

Are Medical Credit Cards the Answer for the Uninsured?

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Recently, the Census Bureau released new data on the number of Americans without health insurance. The number of uninsured individuals rose from 45.7 million in 2007 to 46.3 million in 2008.¹ More surprisingly, the number of adults under age 65 without health insurance is just over 20 percent.² Some uninsured individuals combat the cost of health care through government-sponsored programs such as Medicare and Medicaid. However, many others are required to pay out-of-pocket for preventive care, elective procedures, and emergency services. As everyday expenses continue to rise for many Americans, some have turned to the use of medical credit cards, issued by financial institutions and used exclusively for health care services, to pay such costs. However, as the number of these types of cards continues to increase, so do consumer complaints regarding them.

Background

Americans spend an estimated \$294 billion on annual out-of-pocket medical costs, paying for physician co-payments, surgeries, and prescription medications.³ Approximately 25 percent of that is currently being charged to standard credit cards.⁴ More than 79 million Americans are struggling to pay off medical expenses.⁵ At the same time, physicians, hospitals, dentists, and other health care providers are finding it harder to collect what they are owed. It is a vicious circle that will likely continue to spiral.

A number of health care providers in many states, including Texas, are pairing with financial institutions, such as Citibank, Capital One, and GE Money, to offer medical credit cards to patients already struggling to pay medical bills. Medical credit cards are so named because they can only be used to purchase health care services. Part of their appeal is that many offer no-interest teaser rates. For example, GE Money's CareCredit card, which is intended to finance only elective procedures, offers a 12-month introductory period with no interest.⁶ However, if a customer makes a late payment, the

¹ Medical News Today, *Statement from Karen Davis: New Census Data On Uninsured Americans*, Sept. 11, 2009, <http://www.medicalnewstoday.com/articles/163707.php>.

² *Id.*

³ Parija B. Kavilanz, *Can't Pay Your Doctor? Charge It!*, CNN MONEY.COM, July 11, 2009, http://money.cnn.com/2009/07/09/news/economy/healthcare_medical_creditcards/index.htm.

⁴ *Id.*

⁵ *Id.*

⁶ See CareCredit, <http://www.carecredit.com/faqs.html>; see also Stacey L. Bradford, *The Dangers of Medical Credit Cards*, SMART MONEY.COM, Aug. 25, 2008, <http://www.smartmoney.com/spending/rip-offs/the-dangers-of-medical-credit-cards-23744>.

interest rate skyrockets to 22.99 percent and is applied retroactively to the date of the transaction.⁷ Delinquent accounts are subject to a 29.99 percent interest rate.⁸

Many physicians and dentists across the country are marketing these cards to patients in the hopes of being immediately paid. However, some legal commentators argue that the cards could lead to a host of state law violations by the health care providers – such as unfair and deceptive practices and predatory lending.⁹

“It’s becoming more and more of an issue. Doctors are marketing them as a means of financing, but the staff is not adequately explaining what the product is and they’re putting their patients in difficult financial predicaments,” said Gina Calabrese, a professor at St. John’s University School of Law.¹⁰ Patients are often being approached to obtain such credit cards not only before elective procedures, but also when they are in need of urgent care or not in a position to make financial decisions.¹¹

Minnesota’s Attorney General recently issued a consumer alert warning residents to be aware of abusive practices involving medical credit cards and has begun an investigation into several providers. She remarked, “[T]his is the health care version of sub-prime predatory mortgage lending. Enrolling people in exploding interest credit cards, not explaining the terms of those credit cards, [and] jeopardizing people’s credit histories.”¹²

Consumers in Texas should be especially wary as the state’s usury laws are complex, even by industry standards,¹³ with specific ceiling rates for different types of loans. In general, however, credit card interest rates of the originating state (i.e., the state in which the lender is legally headquartered) prevail over rate caps in the state in which the cardholder resides.

