

ONLINE DISPUTE RESOLUTION

PILOT PROGRAM PHASE 2

Presented by:
The Tennessee ODR
Steering Committee

Hamilton County General Sessions Judge Alexander McVeagh;
Erlanger Health
Catalis-Court Innovations Legal Aid of East Tennessee
Volunteer Rule 31 Mediators

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EXECUTIVE SUMMARY

Phase 2 Medical Debt Online Dispute Resolution Pilot

The Tennessee Administrative Office of the Courts (“AOC”) was awarded a State Justice Institute (“SJI”) Technical Assistance Grant (“TAG”) to retain the services of Catalis- Court Innovations, Inc. (“Catalis”) to assist the AOC with developing and implementing an online platform to resolve medical debt disputes in Hamilton County, TN, before a lawsuit is filed. We are preparing plans to establish similar programs in other areas of the state.

Phase 2 of the pilot began on January 1, 2022, and was completed December 31, 2023. The following information was supplied from Erlanger, Legal Aid of East Tennessee, Hamilton County General Sessions Court and the Volunteer Mediators.

STAKEHOLDER OVERVIEW

Hamilton County General Sessions Judge Alexander McVeagh serves as the Judicial Sponsor of the Pilot. Erlanger serves as the healthcare provider (Provider) and uses the platform to invite parties to participate.

Catalis serves as the Technical Assistant to create, modify and support the online platform. Legal Aid of East Tennessee provides input on both the platform and communications within and considers ways to facilitate and protect debtor rights in the process.

Volunteer Rule 31 Mediators facilitate settlement discussions, as needed. These stakeholders are represented on the Tennessee ODR Steering Committee.

MEDICAL DEBT IN TENNESSEE



The Sycamore Institute, a Tennessee based non-partisan “think tank”, reported that 24 % of Tennesseans with a credit report had medical debt on their credit history in 2016 – the 10th highest rate in the country. Many of these collection cases end up in General Sessions Court, where the majority of medical debtors default due to a failure to appear. Default judgments result in additional cycles of negative credit reporting and further burden court sources.



CHALLENGES ODR SEEKS TO ADDRESS

“ 93 of the 95 counties in Tennessee have medical debt above the national average. ”

-The Sycamore Institute

Patients and families unable to pay are further damaged in terms of their credit ratings due to credit reporting practices of unsuccessful collection efforts, complaints filed in court, default judgments, garnishments and liens generated by judicial collection efforts. The process generates a vicious cycle of economic disaster that leaves few options for people who would like to address their debt, but have no means of successfully dealing with the judicial process.

ODR PILOT GOAL

The goal of the Online Dispute Resolution (“ODR”) medical debt pilot is to create an easy-to-understand application using technology, legal assistance, mediation and judicial resources to provide a model for pre-court filing resolution services. Such services would minimize burdens on the courts and enhance access to justice for the state’s citizens in a manner that is asynchronous and available 24/7. If successful, the pilot can serve as a desirable tool for claim resolution across the state in many areas of legal claims in addition to medical debt.



PHASE 2

OUTCOME OVERVIEW

In Phase 2 of this pilot, Erlanger sent 736 email ODR invites to guarantors who had completed Erlanger's billing cycle (4 months of statements and phone calls) without responding and had received at least two letters from Erlanger's internal collections department, with at least one letter being directly from an attorney explicitly stating that the next action on the account would be either credit reporting and collections or the initiation of a lawsuit.

Of 736 guarantors who had previously been unresponsive to Erlanger, 197 of them engaged Erlanger as a direct result of that ODR email invitation, resulting in an overall response rate of 27%.

Of all guarantors who engaged, 72% were able to resolve their outstanding debt through lump-sum payments, payment plans or application of financial assistance.

