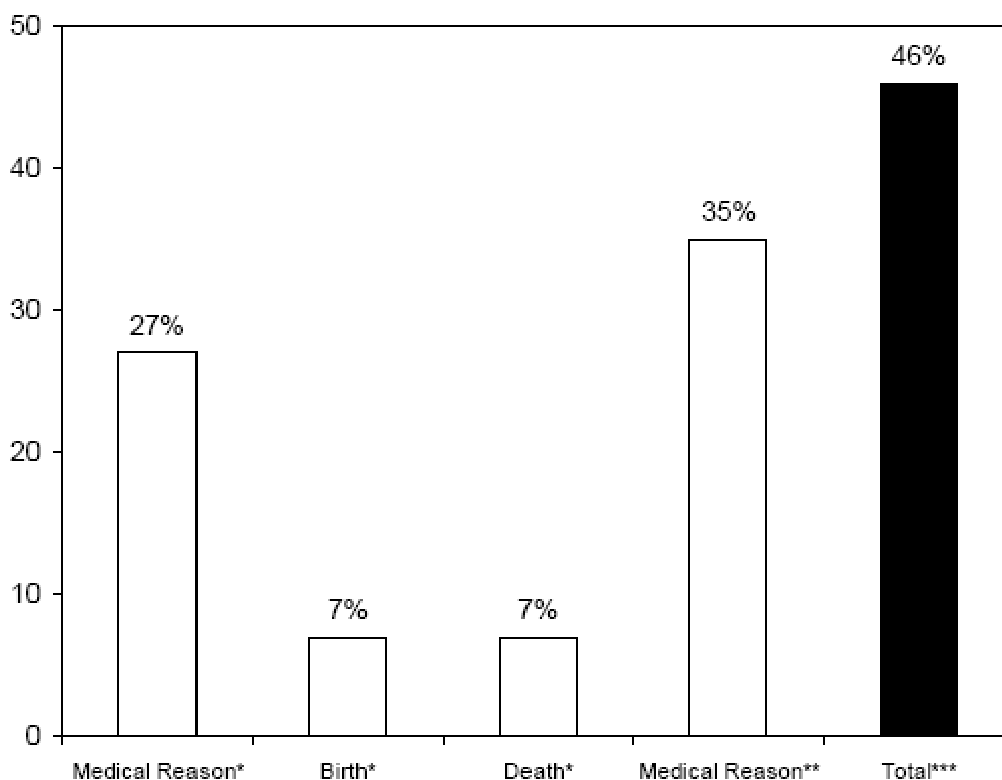
the medical problems facing someone in the family. The research for that article, as well as for subsequent work by Professor Melissa Jacoby and myself, was grounded in the 2001 Consumer Bankruptcy Project. Details of that study are available in several publications.[9] I am here today to provide more analysis of those data and to summarize other studies of the relationship between getting sick and going broke.

The research method for the Consumer Bankruptcy Project relies heavily on self-reporting by debtors through written questionnaires and extended follow-up telephone surveys. It is possible that debtors perceive the role of medical problems differently from an omniscient observer. Some might overstate the role of ill health, believing it to be a more acceptable explanation than, for example, overspending.[10] Overstating is more difficult in the context of highly detailed questions over a period of time, as in the telephone surveys, but nonetheless is possible.[11] Of course, the role of medical problems may be understated in other respects. Some filers did not finish the written questionnaire and thus did not respond at all to the last question that asked them to indicate reasons for their bankruptcy filings; we count them as not having a medical reason for filing on the basis of their non-response, although in reality we do not know that to be the case.[12] In addition, some debtors did not characterize their problems as medical-related even when health difficulties set their problems into motion. For example, some explained their bankruptcy filings as attempts to save their homes from foreclosure; only later, in detailed questioning, would it emerge that the now-defaulted mortgage had been taken out to pay big medical bills. Others attributed financial downfall to large credit card debts or time off from work, obscuring what others might have considered medical reasons. In addition, debtors who participated in the telephone survey had a disincentive to report medical-related financial problems. Any respondent who said that medical problems did not play a role in their bankruptcies was not required to sit through another half an hour's worth of probing and sometimes embarrassing questions.[13]

For these and other reasons, it is challenging to determine which debtors can be said to have "medical bankruptcies."[14] We recognize that different researchers might make different judgment calls about which debtors should be included in this category and which should not. To make the data as useful as possible for the Congress and for other readers and policymakers, various breakdowns of the data are offered here.

In the written survey, about 27% of the debtors from the core sample indicated illness or injury as a reason for filing bankruptcy, 7% identified the birth of a child as a reason for filing bankruptcy, and another 7% explained that a death in the family -- which studies in the past have interpreted to have a medical component -- precipitated their filings.[15] Among those from the core sample who also took the telephone survey, about 35% of the debtors indicated that illness or injury of self or family member, addition of a family member, or death of a family member as a reason for their bankruptcy filings.[16] Debtors were asked a similar question in the telephone survey. When responses from the written questionnaires are combined with the telephone surveys, about 46% self-identified a medical reason of some kind (birth, death, illness, or injury) among their reasons for filing bankruptcy.[17]

