

BROKEN PROMISES

A DEBT PAST DUE

at Yale-New Haven Hospital

Forward

A Debt Past Due is a companion report to *Refusing to Care: Why the Yale-New Haven Health System turns away those who can't pay.* Together these reports are the latest examinations of the treatment of the uninsured and underinsured within the Yale-New Haven Health System. They were produced for the Hospital Debt Justice Project (HDJP), a joint initiative of the Connecticut Center for a New Economy (CCNE) and the New England Health Care Employees Union, District 1199/SEIU. The HDJP works on behalf of patients whose lives have been adversely affected by the unfair billing and overly aggressive collections practices of the Yale-New Haven Health System, the largest health system in Connecticut.

The work of the HDJP developed out of a series of research reports published by CCNE. Previous reports about Yale-New Haven, available online at www.hospitaldebtjustice.org, include:

- *Uncharitable Care: Yale-New Haven Hospital's charity care and collections practices*
- *Coming to a Town Near You? Charity and collections at Bridgeport Hospital, member of Yale-New Haven Health*
- *"Yale, Don't Lien On Me": The attack on homeownership by the Yale-New Haven Health System and Yale School of Medicine*

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A Debt Past Due

The need for more charity care reform at Yale-New Haven Health

EXECUTIVE SUMMARY

For Yale-New Haven Hospital (YNHH), 2003 and 2004 were marked by public investigation of its questionable administration of millions in charity donations and its heartless collection practices against patients who couldn't afford their hospital bills.[1] In the aftermath, the Hospital has sought to salvage its image by portraying itself as a charitable health care provider to all, announcing reforms, denouncing prior criticism, and insisting that all problems have been resolved.

Instead of addressing the root of its charity and collections problems, YNHH has glossed over the matter with minor policy adjustments and comforting public statements about its renewed commitment to providing health care for all. However, a closer look at the Hospital's moves in the wake of the charity care controversy reveals that many problems remain, and in some ways, things have changed for the worse.

This report, *A Debt Past Due*, explores the contradictions between the Hospital's efforts to repair its public image and recent business decisions that may serve to prevent the community's working poor from receiving charity care. In four parts, the report: 1) examines patients' and community advocates' latest experiences trying to access free care; 2) evaluates "reforms" and other policy changes implemented by YNHH in late 2003 and 2004; 3) analyzes the most recent free care data available from the State; and 4) reports on recent patient experiences with the Hospital's debt collection process. Among the report's findings are:

- **YNHH administers its free care program so inefficiently as to rouse speculation that the program is designed to reject on technicalities and to discourage as many eligible applicants as possible.** Patients and case managers complain of irrational application requirements, new red tape, and poor communication. For instance, with no visible flexibility, YNHH still insists that the free care applicant furnish a "valid" Medicaid/SAGA denial, even if it is months, years, or decades beyond the state's deadline to retroactively cover the hospital debt. In the words of local case managers who have assisted free care applicants: "Yale-New Haven is putting up too many obstacles to free care"; "It's become very, very, very difficult. The few [free care applications] that have been approved were real battles."

- **YNHH's free care application requirements discriminate against immigrants, pushing them to unnecessarily risk downgraded immigration status and even deportation in order to rid them selves of hospital debt and access needed care.** "I don't understand how they can refuse to help me, knowing that Yale-New Haven Hospital has so much money from the government, from people that sponsor it," said an immigrant who was unable to produce the necessary documentation in order to apply for free care for treatment for a cornea transplant. "Now I can't get a good night's sleep or a peaceful meal, I'm always thinking about money. And it hurts. It hurts myself, it hurts my family, because when they see me suffering they suffer with me."

- **Even while announcing the "expansion" of charity care programs, in late 2003 YNHH significantly *reduced* access to its free care program by disqualifying the underinsured from its standardized eligibility criteria for free care.** "If a patient has insurance," reads a YNHH manager's memo dated October 1, 2003, "we no longer have an obligation to discuss Free Care with them, as they will not be eligible." In response, Attorney General Richard Blumenthal described the change as "dead wrong and completely self-serving." By eliminating the underinsured from normal free care eligibility and only considering them on a "case-by-case" basis, YNHH made an extremely *regressive* policy move that *reduced* free care access among a much *larger* patient group than the uninsured. YNHH discharged an estimated 3.4 times as many underinsured patients as uninsured patients in 2003.

- **YNHH provides less free care and uncompensated care than many other hospitals in the state.** In spite of YNHH CEO Joseph Zaccagnino's claim that YNHH provides more free and charity care than any hospital in Connecticut, analysis of State data pierces through YNHH's inflated numbers. Among those hospitals surpassing YNHH was major peer Hartford Hospital, which provided free care in 2003 valued at $5.5 million, compared to YNHH's $3.4 million. While YNHH provided more free care in 2003 than it did in the years immediately preceding, it still provided less than it did in 1998 ($3.5 million). Furthermore, in 2003 YNHH reported less uncompensated care (free care and bad debt) than *two-thirds of the state's hospitals* (taking hospital size into account).