⁷ CareCredit’s application states the following: “[I]f you are approved as a CareCredit cardholder, you will pay no Finance Charges on the balance for promotional healthcare purchases if you pay at least the minimum monthly payment due on the promotional balance (and any other balance not exempt from monthly payments) each month when due and you pay the entire promotional amount by the promotional due date. If you do not make these payments when due, Finance Charges will be assessed on the promotional amount from the transaction date. As of November 6, 2008, the variable APR for purchases and cash advances is 22.99% and the delinquency APR is 29.99%. There is a \$2.00 Minimum Finance Charge. Not available in all offices. Please ask for availability. Subject to credit approval by GE Money Bank.”

⁸ *Id.*

⁹ Sylvia Hsieh, *Medical Credit Cards Could Lead to Suits Against Doctors*, MASS. MED. L. RPT., Oct. 17, 2008, <http://mamedicallaw.com/blog/2008/10/17/%E2%80%98medical-credit-cards%E2%80%99-could-lead-to-suits-against-doctors>.

¹⁰ *Id.*

¹¹ *Id.*

¹² John Croman, *AG Sounds Alarm on Medical Credit Cards*, KARE11.COM, Aug. 13, 2009, http://www.kare11.com/news/news_article.aspx?storyid=821960; see also The Office of the Attorney General, Minnesota, Lori Swanson, *Health Care Credit Cards*, available at <http://www.ag.state.mn.us/Consumer/YLR/HealthCareCreditCards.asp> (last accessed Sept. 15, 2009).

¹³ Randall S. James, Texas Dep’t of Banking, *Impact of Texas Usury Laws on Commercial Lending*, Testimony before the Texas Senate Business and Commerce Comm., May 4, 2004, available at http://www.banking.state.tx.us/pdf_files/05-03-04.pdf.

Be Informed

Many individuals do not realize that medical debt is already interest free. However, once those medical expenses are put on a credit card, they transform from medical debt into consumer debt and are subject to interest, fees, potential collections action, and negative repercussions on an individual's credit report.¹⁴ Additionally, once a bill is paid for using these credit cards, the account with the medical provider is closed. That means that there is no longer any room for negotiation with the provider or an opportunity to question a charge on the patient's bill. Some health care providers employ automatic billing policies which allows them to bill and charge a credit card the full amount for a particular medical or dental procedure before the procedure is even done and prior to notification from an insurance company stating how much it will cover.¹⁵

It is estimated that nearly 1.5 million Americans will declare bankruptcy this year and 60 percent of that will be tied to medical debt.¹⁶ To avoid such a pitfall, many financial and legal experts offer the following advice to consider before obtaining a medical credit card for health care expenses:

- Don't accept a medical bill "as is." Review the bill and make sure it is accurate before paying;¹⁷
- Try to negotiate the fee with the medical provider before entering into any sort of payment plan or credit card agreement;
- Ask the provider whether a monthly no-interest payment plan is offered. Many health care providers will offer plans for as little as \$50 or \$100 per month;
- If health care expenses must be paid using a credit card, use the best card available;¹⁸
- When investigating medical credit card offers, read the fine print very carefully and know the fees and interest rates that may ultimately be assessed.

Lawmakers at the federal level are assisting Americans with credit card woes, in general, with the recently-passed Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit CARD Act).¹⁹

The Federal Credit CARD Act

On May 22, 2009, President Obama signed into law the Credit CARD Act of 2009, which amends the Truth In Lending Act, the Federal Trade Commission Act, and the Electronic

¹⁴ Lisa Zamosky, *Personal Health Care: Medical Credit Cards Can Create More Pain*, SAN DIEGO NEWS NETWORK, May 8, 2009, <http://www.sdn.com/sandiego/2009-05-08/business-real-estate/co-pay-rising-navigating-the-health-care-maze>.

¹⁵ Carrie Davis, *Medical Credit Cards: Should You Get One?*, SPENDONLIFE.COM, Aug. 6, 2009, <http://www.spendonlife.com/blog/medical-credit-cards>.