Figure 1: Debtors Identify Medical Reasons Behind Bankruptcy Filing

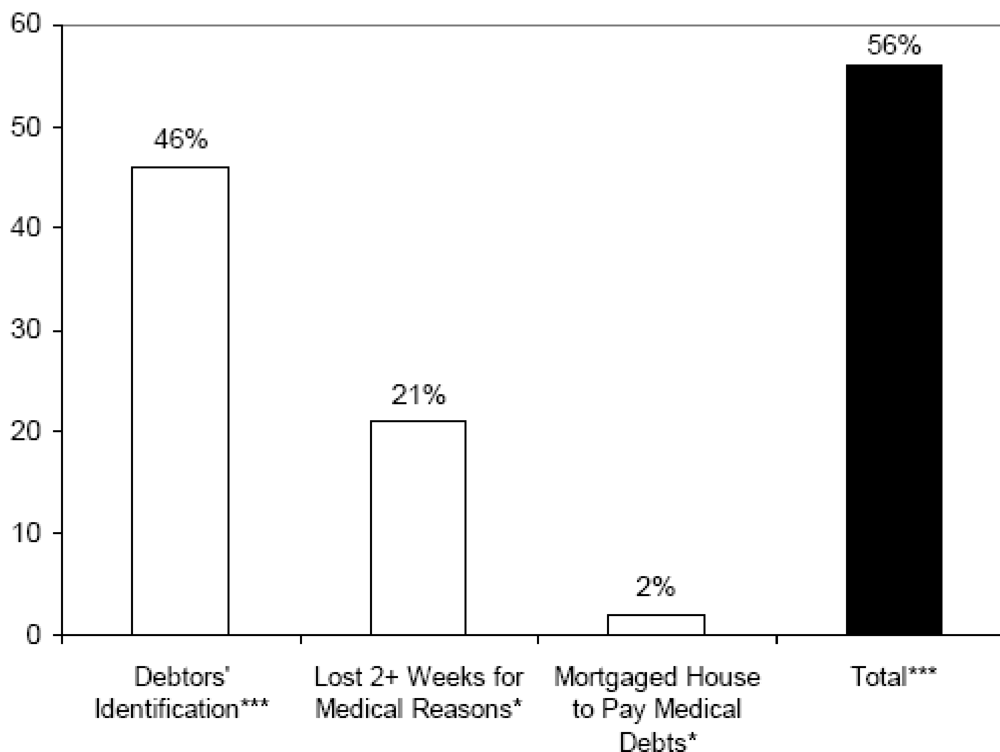


*Source: 2001 Consumer Bankruptcy Project (*Written Questionnaire, N = 1250; **Phone Survey, N = 602; ***Phone/Written Combined, N = 602)*

Our study collected other indications of medical-related financial distress whether or not the debtor self-identified medical reasons for filing. In the written questionnaire, about one in five debtors (21%) from the core sample indicated that they had lost at least two weeks' income because of a medical problem.[18] For some, the primary wage earner was ill, and for others, it was a child, spouse or elderly relative who required care. Either way, we surmised that the loss of at least two weeks' income constituted a hard financial blow for families with modest incomes.

Some filers mortgaged their homes in order to pay off medical debts. The numbers were modest—2% of the total sample, about 4% of the homeowners surveyed—but the impact on the family finances could be quite serious.[19] Many of those who mortgaged their homes or lost time from work self-identified as filing for bankruptcy at least in part because of medical problems. But some did not. Combining the data from self-identifiers, as depicted in Figure 1, with these other filers increases the total percentage of medical-related filers to 56%.

Figure 2: Medical Reasons Plus Medical-Related Job Loss and Mortgages

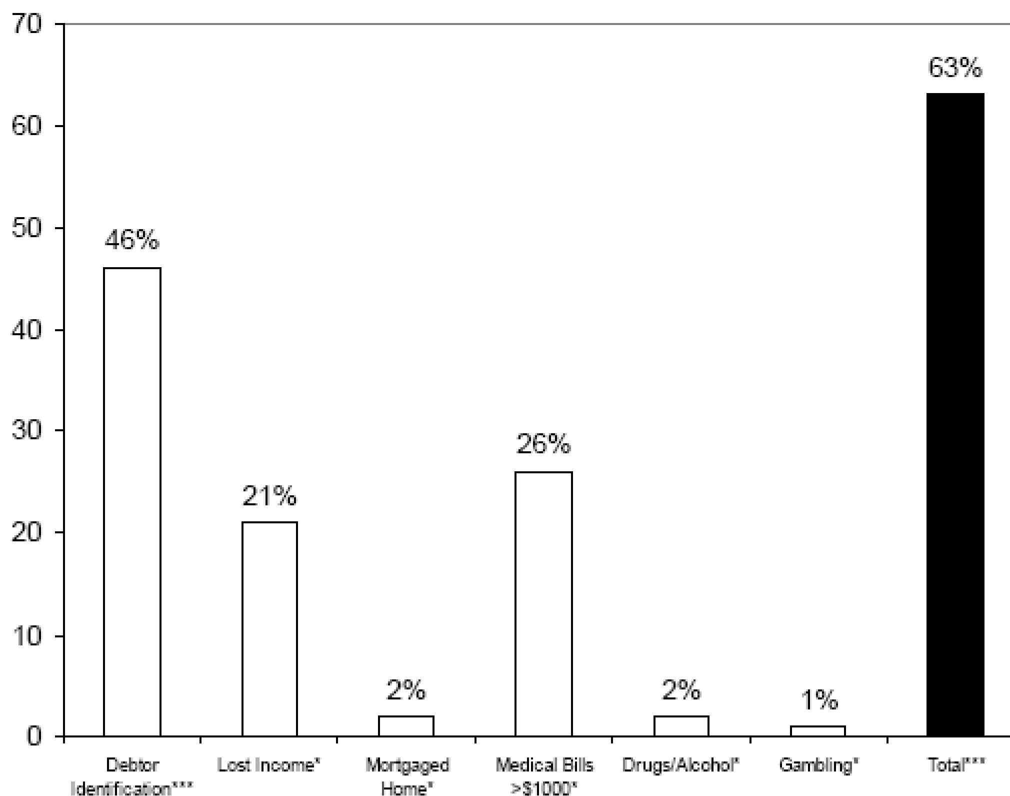


Source: 2001 Consumer Bankruptcy Project
*(*Written Questionnaire, N = 1250; ***Phone/Written Combined, N = 602)*

Other responses from filers also produce inferences of medical-related financial problems. For example, some researchers may want to include the 2% of the sample that identified alcohol and drug problems as a reason for filing.[20] For parents who explained that that they had bankrupted themselves putting their teenaged children through substance abuse rehabilitation programs, this would seem to be an appropriate inclusion. Similarly, other researchers would want to include the 1% of the sample who identified a family member's gambling problem as a reason for filing, recognizing that some families get left behind financially when a spouse or parent goes on a gambling binge, loses the house, and leaves everyone deep in debt. In addition, about a quarter (26%) of the debtors in the core sample reported having medical bills in excess of $1,000 that were not covered by insurance in the two years before filing.[21]

Not all researchers would agree with a decision to include filers from these three categories in counting medical-related filings if the respondents did not also offer other indications of medical-related bankruptcy filings, as reported in Figure 2. To make the data as accessible as possible, we present our report both ways. If we exclude these three measures, the proportion of families filing for bankruptcy in the aftermath of a medical problem is 56%; if they are included, the number climbs to 63%.

