

Testimony of  
**Elizabeth Edwards**

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Elizabeth Edwards  
Senior Fellow  
Center for American Progress Action Fund

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Committee on the Judiciary  
Subcommittee on Administrative Oversight and the Courts  
United States Senate

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Chairman Whitehouse and Members of the Subcommittee, thank you for inviting me here today to discuss the causes and consequences of medical bankruptcy. We are in the middle of a great national debate on health care. For the first time in more than 15 years, we are truly trying to fix the broken health care system - and deal with the twin problems of the status quo, skyrocketing health care costs and the millions of Americans living without health coverage. As Congress and the Administration wrestle with the big picture and the very important details, it will be critically important to ensure that health reform guarantees that coverage and care will be affordable for Americans of all incomes.

I know that the Committee is concerned about the financial hardships that many Americans experience due to health care costs, particularly bankruptcy. As you know, medical expenses are a major factor in nearly two-thirds of bankruptcy filings. People with poor or no health insurance coverage and a significant health problem are more likely to accrue considerable medical debt than people who have good coverage and good health - and thus are particularly vulnerable to bankruptcy. Yet when they reach bankruptcy court, the bankruptcy trustee has little ability and little incentive to address the underlying factors that have led to medical debt and medical bankruptcy, including insurance company denials and aggressive collection efforts by medical debt collectors. Medical debt is, of course, a symptom of larger problems in our health care system - and the solution to medical debt and medical bankruptcy is real health reform that results in affordable, reliable health coverage and affordable health care for all Americans.

The problem of unaffordability is most apparent for the nearly 47 million Americans who lack health insurance. Roughly two thirds of Americans without health insurance have incomes below 200 percent of the federal poverty level--or approximately \$44,000 for a family of four. Most people without health insurance are workers or live in families with a worker, but do not have health coverage through an employer. With the annual average cost of employer-sponsored

health insurance nearing \$13,000 in 2008, health insurance is clearly unaffordable for families who must purchase it on their own.

Sadly, even people who actually have health insurance increasingly face problems paying for health care. A growing number of Americans with health insurance face affordability problems for health insurance and for health care. For example, a recent analysis by the Commonwealth Fund identified 25 million adults with health coverage as underinsured - that is, they had out-of-pocket medical spending that absorbed at least 10 percent of family income, or, for low-income adults (defined as 200 percent of the federal poverty level), at least 5 percent of family income; or if they faced deductibles of at least 5 percent of family income. This represents a 60 percent increase from the 15.6 million Americans who were underinsured in 2003.

Another study, which explored families' actual problems paying medical bills, found that one in five Americans reported problems paying medical bills in 2007. This work from the Center for Studying Health System Change indicates that even moderate levels of out-of-pocket spending relative to family income - that is, spending that is well below the 5 or 10-percent of family income considered to be underinsured by the studies just cited - created medical bill problems. For example, two-thirds of the individuals who reported trouble paying medical bills spent 5 percent or less of their family income on health care. As author Peter Cunningham noted, many families have little wiggle room within their family budgets for large or unexpected out-of-pocket health care expenses. And even a relatively low level of health care spending compared to family income can create financial stress for low-income families. (See chart below.)

Source: P. Cunningham, C. Miller and A. Cassil, "Living on the Edge: Health Care Expenses Strain Family Budgets," Center for Studying Health System Change.

The risk of being underinsured or experiencing financial problems due to health spending varies not only by family income but also by health status. Health care affordability is particularly elusive for individuals with chronic illness and other conditions that require on-going, often costly, medical care. In particular, individuals who are older, have an activity limitation, have a chronic condition such as diabetes, heart disease, or arthritis, or have experienced stroke, are more likely to spend a high proportion of their income on health expenses. (See chart below.) If these individuals are not covered by an employer-sponsored health plan, or lose this coverage, their ability to purchase coverage in the non-group market is limited at best. Far from serving as a safety-net, the non-group market systematically denies coverage, limits benefits or charges excessive premiums to individuals with pre-existing conditions or whom they perceive as likely to need care. And if these individuals do have coverage through the non-group market, they are more likely to have their coverage unfairly rescinded by their insurance company or experience a rapid increase in premiums to maintain their coverage. Ironically, then, underinsurance or financial problems are most likely to arise for people who get sick--the very population that insurance is supposed to protect.

## The Consequences of Affordability Problems

We know that unaffordable health insurance makes health care itself unaffordable and unavailable. As the Institute of Medicine recently noted, there is a chasm between the health care needs of people without health insurance and access to effective health care services. People without health insurance are more likely to delay care, to get less care, and to die when they get sick.

People who are underinsured can experience very similar problems getting needed care. According to the Commonwealth Fund, underinsured individuals are two to three times as likely as insured individuals to forgo various needed medical services because of cost. Of sicker underinsured adults, a full two-thirds went without needed care due to cost, including half of individuals with a chronic condition forgoing necessary medications. According to a recent Kaiser Family Foundation survey, concerns about affording needed medical care led insured individuals to cut back on care due to cost. Responses included postponing care (34%), skipping a recommended medical visit or treatment (30%), not filling prescriptions (27%), and skipping doses or cutting pills (21%).