PROVIDER'S REPORT

Cherie Knotts - Associate General Counsel, Revenue Cycle Erlanger

Erlanger Health (“Erlanger”) is a safety net, essential hospital that provides necessary medical care to all individuals, regardless of ability to pay on insurance status. Erlanger serves a disproportionately large share of individuals in its community who are either uninsured or covered by Medicare and Medicaid. Erlanger is also the region’s only Level I trauma center, pediatric trauma center and tertiary care center, which means it provides the highest level of care for critically ill and traumatically injured patients. Given this patient make-up, acuity mix and Erlanger’s non-profit status, it is sensitive to its patients’ fiscal concerns. Erlanger offers generous Financial Assistance to those who qualify, substantial discounts to uninsured patients, as well as zero-interest payment plans to help its patients meet their medical needs and deductible obligations.

PROVIDER'S REPORT

Despite the availability of these programs, a significant amount of medical debt remains unpaid. If unpaid bills consist of deductible amounts, hospitals may not have received any compensation for services provided, as many insurance companies do not remit payment to a provider until amounts owed for services provided are in excess of the patient's deductible amount. This issue is especially important as deductible amounts continue to rise, and many individuals choose high-deductible insurance plans because of its lower, upfront monthly cost. For calendar year 2023, median operating margins for non-profit hospitals is expected to be 0.5-0.7%.

¹"US NFP Hospital Median 2023 Preview Shows Decline; Improvement Expected", Fitch Wire, available at <https://www.fitchratings.com/research/us-public-finance/us-nfp-hospital-median-2023-preview-shows-decline-improvement-expected-21-02-2024> (Feb. 21, 2024).

PROVIDER'S REPORT

Account Resolutions and Collection Trends

The following numbers summarizes the ODR email invites and the patient engagement as a result of those invites for 2022 and 2023, respectively. Although not every outstanding account was successfully resolved, the data suggests that the ODR program was successful in allowing Erlanger to engage with patients who were previously non-responsive and discuss their medical debt, for not only the accounts included but all outstanding balances that may exist at the time of engagement, resulting in a higher percentage of debt resolution than that of external collections vendors.

Over the course of Phase 2, Erlanger became more refined in its data collection with the expansion of the project. Rather than merely collecting engagement/resolution rates and aggregate debt resolution numbers, Erlanger also collected information to evaluate more nuanced aspects of the program. That additional data is provided.

PROVIDER'S REPORT

Phase 2 Email Invite Data

- 736 email invitations were sent to selected guarantors
- 197 guarantors (27%) registered on the platform

Phase 2 Resolution Data

- 140 (71%) matters were resolved
- Of those resolved matters, 63 were settled without a mediator and 77 were settled utilizing a mediator
- 57 (29%) matters were closed without a resolution, 20 were closed without a mediator and 37 were closed utilizing a mediator
- Total Amount of Debt Resolved for 140 matters: \$408,663.52
- \$11,472.03 was approved for the Charity Care financial assistance program



PROVIDER'S REPORT

On average, guarantors tended to engage within 3 days after the email invite, and approximately a month after engagement the account was fully resolved. The current parameters of the pilot allow individuals 14 days to register before the invitation link is no longer valid, which could potentially be shortened without a loss in engagement. From a provider perspective, knowing the average time to patient engagement (and final resolution) informs staffing and processing decisions.

Although resolution via the online platform takes, on average, four to five weeks, because of the nature of the platform, it is not a continuous staff obligation, and staff resources are being invested in patients who have indicated a desire to communicate.

Communications with patients in the ODR platform have often centered around: confirming that medical care was received by the patient, confirming that insurance has been billed and explaining the outcome, and discussing the financial circumstances of the patient and various mechanisms for resolution, including charity care and payment plans. Further, for every dollar of outstanding debt of an engaged patient, that patient is likely to resolve not only that dollar of debt, but an additional 14-73 cents of debt per dollar.

PROVIDER'S REPORT

Overall, in 2023, Erlanger invited patients with an aggregate \$1.3 million dollars of debt to participate in the ODR pilot. Although the majority of patients chose not to participate, Erlanger was still able to resolve 17% of that original debt and additional aged debt that represents approximately 13% of that initial invite amount that was not otherwise being collected. In comparison to external collection agencies during this same period, the ODR platform significantly outperformed those agencies, resolving aged debt equivalent to 30% of the initial amount of debt owed for all patients invited to participate in the platform.

PROVIDER'S REPORT

Response Data

Out of 736 email invitations, 197 guarantors (27%) engaged with Erlanger.