Figure 3: Medical-Related Bankruptcy - All Sources



Source: 2001 Consumer Bankruptcy Project
*(*Written Questionnaire, N = 1250; ***Phone/Written Combined, N = 602)*

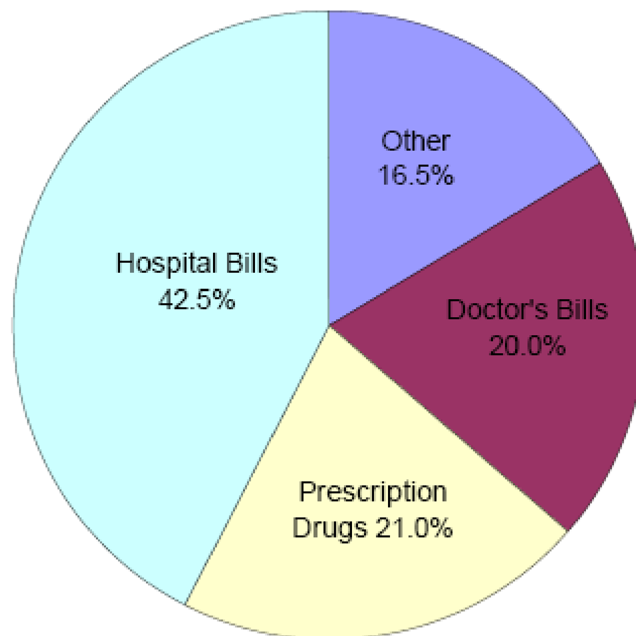
By any analysis, this study documents that a substantial number of families file for bankruptcy in part to deal with the fallout from medical problems. If the proportions we observed in the 2001 Consumer Bankruptcy Project were representative of bankruptcy filers nationwide, this would mean that an estimated 668,000 to 915,000 families filed for bankruptcy in a single year, 2001, at least in part due to medical-related financial distress.[22] These numbers pale in comparison with the debtors who have similar problems but who stay out of bankruptcy.[23] By any analysis, the indication of widespread economic stress is unmistakable.

Sources for Medical-Related Indebtedness

No doubt, hospital bills can be burdensome financially. Among a subset of the telephone survey medical sample who indicated that they incurred a significant medical debt, 42.5% identified hospital bills as the single biggest expense,[24] and some of these people might fit the profile of the patients featured in the news media. The role of hospital bills must be kept in perspective, however. If 42.5% of these filers identified

hospital bills as their single biggest expense, there would still be nearly 60% whose biggest expenses were something other than a hospital bill. For example, as shown in Figure 4 below, about one fifth (21%) identified prescription drugs as their biggest expense.[25] One fifth (20%) identified doctor bills as their biggest expense.[26]

Figure 4: Largest Bills Not Covered by Insurance Among Filers with Significant Medical Expenses



Source: 2001 Consumer Bankruptcy Project (Phone Survey, Valid N = 196)

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The fact that hospital bills are one of many type of significant medical expense for individuals of modest means should not be surprising. For example, consumer's out-of-pocket payments to hospitals are a tiny fraction of overall out-of-pocket payments in the United States.[28] Doctor visits far exceed hospital visits.[29] Studies in the medical literature have emphasized the role of non-hospital medical expenses when they evaluate cost-related under-use of health services and drugs.[30] In one recent study, the overwhelming majority of older Americans in the study reported no out-of-pocket expenses for hospital or nursing home care, but most had other kinds of out-of-pocket medical expenses.[31]

Many families turn medical bills into ordinary consumer credit. About three in ten (29.3%) of cases from the telephone survey medical sample reported use of credit cards for medical expenses.[32] Although the data are not sufficiently detailed to determine whether the bills were big or small, paid off quickly or strung out over time,[33] this percentage suggests that a substantial portion of the debt listed in bankruptcy may appear

to be for ordinary consumption when, in fact, it is for medical services that were paid with ordinary credit.

Some families go into debt more deeply to try to pay medical bills. About 2% of all homeowners in the written questionnaire sample mortgaged their homes to pay medical bills.[34] Among homeowners who had taken second or third mortgages on their homes, 15% had taken this step to finance their medical expenses.[35] In the telephone survey medical sample, 13.8% of bankrupt homeowners with high cost mortgages cited a medical reason for the loan.[36] They have taken a trip through bankruptcy and may owe nothing directly to a health care provider, but these debtors will lose their homes if they do not repay this medical-related mortgage debt in full.

Bankruptcy filers are not alone in their use of consumer credit for medical expenses. Nationally representative studies have found families using personal loans, credit cards, and mortgages to finance medical bills.[37] According to Visa, patients charged $19.5 billion in health care services to Visa cards in 2001, which was made possible by the fact that most medical practices now accept credit cards.[38] A study by Demos reported that 29% of low and middle income households with credit card balances reported that medical expenses contributed to their current debt loads.[39]

In addition to the use of general purpose credit for medical care, medical providers may have unpublicized and informal relationships with lenders to provide credit to their patients to finance their care.[40] Further, lenders offer medical-specific products. Examples of medical-specific credit products and receivables arrangements with providers include the Citi® Health Card,[41] CareCredit (a division of GE Retail Sales Finance),[42] AccessOne,[43] MedCash,[44] Pxpert,[45] the King Thomason Group TotalCare Medical Accounts Receivable Credit Card Program,[46] the HELPcard,[47] MediCredit,[48] and HelpEZ.[49] The Federal Trade Commission has noted the existence of a "well-established market" for medical-specific loans.[50]

Studies that focus solely on court records fail to capture the information from the debtors about the source of the purchases that have resulted in high credit card bills or second mortgages. As such, these studies substantially understate the actual impact of medical costs on families.

Income and Medical Debts

The bankruptcy data contain several indicia that medical-related indebtedness is not just a consequence of direct medical bills. For example, bankruptcy filers sometimes indicate illness or injury as a reason for filing even if they do not indicate personal liability for large medical bills.[51] As noted earlier, about one in five debtors (21%) from the core sample indicated that they had lost at least two weeks' income because of a medical problem.[52]

Among those who had identified a medical reason for filing in the telephone survey sample, four out of ten (40.1%) of the families said that medical debt was *not a factor at all* in their decision to file.[53] Half (50.8%) said that prescription drug costs were not a factor at all.[54] But slightly more than seven of ten (71.6%) reported that income loss due to health problems contributed "very much" to their bankruptcies and another 8.6% said income loss contributed "somewhat" to their bankruptcies."[55]

The long-term diagnoses of the filers reinforce the role that income loss may continue to play in their financial outlook. Slightly over half (51.7%) of the medical problems identified in the telephone survey sample involved ongoing chronic illnesses, some of which may continue to complicate earning capacity.[56] Although we cannot prove that the filers' health conditions made them disabled in accordance with applicable definitions, only 21.2% of the ill people employed at the time of illness onset in the telephone survey medical sample reported that their employer had offered them long-term disability insurance coverage,[57] and only about 15% of that same sample reported actually having some form of long-term disability insurance coverage.[58]