People who are under-insured not only face the medical problems of inadequate treatment; they also face financial problems from the treatment they actually get. Of sicker underinsured adults, three-fifths reported having been contacted by a collections agency. In a 2007 survey, respondents reported making difficult choices between using up a lifetime of savings, running up credit card debt, skipping the purchase of other necessities, or adding a mortgage against their home in order to pay medical bills.

Home mortgage foreclosure, another personal financial catastrophe, is also related to health care expenses. Seven out of ten respondents in a recent survey of borrowers in foreclosure reported unmanageable medical bills as an underlying cause of their foreclosure, or had experienced other medical disruptions to their income, such as lost work due to illness or using home equity to pay medical bills.

Finally, medical bankruptcy represents the far extreme of the financial problems individuals without health insurance or with inadequate insurance can face. Hard-to-manage health care spending may not appear as easily-identifiable medical debt, but may instead be hidden in second mortgages, large credit card debt or unsecured loans. Many medical debtors turn to borrowing to cover accrued medical expenses in order to continue treatment - and continuing treatment may be their highest priority. For example, a recent debtor in eastern North Carolina incurred \$30,000 in uncovered medical expenses for a child who needed cardiac surgery. He borrowed \$30,000 to pay for that first surgery because a necessary second surgery was withheld until the first bill had been paid. With \$30,000 in unreimbursed medical expenses from the second surgery, as well as loans to cover the initial surgery, the father was forced into bankruptcy.

In some cases, bankruptcy may be driven not by underinsurance but by bad insurance company practices. Unfortunately, bankruptcy trustees have little opportunity or incentive to look into unwarranted denial of claims or unwarranted rescission of coverage - even though these practices may push individuals with health coverage into bankruptcy. And those who suffer from a

wrongful rescission or denial include not only the debtor, but also all the other creditors, whose debts are devalued by the bankruptcy filing.

### Bankruptcy Reform and Medical Debt

One approach that would provide immediate relief to medical debtors would be to reform bankruptcy rules for individuals who are driven to bankruptcy by medical expenses or the secondary effects of medical expenses. Senator Whitehouse, for example, recently introduced the Medical Bankruptcy Fairness Act (S. 1624). This proposal would provide individuals with medically-related debts easier access to Chapter 7 to discharge their debts. It would also allow medical debtors to retain at least \$250,000 in home value, and enable them to bypass burdensome and inappropriate credit counseling requirements. This approach would give medical debtors a less burdensome, less catastrophic bankruptcy option that recognizes the unique circumstances that have driven them to bankruptcy. Until our nation implements systemic health reform - and ensures that coverage and care are truly affordable - we must open new avenues for families struggling under crushing medical debts.

### Ending Medical Bankruptcy: Health Reform and Affordability

Patients with cancer and other chronic conditions, low-income families and individuals who are currently uninsured all hope to gain greater financial stability and access to health care with health reform. Successful health reform must not just make health insurance affordable; affordable health insurance has to make health care affordable.

I am confident that Congress will conclude that the problems I have outlined in my testimony - families forced into bankruptcy, people with chronic conditions going without necessary care, low-income families experiencing the squeeze of unexpected medical bills - are merely a symptom of the larger problems in our health care system. Today we leave too many Americans without health insurance - and even more without adequate coverage. High deductibles and unrealistic copayment responsibilities leave people with chronic illness at perpetual risk of financial ruin. Health insurance companies are able to deny coverage to people with health problems, exclude pre-existing conditions from coverage when they offer it, and charge unmanageable premiums. They can even rescind coverage when their policyholders get sick, leaving people who had faithfully paid their premiums without the financial protection they thought they had paid for.

Congress can fix these problems. Health reforms that ensure that all Americans have health insurance coverage with adequate benefits and reasonable copayment responsibilities will provide real financial protection and real access to health care services. Health reforms that curb insurance companies' discriminatory practices will ensure that everyone can purchase and retain comprehensive coverage, including coverage for pre-existing conditions. And health reforms that require everyone to have coverage, while guaranteeing that individual and family premium contributions are affordable, will end the cost-shifting and uninsurance that are hallmarks of the current system.

### A Chance Not to be Missed

Along with every other American, I am counting on the Congress and the President to enact

reform that will provide answers to these questions--answers that will give all of us affordable coverage and affordable, quality health care. I can't help asking myself how things would be different if we had achieved health reform in 1993 or 1994. Would millions of people be going without needed treatment? Would families be facing medical bills they cannot pay? We've asked these questions for too many years and watched too many families suffer. It's time to stop asking questions and provide the answers Americans are looking for. We can and must seize this opportunity to effectively reform our health care system for the American people.