FIFTH EDITION

CASES in HEALTHCARE FINANCE

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UNINSURED CHARGES AND COLLECTIONS

WHO IS RICHARD "Dickie" Scruggs, and what does he have to do with hospital finance? You may not be familiar with the name, but you will undoubtedly read about his work and its influence on how uninsured patients are billed and the manner in which the bills are collected. You see, Dickie Scruggs ran a law firm in Pascagoula, Mississippi, that made huge amounts of money out of multibillion-dollar settlements from asbestos and tobacco companies. Then, his law firm turned its attention on the not-for-profit hospital industry. (To learn more about Dickie, both good and bad, and what he is doing now, search *Dickie Scruggs* on the web.)

In the early 2000's, his firm filed more than 70 lawsuits in federal courts against not-for-profit hospitals, alleging that the hospitals routinely overcharged self-pay patients, hounded them with aggressive collection tactics, and failed to provide adequate charity care in violation of their tax-exempt status. In a number of these lawsuits, the American Hospital Association (AHA) was named as a co-conspirator and defendant. Needless to say, the AHA called the lawsuits "baseless" and a diversion of resources that could otherwise be used for community healthcare.

At the heart of the lawsuits are two issues. First, the fact that patients who are least able to pay are generally charged the most. It is common practice to bill self-pay patients at full charges (chargemaster prices), whereas most every other payer is paying less than full charges, often substantially less. For example, consider the case of Jane Adams, age 22 and uninsured, who spent two days in not-for-profit Front Street Hospital for an appendectomy procedure. Her hospital bill was $14,000, and doctor's fees added another $5,000. It turns out that if a local HMO had insured Jane, the hospital bill would have been about $2,500. Medicaid would have paid about $5,000,

and Medicare would have paid about $7,800 for the same procedure. "Why do I get stuck with the whole bill?" asked Jane, "An uninsured person has a lot less money than insurance companies or government agencies."

Unfortunately, Jane stumbled onto a troubling fact of hospital finance: Most hospitals set official "charges" for their services but then agree to discount those charges for third-party payers. As a result, almost no one but the uninsured ever pays chargemaster prices. In some ways, hospital charges are like hotel "rack rates," which are posted prices that everybody knows nobody pays. But the hospital industry is different, because uninsured patients traditionally have been billed the equivalent of rack rates.

The second element of the lawsuits revolves around collection tactics. Although hospitals collect less than 5 percent of billings from indigent patients, many hospitals are very aggressive in their collection tactics. A press release announcing the lawsuits said that hospitals engage in business methods calculated to defeat the rights of uninsured patients. According to Scruggs, if and when the uninsured patient can't pay, not-for-profit hospitals often intimidate and harass uninsured patients through "goon-like and predatory collection tactics that frequently scar the patient for life, including the trauma of personal bankruptcy."

To illustrate, consider the case of Marlin Bushman, who was arrested, handcuffed, and taken to jail for missing a court hearing about a $579 Front Street bill. This collection tactic, known as "body attachment," has been abandoned by most other creditors. Said one observer, "The concept of debtor's prison as we understand it from Dickens' time is alive and well in the hospital industry." Another favorite strong-arm tactic is to place a lien on the patient's house. For example, Front Street placed a $3,600 lien on the house of Ben Pickett for a $3,000 unpaid hospital bill. Furthermore, a threat was made to foreclose on, and hence force Ben to sell, the house if the debt was not paid within 90 days. The interest on the debt was pegged at 12 percent, which means that Ben will never be able to pay it off because the interest is accruing faster than his ability to make payments.

The worst part of these billing and collection tactics, according to Scruggs, is that these policies are deliberately put in place to discourage the indigent from seeking healthcare services. By discouraging uninsured patients from seeking healthcare, not-for-profit hospitals are avoiding their obligation to provide charitable services as required by their not-for-profit status.

What do you think about the billing and collection policies of not-for-profit hospitals related to the uninsured? Does this case present an ethical issue? If so, to which party (or parties)? If you could act as the ultimate authority in this situation, what would you do?