Complicating the role of income loss is the fact that the bankruptcy filers often were not themselves the ill or injured person but they lost income while taking care of sick relatives.[59] Of the medical bankruptcy filers who had curtailed paid employment as a result of a medical problem, more than half (52.8%) did so to take care of someone else.[60] In 13.3% of the medical bankruptcy cases involved in the follow-up telephone survey, primary earners were trying to take care of a sick child.[61] The filers tell stories of premature births and chronically ill or disabled children with constant care needs. Among those in the sample were parents who reported missing months of work when a child with spinal bifida required repeated operations, when a baby was born with heart defects, or when an infant with sickle cell anemia needed special care.[62] A parent faced substantial work disruptions because of an autistic child, and yet another lost income to deal with an epileptic child.[63] A child with severe bipolar and anxiety disorder required twenty-four hour monitoring, leading first to significant leaves of absence and eventually job loss for the child's mother.[64] After being told by doctors that their son with kidney problems would die, one set of parents moved the entire family to a different state with hopes of better treatment and a different prognosis.[65] Some bankruptcy filers reported caring for the children of their seriously ill siblings.[66]

Other filers reported losing income to care for spouses, aging parents, or other relatives. One man reported caring for his wife while she battled lung cancer, while another went back to work only after his wife had three operations in six months and finally was able to walk down the hallway of their home without his help.[67] An adult daughter struggled to help with her mother's medical bills not covered by Medicare and eventually took unpaid family leave so she could take her mother for medical treatments.[68] Adult children temporarily or permanently moved in with parents to help them cope with the effects of Alzheimer's disease or terminal illnesses.[69] One man cared for an uncle with cancer while trying to raise a toddler grandson and assist his son with college.[70]

The statistics and stories show another side of the health care debates. The financial impact of a serious medical problem can reverberate through a family in many ways. A comprehensive health care finance policy deals with both direct medical costs and the indirect costs of time lost from work.

Other Studies of Medical Bankruptcy

A number of other researchers have explored the connection between medical and financial problems. They point in a similar direction as the Consumer Bankruptcy Project.

Perhaps the closest study is a single district study out of Utah in 2004. Researchers Ezekial Johnson and James Wright studied 281 bankrupt families.[71] They discovered that 61% of families cite medical problems as a major reason for their financial troubles. They note the higher-than-average citation of medical reasons in Utah as possibly linked to the state's low expenditures on health care and the increased likelihood of no health insurance for Utah families. They compare these data with other states that have lower filing rates and better support for families with medical problems.

Johnson and Wright's study followed an earlier study of Utah families in bankruptcy conducted by the Salt Lake Tribune.[72] Researchers analyzed court records for 1,053 randomly selected bankrupt families from June 2003 to June 2004, and concluded that 60% of the families were in bankruptcy because of unpaid medical bills. A more recent study of Utah families by the United Way reached a similar conclusion.[73] This statewide telephone survey of nearly 2000 households plus focus group with 55 Utah citizens concluded that healthcare and job-related factors were most cited as affecting financial stability.

In another study of bankruptcy families, Ning Zhu studied 1,667 Chapter 7 cases and 1,089 Chapter 13 cases filed in 2003 in Delaware. This project used only court record data, so it could not provide a comprehensive look at the number of bankrupt families with medical problems. But the court record data alone showed that large medical bills led to a 50% increase in the likelihood of filing for bankruptcy.

In a study of 279 bankruptcy cases filed in Champaign County, Illinois in December 2001, 58% of the filings involved medical debt. Researchers Claudia Lenhoff and Brooke Anderson noted, "This number does not include medical debt that was paid for with credit cards or by borrowing from a loan company." Claudia Lenhoff and Brooke Anderson, Champaign County Health Care Consumers' Medical Billing Task Force, Medical Debt in Champaign County (April 2003).

A recent regional study of debtors filing for bankruptcy concentrated on low-income families. Trilby de Jung studied 348 families seeking help at bankruptcy clinics in Albany, Syracuse, Rochester and Buffalo, New York in 2005.[74] Among the

respondents, 58% had medical debts, and 36% experienced a loss of income associated with their medical problems.

Some researchers have focused on the financial impact of particular illnesses. A 2006 USA Today, Kaiser Family Foundation, and Harvard School of Public Health survey of households affected by cancer documented that 3% of these families had declared bankruptcy and 7% had taken a second mortgage on their homes.[75] In addition, 13% were contacted by a collection agency over their medical debts. One quarter of the families said they had used up all their savings dealing with the fallout from cancer, and one-tenth could not afford basics such as food, heat and housing.

Researchers Deanna L. Sharpe and Dana Lee Baker explored the financial impact of having a child with autism.[76] The authors cite several stories of uncovered health expenses and the families' increasing need to file bankruptcy.

In an American Enterprise Institute study, Aparna Mathur analyzed data from the Panel Survey of Income Dynamics, using longitudinal data to examine the relationship between medical problems and bankruptcy.[77] The PSID data focused on 74 families who admitted to filing for bankruptcy.[78] The dataset includes the debtor's explanations for why they filed for bankruptcy, but Mathur bypassed these data, examining only the reported reasons for incurring specific debts. Mathur concluded that medical debts were significantly related to bankruptcy filings, although they were often not the main reason for filing. Mathur sets the floor at 27% of bankruptcies as caused primarily by medical problems, while other debtor's medical problems, job problems and other difficulties are tangled together.

Other Studies of Economic Pressures Associated with Medical Problems

There are a number of studies that do not focus specifically on bankruptcy, but they draw the connection between medical and financial problems. In effect, these are the studies that show, at least in part, why so many families end up in medical bankruptcy. Michelle M. Doty, Jennifer N. Edwards, and Alyssa L. Holmgren conducted a national telephone survey in 2003-04 for the Commonwealth Fund.[79] They studied 4,052 households. Among the key findings:

- 77 million Americans age 19 and older—nearly two of five (37%) adults—have difficulty paying medical bills, have accrued medical debt or both within past three years.
- Working-age adults incur significantly higher rates of medical bills and debt problems than those 65 and older, highest rates among uninsured. Even those with health insurance have significant trouble.
- 2/3 of people with a medical bill or debt problem went without needed care because of cost—nearly three times the rate of those without these financial problems.