71% of the guarantors who engaged with Erlanger, utilized the ODR platform for case debt discussion.

Based on this data, it is clear that electronic communication is a necessary component of a successful ODR program. The success of electronic invites is most likely due to a variety of factors, including ease of access, fidelity of email checking versus that of physical mail,* and the transient lifestyle of some individuals, including those who may be housing insecure.

*Several respondents admitted to either never opening mail or opening it extremely late.



PROVIDER'S REPORT

ACCOUNT RESOLUTIONS: THE NUMBERS EXPLAINED

Of particular note is the amount of financial assistance Erlanger was able to provide during this process. The ODR program enabled those who had previously been unable or unwilling to complete the financial assistance application to successfully do so.

\$16,127.00

**Erlanger's estimated
cost**

Although many families face financial pressure due to medical debt, the financial assistance identified is a direct benefit to the working poor. Further, those approved for financial assistance are approved for a period of time, so any medically necessary care provided during the approval time period will not result in any patient liability.

PROVIDER'S REPORT

ADDITIONAL DEBT RESOLUTION DATA

Amount of Debt at Invite: \$1,378,741.75

Amount of Debt (at Invite) of Those who Registered: \$357,678.75

Amount of Debt (at Invite) of Registered, No Final Resolution:
\$121,071.70

Amount of Debt (at Invite) of Registered, Final Resolution:
\$236,607.05

\$408,663.52

**Amount of Debt
Resolved**

PROVIDER'S REPORT

ADDITIONAL DEBT RESOLUTION DATA

Total Debt Resolution Rate Compared to Total Debt at Invite: 30%

Total Debt Resolution Rate Compared to Total Debt of Registered Patients: 114%

Total Debt Resolution Rate Compared to Total Debt at Invite of Resolved Cases: 173%

Average Number of Days Between Invite and Registration: 3

Average Number of Days Between Invite and Closure: 24

Average Number of Days Between Invite and Closure (No Resolution): 30

Average Number of Days Between Invite and Closure (Resolution): 22



PROVIDER'S CONCLUSIONS

The ODR program enabled Erlanger to connect with patients who had previously declined to engage, despite multiple attempts and forms of contact. Once patients were engaged, Erlanger and the patient were usually able to come to a mutually agreeable resolution for outstanding accounts. This positive direct contact reduces Erlanger's reliance on its collection vendors—providing greater control and communication in the collections process—and reduces costs to collect while improving customer satisfaction.

Because medical debt is recurring, Erlanger is hopeful that the ODR experience will alleviate patient anxiety about engagement while simultaneously increasing patient knowledge of insurance principles and available resolution options. Long-term, Erlanger hopes to see resolutions of outstanding accounts earlier in the billing and collection cycle.



COURT REVIEW

Judge Alexander McVeagh
Hamilton County General Sessions Court



Hamilton County General Sessions Court continues to be a proud pilot partner in studying and implementing new and innovative technologies to assist parties in resolving their disputes – even before a lawsuit is filed. While online dispute resolution (“ODR”) is not new, my Hamilton County Court colleagues and I continue to understand the importance of the Court being a trusted sponsor of this secure, transparent, and affordable way to help parties resolve their disputes, even if the resolution does not involve in-court time. We also see the potential to use this low-cost online mediation platform to help resolve cases that are already in the court process. Finally, at a recent yearly conference, we were encouraged to see the positive feedback from many of Tennessee’s General Sessions judges as well as their eagerness to expand this pilot to other parts of the state.

COURT REVIEW

Judge Alexander McVeagh
Hamilton County General Sessions Court



Hamilton County General Sessions Court continues to understand the effects that medical debt can have on the lives of thousands of Tennesseans every year, as well as the negative downstream consequences associated with a form of debt that is often outside of the control of everyday Tennesseans. Each year, folks from all income brackets are sued for past-due medical bills –debt that could be drastically reduced or adjusted for various reasons (if the debt is even owed at all). Yet, many defendants are unable or unwilling to attend their court hearing, so a default judgment is entered against them and thereafter their wages, bank accounts and property are subject to collection. And each year, because of these judgments, Tennessee General Sessions Courts see subsequent garnishments, evictions, credit card debt suits, credit bureau disputes and even criminal cases flowing from underlying medical and other consumer debt – all negatively affecting creditors, debtors, and a clogged court system.