¹⁶ Kavilanz, *supra* note 3.

¹⁷ Stacey L. Bradford, *The Dangers of Medical Credit Cards*, SMART MONEY.COM, Aug. 25, 2008, <http://www.smartmoney.com/spending/rip-offs/the-dangers-of-medical-credit-cards-23744>.

¹⁸ *Id.*

¹⁹ Pub. L. No. 111-24, 111th Cong. (2009).

Funds Transfer Act.²⁰ Most of the law's provisions will not take effect until February 22, 2010, however, some legislators are working to move up the effective date of some of the Act's provisions to December 2009.²¹ Some of the highlights from the new law include:

- Credit card issuers may not increase an annual percentage rate, fee, or finance charge on an existing/outstanding credit card balance except in certain circumstances;
- If an individual is 60 days late on a payment, the issuer can raise an interest rate retroactively, but the individual must be given the opportunity to earn back the previous rate with on-time payments for six months;
- Issuers can not charge an "over-the-limit" fee unless the card holder has given the issuer permission to authorize purchases that put the amount over the credit limit;
- Fees on a credit card (not including fees, over-the-limit fees, or returned check fees) cannot exceed 25 percent of the credit limit when the account is opened.²²

Conclusion

Minnesota Attorney General Lori Swanson relayed the story of a 91-year-old woman whose hearing aid dispenser convinced her to obtain a medical credit card to pay for her hearing aids. The woman, who lives on \$12,000 per year in Social Security benefits, made all of her monthly payments except the very last one. The credit card company then billed her for interest in the amount of \$1,200 – charged retroactively to the date of the original charge.²³

Another individual was offered a medical credit card to pay for charges related to a surgery that his insurance company did not cover. He paid the credit card company on time until one payment was two days late and the company charged retroactive interest in the amount of \$2,000.²⁴

Such stories of medical credit card users are common and complaints as a result are rising. In 2007, *New York Times* columnist Bob Herbert offered the following words regarding paying medical expenses with any type of credit card:

²⁰ See Office of the Press Sec., The White House, *Fact Sheet: Reforms to Protect American Credit Card Holders*, May 22, 2009, http://www.whitehouse.gov/the_press_office/Fact-Sheet-Reforms-to-Protect-American-Credit-Card-Holders/.

²¹ See Lewis Green, *Regulations for Credit Cards May Be Moved Up*, CREDIT.COM, Nov. 6, 2009, <http://www.credit.com/news/credit-debt/2009-11-06/regulations-for-credit-cards-may-be-moved-up.html>.

²² See Gerri Detweiler, *Understanding the Credit Card Accountability Responsibility and Disclosure Act*, CREDIT.COM, June 2009, available at http://www.credit.com/credit_information/credit_law/understanding_the_credit_card_accountability_responsibility_and_disclosure_act.jsp. For the full text of the Act, see http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s414rs.txt.pdf.

²³ The Office of the Attorney General, Minnesota, Lori Swanson, *Health Care Credit Cards*, available at <http://www.ag.state.mn.us/Consumer/YLR/HealthCareCreditCards.asp> (last accessed Sept. 15, 2009).

²⁴ Zamosky, *supra* note 14.

[I]t's one thing to reach for your Visa or MasterCard to pay for a Barbie doll or flat-screen TV. It's way different to pull out the plastic because you've just learned you have cancer or heart disease, and you don't have any other way to pay for treatment that would prevent a premature trip to the great beyond. A society is seriously out of whack when legalized loan sharks are encouraged to close in on those who are broke and desperately ill...A serious illness for people already in shaky economic circumstances can be the final push into bankruptcy.²⁵

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<http://www.law.uh.edu/healthlaw/perspectives/homepage.asp>

²⁵ Bob Herbert, Op. Ed., *Your MasterCard or Your Life*, N.Y. TIMES, Jan. 22, 2007, http://select.nytimes.com/2007/01/22/opinion/22herbert.html?_r=1.