- 21% of all non-elderly adults have been contacted by a collection agency over a medical bill within past 12 months. (The rates were 35% for the uninsured and 15% for those with insurance.)

How medical debt becomes credit card debt was the subject of a study by Cindy Zeldin and Mark Rukavina for the Demos Foundation and The Access Project.[80] They surveyed 1150 low and middle income households with credit card debt, documenting that 29% of those households with credit card debt reported that medical expenses contributed to their current level of credit card debt. Among the "medically indebted," the study found:

- 69% had a major medical expense in the previous three years. Within this "medically indebted" group
- 44% had credit card debt higher than $10,000 and 57% had credit card debt higher than $5,000.
- Average credit card debt for the medically-indebted was higher for low- and middle- income households ($11,623) as compared to households without a major medical expense ($7,964).
- Average credit card debt was higher for those without health insurance ($14,512) than for those with health insurance ($10,973).
- Average credit card debt was higher for households with children ($12,840) than for those without children ($10,669).
- The medically indebted are more likely to be called by bill collectors than those without such medical expenses (62% versus 38%).

In a study conducted at ten community-based organizations in Baltimore City, Maryland in 2002, Thomas P. O'Toole, Jose J. Arbelaez, Robert S. Lawrence surveyed 274 adults.[81] They found:

- 46.2% reported currently owing money for medical care they received
- Average debt load per person was $3,409, almost half of the annual reported income.
- 39.4% reported they had been referred to a collection agency for a medical debt at some point in their lives
- Having medical debt significantly is associated with no medical insurance (60.1% v. 31.5%)

A study by Sydney D. Watson, Margarida Jorge, Andrew Cohen and Robert W. Seifert for The Access Project documented the difficulties families have in dealing with health care expenses. In 2006, they surveyed 383 working families living in the St. Louis, with incomes generally below $35,000. More than half—53%—of respondents currently owed money for medical care.[82] Among those who could not pay their medical debts in full, bad credit and housing problems were widespread.

Paying for Healthcare: A Primary Concern for All Americans

Just last week, Bill Novelli, the CEO of AARP, cited a Gallup Survey of 1,008 adults from April 2-5, 2007, noting that almost half of all Americans are worried about paying medical costs if they become serious ill or have an accident.[83] More than a quarter—28%—describe themselves as "very worried" and another 21% say they are moderately worried. Mr. Novelli urges the millions of AARP members to make health care reform the number one issue in the 2008 elections.

Conclusion

There are more studies, but the point is unmistakable. American families are struggling. For some who have been ill, medical bills are not a problem. They are fully covered by health insurance, they have employers who will pay them even when they are absent from work, or they have the personal resources to weather any financial fallout from their medical problems. But for millions more, our current payment system leaves families juggling bills they cannot pay, taking on debts, borrowing against their homes, and dealing with debt collectors. And for five million families in the past seven years, medical problems are part of their plunge over the financial edge and into bankruptcy.

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[1] The bankruptcy dataset discussed in this testimony was developed with generous funding from the Robert Wood Johnson Foundation, The Ford Foundation, Harvard Law School, and New York University Law School. Provost Teresa Sullivan and Professors Jay Westbrook, David Himmelstein, Robert Lawless, Bruce Markell, Michael Schill, Deborah Thorne, Susan Wachter, Steffie Woolhandler, Katherine Porter, and John Pottow played key roles in developing the bankruptcy dataset.

[2] From 2000 until the first half of 2007, 10.5 million households filed for bankruptcy. Administrative Office of the United States Courts. If about half of these families filed medical bankruptcies, as the data suggest, then about five million families made the trip to the bankruptcy court in the aftermath of a serious medical problem.

[3] Michelle J. White, Why It Pays To File Bankruptcy: A Critical Look at the Incentives Under the U.S. Personal Bankruptcy Law and a Proposal for Change, 65 University of Chicago Law Review 685, 702 (1998) (finding that about 17% of all households would benefit financially from filing bankruptcy—at a time when about 1% of households were filing).

[4] Elizabeth Warren, *Financial Collapse and Class Status: Who Goes Bankrupt?* (Lewtas Lecture), 41 OSGOODE HALL LAW REVIEW 115 (2003) (57.2% had been to college, 56.3% had jobs in the upper 80% of occupational prestige scores, 58.3% were homeowners, and 91.8% had one or more of these indicia of class status).

[5] Robert Lawless and Elizabeth Warren, *The Myth of the Disappearing Business Bankruptcy*, 93 CAL. L. REV. 745 (2005).

[6] This portion of my testimony is drawn largely from Melissa Jacoby and Elizabeth Warren, *Beyond Hospital Misbehavior: An Alternative Account of Medical-Related Financial Distress*, 100 Northwestern Law Review 535 (2006). I am grateful to Professor Jacoby for her permission to draw on this portion of our joint work.

[7] David U. Himmelstein et al., *Illness and Injury as Contributors to Bankruptcy*, HEALTH AFF. WEB EXCLUSIVE W5-66 exhibit 1 (2005).

[8] David Himmelstein, Deborah Thorne, Elizabeth Warren and Steffie Woolhandler, *Illness and Injury as Contributors to Bankruptcy*, HEALTH AFFAIRS (February 2, 2005).

[9] Both the Health Affairs article and the Northwestern Law Review article describe the study. The longest and most detailed description of the study is in the Appendix to Elizabeth Warren and Amelia Tyagi, The Two-Income Trap: Why Middle Class Mothers and Fathers Are Going Broke (2003).

[10] *See* Jacoby et al., *Rethinking the Debates*, at 384-385 (explaining over-attribution possibility).

[11] *See* Himmelstein et al, at W5-71.