COURT REVIEW

Judge Alexander McVeagh
Hamilton County General Sessions Court



We appreciate the Supreme Court's Access to Justice Commission, the Supreme Court's Alternative Dispute Resolution Commission, the Administrative Office of the Court, Erlanger Hospital, Legal Aid of East Tennessee, and volunteer mediators from across the state for stepping up and spearheading this exciting pilot program. We hope that other courts and medical providers will see the exciting data contained in this report and help us to expand this program to other jurisdictions for further study and implementation.



MEDIATOR'S REPORT

Stephen Shields

Steering Committee Member & Rule 31 Listed Mediator

Volunteer Mediators

As the program platform was being developed, the Steering Committee sent requests for volunteers to the Tennessee community mediation centers. As a result, we had over one hundred experienced mediators confirm that they would perform the services on a pro bono basis. We prepared a list of those volunteers, and then, because we believed fewer would be sufficient to handle the initial round of invitations to debtors, we selected seventeen to initiate the program. Subsequently, the platform randomly assigned mediators to individual cases.

Debtor Engagement

We inquired about the debtors' responsiveness to providers' invitations to participate via the platform. The providers' feedback suggests the platform was instrumental in obtaining a better response rate than the normal channels of mail and phone calls.

Going Forward

Sufficient volunteers are available to provide services free of charge. The committee maintains a list of mediators who are familiar with the platform and stand ready to rapidly train others in the event more mediator services are needed.

Legal Aid of East Tennessee Report



Cathy Allshouse Managing Attorney

Several stakeholders worked together to develop a platform on which those with outstanding medical bills could settle those debt-related issues with their provider without court intervention. Legal Aid of East Tennessee (LAET) was one such stakeholder. LAET is the only civil legal services provider in East Tennessee, covering a 26-county service area.

LAET's mission is strengthening communities and changing lives through high-quality legal services. Our vision is an East Tennessee where justice is a community value, and no one faces a legal problem alone. This ODR project serves that vision.

Legal Aid of East Tennessee Report



Cathy Allshouse Managing Attorney

Initially during conceptual development, dedicated LAET staff acted as a voice for those with medical debt and helped design the process to work for them as much as for the provider. LAET also helped generate a frequently asked questions list that would address likely concerns of those who were asked to engage in this dispute resolution process. We focused on maintaining plain language in the public-facing parts of the platform as much as possible. At the start of the project's public rollout, LAET arranged and assisted with two in-person clinics. As it was discovered that there was a lack of interest on the part of participants in this form of technical outreach, we shifted our focus to solely online communications development.

Current development has moved past the initial creation of form settlement contracts and LAET is continuing to work with the stakeholders to refine the agreement language to preserve the rights of the medically indebted while again trying to incorporate plain language.

Legal Aid of East Tennessee Report



Cathy Allshouse Managing Attorney

LAET still focuses on clarity in the amount and records of the dispute, as well as in the Agreed Payments option provisions. LAET is now working on the test site of the platform in the role of a test hospital. This testing is taking place in order to verify patient data is secure and within HIPAA compliance standards once multiple hospitals are on-boarded to the site.

Finally, LAET is involved in general troubleshooting issues within the system and works closely with the other stakeholders to ensure that the system was working as intended. LAET has provided templates for other volunteers that may eventually be added to the project (e.g. technical navigators).

THE FUTURE: PHASE 3



The Tennessee ODR Steering Committee deems these results to be encouraging and worth the significant effort and is grateful for the State Justice Institute's support and financial backing.

The reflections from the main stakeholders, lessons learned, and statistics from invited debtors will be used by the steering committee as it begins phase 3 of the pilot. The next short-term goal is to develop the platform so that it can add one provider each from the Middle and Western Division.

To see the live ODR platform and the video created by Hamilton County, please visit these links:

<https://cii2.courtinnovations.com/TNMEDEBT/>
https://youtu.be/_abvMsYO9uQ