[12] Of the 1,250 in the core sample, 28 did not answer question twelve. Of the total sample of 1,771 bankruptcy filings (core plus supplemental homeowner), 44 did not answer question twelve.
[13] Debtors were paid the same amount for their participation in the telephone survey ($50) regardless of how many portions they completed. Some may have refused to respond to the medical portion to end the interview more quickly, whether or not their financial had a medical component. At the margins, this might have produced under-representation in the telephone surveys.
[14] *See* figures 1-3.
[15] N = 1,250.
[16] N = 602 (debtors with both telephone survey and written questionnaire).
[17] N = 602. Note that the N drops from the questionnaire data alone (1,250 for the core sample) because the response rate on the follow-up telephone surveys was about half of all the core sample families that completed questionnaires. This means that any data that combine the paper questionnaires and telephone surveys can use only the smaller N from the telephone surveys. Because the "reasons" information is drawn from two sources instead of one, it is both different and more complete than the data reported in Himmelstein, et al.
[18] N = 1,250.
[19] N = 1,250.
[20] N = 1,250.
[21] N = 1,250. The incomes for these households in the year before filing was quite modest. The median income was about $25,000, and even at the 80th percentile, income was only slightly about $40,000. Even an unpaid medical debt of $1,000 would likely cause a strain fo many of these households. Of course, $1,000 is only the threshold number. The telephone surveys completed by a subset of the sample revealed medical debts at much higher amounts. *See* Himmelstein et al., **Error! Bookmark not defined.**at W5-70 (reporting mean out of pocket expenses of $11,854) (N=331).
[22] To estimate the number of families that will be affected, we use the data on bankruptcies from the Administrative Office of the United States ("AO") courts. We follow the AO classification of cases into "business" and "non-business," using the "non-business" classification as a proxy for the number of households filing for bankruptcy. In other work, the AO methods for distinguishing between business and non-business cases have been criticized because the count of "non-business bankruptcies" includes approximately 300,000 self-employed debtors, many of whose small businesses have failed. *See* Robert Lawless and Elizabeth Warren, *The Myth of the Disappearing Business Bankruptcy*, 93 CAL. L. REV. 745 (2005). In addition, the way in which the AO data are reported has changed over time, and this makes it difficult to evaluate trends in business and non-business filing rates from the mid-1980s. For the purposes of this work, however, the difficulties in distinguishing non-business filers from self-employed filers is less important. Whether they are wage earners or entrepreneurs, the non-business bankruptcies represent a household in financial trouble, and this is the appropriate unit of analysis here.
[23] *See, e.g.*, USA Today/Kaiser Family Foundation/Harvard School of Public Health Health Care Costs Survey, Summary and Chartpack, chart 3 (Aug. 2005) (reporting that only small percentage of sample who indicated medical-related financial distress filed bankruptcy); Amanda E. Dawsey & Lawrence M. Ausubel, Informal Bankruptcy (Feb. 2002), *available at* http://www.ausubel.com; Michelle J. White, *Personal Bankruptcy Filing under the 1978 Bankruptcy Act*, 63 IND. L. J. 1, 50 (1987/88) (finding more households would benefit from bankruptcy than actually file); Press Release, Cambridge Consumer Credit Index (Feb. 7, 2005) (based on poll of over 800 adults, reporting "83% of Americans say that debts they have incurred because of medical or dental procedures are burdensome enough to prevent them from buying large ticket items"), *available at* http://www.cambridgeconsumerindex.com/index.asp?content=press_release. *See also* sources cited in note 83.
[24] N=331. *See id.* at W5-69.
[25] *See id.* Among those filers eligible for Medicare and with psychiatric disorders, prescription drugs were the biggest expense for nearly all of them. *See id*. *Compare* Kenneth M. Langa et al., *Out-of-Pocket Health-Care Expenditures among Older Americans with Cancer*, 7 VALUE IN HEALTH 186, 191 (2004) (nationally representative study of older Americans finding that prescription drugs were the main source of increased out of pocket expenses among people undergoing cancer treatment). Whether or not the elderly will be aided by the Medicare prescription drug bill, *see* Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173, 117 Stat. 2469 (Dec. 8, 2003), those with trouble

affording medications are not necessarily Medicare-eligible. *See, e.g.*, J. Kennedy & C. Erb, *Prescription noncompliance due to cost among adults with disabilities in the United States*, 92 AM. J. PUB. HEALTH 1120, 1123 (2002) (in the sample, 27% of those with problems paying for drugs were eligible for Medicare).

[26] Himmelstein et al, at W5-69. *See also* Prottas, at 43 (observing that complaints about hospital collection practices may be applicable to other types of medical providers).

[27] These data were collected as part of the telephone survey. Because each family member may have different illnesses or accidents, insurance coverage, and expense profiles, we collected the data for each ill or injured family member in the sample rather than by household. In the telephone survey sample, among the respondents who indicated that they had filed for bankruptcy because of medical problems, there are fifty instances in which a debtor indicated that more than one person had had an illness or injury. Of the fifty, forty-two families reported two ill/injured family members, and eight reported three or more. The questions about the largest expenses were posed to two separate groups. First, it was asked of individuals who had no medical insurance (n=93) or who had insurance but who had experienced a gap in coverage (n=82). We asked whether the identified illness or accident resulted in significant medical debt for these people. For the one hundred and thirteen individuals for whom the respondents said yes to this question, we posed a follow up question to specify which debts caused the greatest financial burden (n=113). We also posed the same line of questions to individuals with continuous insurance coverage (n= 206). For those with continuous coverage who identified significant medical debt (n=83), we asked about the single greatest expense. The combination of the two groups comprises Figure 4. Valid N = 196. The category "other" includes insurance premiums, medical equipment, nursing home care, in-home care, and other unspecified expenses.

[28] U.S. Census Bureau, Statistical Abstract of the United States: 2004-2005, p. 95, tables no. 120-121 (reporting $14,7 billion in out of pocket consumer payments to hospitals, and $212.5 billion overall out of pocket payments in 2002) [hereinafter Statistical Abstract]. Payments to hospitals were less than those to physician and clinical services ($34.2 billion), prescription drugs ($48.6 billion) and nursing home care ($25.9 billion). *Id.*

[29] *Id.* at 109, table no. 154 (reporting 890 million physician office visits as compared to 110.2 million emergency department visits and 83.3 million outpatient department visits in 2002).

[30] *See, e.g.*, Jeffrey J. Ellis et al., *Suboptimal Statin Adherence and Discontinuation in Primary and Secondary Prevention Populations*, 19 J. GEN. INTERNAL MED. 638 (2004); AD Federman , *Don't ask, don't tell - The status of doctor-patient communication about health care costs*, 164 ARCHIVES OF INTERNAL MED. 1723 (2004); Dana P. Goldman et al., *Pharmacy Benefits and the Use of Drugs by the Chronically Ill*, 291 JAMA 2344 (2004); H.A. Huskamp et al., "The *Effect of Incentive-Based Formularies on Prescription Drug Utilization and Spending*, 349 N. E. J. MED 2224 (2003); Kennedy & Erb, *supra* note 25; John D. Piette et al., *Problems Paying Out-of-Pocket Medication Costs Among Older Adults With Diabetes*, 27 DIABETES CARE 384 (2004); John D. Piette et al., *Cost-related medication underuse - Do patients with chronic illnesses tell their doctors?*, 164 ARCHIVES OF INTERNAL MED. 1749 (2004); D. Safran et. al, *Prescription Drug Coverage and Seniors: How Well are States Closing the Gap?* 21 HEALTH AFF. -- WEB EXCLUSIVE W253 (July 31, 2002); M.A. Steinman et al., *Self-Restriction of Medications Due to Cost in Seniors without Prescription Coverage*, 16 J. GEN. INTERN MED. 421 (2001); R. Tamblyn et al., *Adverse Events Associated With Prescription Drug Cost-Sharing Among Poor and Elderly Person*, 285 JAMA 421 (2001); Rebecca Voelker, *When Cost is an Adverse Drug Effect, Patients Cut Corners and Risk Health*, 292 JAMA 2201 (2004) (summarizing recent studies).

[31] *See, e.g.*, Langa et al., *supra* note 25, at 190.

[32] N=331 (core plus supplemental homeowner telephone survey sample, unweighted). Valid N = 331. This figure jumps to more than half (51.4%) if the filers with medical problems who charged basic necessities that may relate to health or general well-being are included.

[33] The narrative accounts revealed some rather large amounts being financed through credit. For example, after insurance did not cover an emergency baby delivery, one new parent charged the entire $17,000 bill to a credit card, starting a chain of financial problems. Consumer Bankruptcy Project Phase III Linked Database (on file with authors). A family used credit cards to finance monthly thousands of dollars of medications for a child with non-Hodgkins lymphoma because insurance would pay for blood transfusions but not drugs. A man used credit cards to buy supplies associated with a loved one's cancer treatments. Another filer reported that she regularly charged her health insurance premiums on a credit card. *Id.*

[34] *See* Himmelstein et al., at W5-67, Exhibit 2.
[35] *Id.* at W5-68. In the written questionnaire sample, debtors with a thousand dollars or more in medical bills within the two years prior to filing were more likely than others to use a mortgage to finance medical bills (5.0% vs. 0.8%). *Id.*
[36] *Id.* at W5-68. A "high cost" mortgage refers here to one with an interest rate above 12%, or points plus fees of at least 8%. *Id.*
[37] *See, e.g.*, Sara R. Collins et al., at 18 (one fifth of those with medical bill problems or medical debts charged large debts to credit cards or used home mortgage); Piette et al., *supra* note 30, at 387 (14% of patients in sample, and 23% of those without drug insurance coverage, increased credit card debt to be able to afford prescription drugs); Ha T. Tu, *Rising Health Costs, Medical Debt and Chronic Conditions*, Center for Studying Health System Change Issue Brief No. 88, p. 3 (Sept. 2004) (50% of working age adults with chronic conditions whose families had problems paying medical bills in past year had to borrow money to pay), *available at* http://www.hschange.org/CONTENT/706/; Glenn B. Canner et al., *Recent Developments In Home Equity Lending,* 84 Fed. Res. Bull. 241, 248 tbl.8 (1998) (increase in borrowers indicating medical expenses as use for home equity loans). Other studies have reported the use of consumer credit in categories that have included medical debt. *See, e.g.*, Peter J. Brady et al., *The Effects of Recent Mortgage Refinancing*, Fed. Res. Bull. 441, 446 (July 2000) (39% of 1998 and early 1999 refinancings used for consumer expenditures, which includes medical expenses); HUD-Treasury Task Force on Predatory Lending, Curbing Predatory Home Mortgage Lending 31 (June 2000), available at http://www.treas.gov/press/releases/reports/treasrpt.pdf
(citing a National Home Equity Mortgage Association survey finding that 30% of subprime home equity loans were used for covering medical, educational, and other expenses, as compared to 25% for home improvement and 45% for debt consolidation); Javier Silva, A House of Cards; Refinancing the American Dream, Dēmos Borrowing to Make Ends Meet Briefing Paper #3 (Jan. 2005), *available at* http://www.demos-usa.org/pubs/AHouseofCards.pdf (discussing Federal Reserve System Flow of Funds data from 2001-2002 showing that 25% of home equity fund were used for consumer expenditures, including medical expenses). *See generally* Heather C. McGhee & Tamara Draut, Retiring in the Red; The Growth of Debt Among Older Americans, Dēmos Borrowing to Make Ends Meet Briefing Paper #1, 6 (Jan. 2004) *available at* http://www.demos-usa.org/pubs/Retiring_2ed.pdf (discussing role of medical costs in increased credit card debt among older Americans);
[38] *See* Julie A. Jacob, *Credit to Your Practice: Letting Patients Pay With Plastic*, AM. MED. NEWS., July 29, 2002.
[39] Cindy Zeldin and Mark Rukavina, Borrowing to Stay Healthy: How Credit Card Debt is Related to Medical Expenses, Demos and The Access Project (2007).
[40] *See generally* Robert W. Seifert, *The Demand Side of Financial Exploitation: The Case of Medical Debt*, 15 HOUSING POL'Y DEBATE 785,795 (2004). *See also* Johnson v. Rutherford Hosp. and Murfreesboro Bank & Trust Co., 13 B.R. 185 (Bankr. M.D. Tenn. 1981) (hospital arranged for credit).
[41] Citibank Health Card Program, www.citibank.com/us/cards/cardserv/healthcrd/cons_benefits.htm.
[42] *See* www.carecredit.com; Tyler Chin, *In the cards: Getting Paid with Plastic; Innovations in the credit and debit card industry are giving physicians new options for collecting bills*, AM. MED. NEWS, Jan. 12, 2004 (GE Sales Finance declined to discuss in detail but said it was targeting high dollar specialty practices).
[43] *See* www.accessonemedcard.com; Mike Stobbe, *Credit card agency cuts hospitals' losses*, CHARLOTTE OBSERVER, July 11, 2003 (discussing AccessOne program).
[44] *See* Michael Unger, *Just What the Doctor Ordered; Schein's One-Stop Service Ranges from Equipment to Personal Finance*, NEWSDAY, Dec. 30, 1996, at C7.
[45] *See* News Release, *PracticeXpert Launches Pxpert Medical Credit Card Program* (Sept. 4, 2003) (acquiring delinquent accounts from physician, transferring balance to credit card); Chin, *supra* note 42 (PracticeXpert program will be targeting patients with poor credit histories).
[46] *See* News Release, *King Thomason Group Enters into Agreement With Medical Capital Corporation to Market KTG's TotalCare Medical Accounts Receivable Credit Card Program* (April 23,2004). www.kgth.com/main/totalrecovery.htm (citing 95% approval rate for private pay patients). KTG also offers a structured payment plan as an alternative to credit cards.
[47] www.helpcard.com/consumer/helpisprovided.html

[48] This credit product is used by patients of the Inova Health System, to be distinguished from the financier of cosmetic surgery with the same name.
[49] www.healthEZ.com (encouraging employers to offer as supplement to health plans); Larry Werner, *War stories about start-up funding leave 'em laughing*, MINN. STAR TRIB., July 2, 2003, at 1D.
[50] *See* Federal Trade Commission Commentary on Fair and Accurate Credit Transactions Act of 2003, Medical Information Rulemaking (May 27, 2004).
[51] In the 2001 written survey sample, more than a quarter of all filers in the written questionnaire sample identified illness or injury as a reason for filing, whether or not they owed large medical debts. *See* Himmelstein et al., at W5-67 Exhibit 2 (N=1771). *See generally* Jacoby et al., *Rethinking the Debates*, at 388 (54.9% of those who said illness or injury was a reason for filing for bankruptcy did not identify a current debt to a medical provider).
[52] N = 1,250 (core sample). The rate is nearly identical (21.3%) if the homeowner sample is added and weighted into the analysis as well. *See* Himmelstein et al., at W5-67 Exhibit 2.
[53] N=331 (core plus supplemental homeowner telephone survey sample, unweighted).
[54] N=331.
[55] N=331. The filers' narrative accounts, even if not representative, also illustrate the range of circumstances in which income loss follows both longer-term and acute problems. For example, open-heart surgery and its aftermath led to loss of temporary work and a resulting loss of income for one filer. *See* Consumer Bankruptcy Project Phase III Linked Database (on file with author). Others told interviewers they had missed too much work due to chronic illness or hospitalizations and either could not work out an arrangement with employers or were advised by doctors to take different types of jobs. Doctors ordered bed rest for pregnant women who had been in car accidents or who had developed gestational diabetes; one consumed all her allotted family leave before the baby was born, and soon after was fired. A number of others explained that they had difficulty receiving their workers' compensation benefits or were receiving benefits at levels far below their prior incomes. *Id.*
[56] Himmelstein et al., at W5-69. For example, more than a quarter (26.6%) reported cardiovascular problems as a primary or secondary diagnosis. Nearly a third had trauma, orthopedic, or back and spine problems. Almost one out of ten (9.5%) reported cancer. Approximately 10% reported diabetes.
[57] N=391 (core plus supplemental homeowner telephone survey sample, unweighted, measured by people instead of cases). Valid N = 332.
[58]In 15.48% of the cases, the ill or injured person reported having disability insurance. N=391 (core plus supplemental homeowner telephone survey sample, unweighted, measured by people instead of cases). Valid N = 241. Respondents were asked this question only if the ill or injured person at issue was employed part-time or full-time by a third party at the time of the illness or injury. Even if some ultimately could prove entitlement to disability payments under one of the Social Security programs, the level of income replacement would be low and thus would not necessarily forestall major financial trouble. *See generally* TERESA A. SULLIVAN, ELIZABETH WARREN, & JAY LAWRENCE WESTBROOK, THE FRAGILE MIDDLE CLASS; AMERICANS IN DEBT 158-163 (2000).
[59] *See generally* B.F. Hughes et al., *Pediatric femur fractures: Effects of spica cast treatment on family and community*, 15 J. PEDIATRIC ORTHOPEDICS 457 (1995) (discussing costs of casting for femur fractures, including average of three weeks of lost work for parent in families with two working parents); Carol E. Smith et al., *Efficiency of families managing home health care*, 73 ANNALS OF OPERATIONS RES. 157 (1997).
[60] *See* Himmelstein et al., at W5-69.
[61] *See id.*
[62] *See* Consumer Bankruptcy Project Phase III Linked Database (on file with authors).
[63] *See id.*
[64] *See id.*
[65] *See id.*
[66] *See id.*
[67] *See id.*
[68] *See id.*
[69] *See id.*
[70] *See id.*

[71] Ezekial Johnson and James Wright, Are Mormons Bankrupting Utah?, XL Suffolk Law Review 607 (2007).
[72] Utahans and Bankruptcy: Why We're Going Broke, Salt Lake Tribune A-1 (January 11, 2005).
[73] United Way of Salt Lake, Living on the Edge: Utahans Perspectives on Bankruptcy and Financial Stability (2006) (available at www.uw.org/images/PDFs/UWBKReport.pdf).
[74] Trilby de Jung, A Review of Medical Debt in Upstate New York, Empire Justice Center (January 2006).
[75] USA Today, Kaiser Family Foundation, and Harvard School of Public Health, National Survey of Households Affected by Cancer (November 2006).
[76] Deanna L. Sharpe and Dana Lee Baker, Financial Issues Associated with Having a Child with Autism, 28 Journal of Family Economic Issues 247 (March 9, 2007).
[77] Aparna Mathur, Medical Bills and Bankruptcy Filings, American Enterprise Institute Working Paper (July 19, 2006).
[78] The PSID purports to be a cross-section of American families, but the number o families admitting to a bankruptcy filing is about half that of the population in the year asked. This means either that the sample is not representative or that about half of those who filed for bankruptcy denied it. This discrepancy calls into question the use of the database for analyzing bankruptcy issues. See, e.g., *Less Stigma or More Financial Distress: An Empirical Analysis of the Extraordinary Increase in Bankruptcy Filings,* 59 Stanford L. Rev. 213, 245-46 (2006).
[79] Michelle M. Doty, Jennifer N. Edwards, and Alyssa L. Holmgren, Seeing Red: Americans Driven into Debt by Medical Bills, The Commonwealth Fund (August 2005).
[80] Cindy Zeldin and Mark Rukavina, Borrowing to Stay Healthy: How Credit Card Debt is Related to Medical Expenses, Demos and The Access Project (2007).
[81] Thomas P. O'Toole, Jose J. Arbelaez, Robert S. Lawrence, The Baltimore Community Health Consortium, Medical Debt and Aggressive Debt Restitution Practices, 19 Journal of General Internal Medicine 772-78 (2004).
[82] Sydney D. Watson, Margarida Jorge, Andrew Cohen and Robert W. Seifert, Living in the Red: Medical Debt and Housing Security in Missouri, The Access Project (2007).
[83] Bill Novelli, Where We Stand, AARP Bulletin 31 (July-August 2007).