- **YNHH still files collection lawsuits against patients who qualify for its free care program, uses liens, and uses Tobin & Melien, an aggressive law firm the Hospital claims to have fired.** YNHH filed a total of at least 152 new collection lawsuits in the first 10 months of 2004 (331 including Bridgeport Hospital). The Hospital is still demanding patients pay court costs and is charging the maximum interest

allowable by law. YNHH is also engaging in a new practice of suing the vast majority of patients in distant courts outside of the city of New Haven, which may enable the Hospital to more easily obtain court judgments by default and avoid fulfilling its legal obligations to cease collections against patients eligible for free care. "I called [YNHH] for help to pay the bill," said one impoverished patient from New Haven who was sued for a $3,800 emergency room bill, "and the woman told me that they would send me a form. The only mail I received was an order from a court in Meriden."

These revelations are even more disconcerting in light of the Hospital's written policy of denying care to uninsured and underinsured patients with outstanding debts, as discussed in the companion report, *Refusing to Care: Why Yale-New Haven Health System turns away those who can't pay.* Despite nearly two years of heavy public pressure, Yale-New Haven Hospital—a tax-exempt, nonprofit charity that purports to serve the community as a whole—continues to slash at the health care "safety net" on which the low-income residents of New Haven depend. Real reform of charity care at the Hospital will require transparency, community involvement, accountability, and a sincerely charitable approach—all the attributes of a real community hospital.

PART I: OBSTACLES AND BARRIERS IN THE FREE CARE APPLICATION PROCESS

Why some patients in need still can't access free care at Yale-New Haven

By all indications, since Attorney General Blumenthal sued Yale-New Haven Hospital for failing to meet its obligations to notify patients of its free bed funds, and since the barrage of press on the Hospital's charity care and collection practices that followed, word has spread that free care funds are available at the Hospital. But despite this wider awareness, controversial obstacles in the YNHH free care application process still limit access to the program. Furthermore, *new* obstacles in the free care application process may mean that for some, it is now even more difficult to actually receive free care. Hospital documents and interviews with patients and case managers reveal a confusing, irrational and unjust application process that exhausts patients and discourages them from applying.

The Medicaid/State Assistance application prerequisite

As a prerequisite to applying for free care, Yale-New Haven Hospital demands that patients receive a written denial for state medical assistance—such as Medicaid (often called HUSKY) or State Administered General Assistance (SAGA). The application instructions specify: "Before applying for Free Care Funds awarded by the Hospital, all patients must apply for SAGA/State assistance… The decision for SAGA/State must be received, **in writing**, and provided Yale-New Haven Hospital along with the completed Free Care application" (emphasis in original).[2] While initially this comes across as encouragement for patients to seek alternative coverage before applying for free care, for many patients the requirement serves as an irrational, irrelevant obstacle to the free care program.

The three-month retroactivity deadline

The main reason the "state denial" prerequisite requirement is inappropriate is that *patients can only receive state coverage for a hospital debt if they successfully apply during a three-month window immediately following their hospitalization.* Unfortunately, many patients learn of the Hospital's free care program or of the availability of State medical assistance several months, sometimes years, after their hospitalization.

Some patients miss the State medical assistance retroactivity window because they never were told about the programs during or immediately following their hospitalization. For others, they may have believed they had insurance coverage, but a billing error or claim denial that took months to process left them at the end with a staggering, unexpected debt. Some report serious billing delays, with their first hospital bill arriving several months or even a full year past the date of their treatment. Still others may have been too sick or disabled immediately following a hospitalization to apply. Finally, Spanish-speaking patients report receiving free care instructions in English only, leading to further delays. Factoring in the lengthy,

complicated nature of the State assistance application itself and the high potential for omissions and errors, the window of retroactivity shrinks even further.

Upon receiving the application, the Department of Social Services takes up to 45 days to process a Medicaid application. Since YNHH's cutoff period for "bad debt" to enter collections is 90-120 days, this means that even if the patient applies for State medical assistance within three months of hospitalization, they could be subject to pursuit by one of the Hospital's collection agencies or attorneys before they receive coverage or are considered eligible to submit a free care application.

With no visible flexibility, YNHH still insists that the free care applicant furnish a "valid" Medicaid/SAGA denial, even if it is months, years, or decades beyond the State's deadline to retroactively cover the hospital debt.

Although insisting upon proof of denial from Medicaid or SAGA, YNHH's free care instructions do not mention the three-month retroactivity cutoff in any language.[3] Patients have no way of knowing how urgent it is for them to apply for State assistance, because even if they are accepted after three months, their insurance coverage through Medicaid or SAGA will not apply toward their hospital debt.

For free care applicants who miss the retroactivity deadline, the "State denial" prerequisite should be irrelevant. But it's not. With no visible flexibility, YNHH still insists that the free care applicant furnish a "valid" Medicaid/SAGA denial, even if it is months, years, or decades beyond the state's retroactivity deadline. After the publicity surrounding YNHH's charity care and debt collection practices in 2003, the Hospital Debt Justice Project interacted with dozens of patients with outstanding hospital debts who wished to apply for free care. Many such patients had debts that were years, even decades old. But even these patients were subject to the "State denial" prerequisite.

"State denial" prerequisite a major deterrent for immigrants

Even though in Connecticut, undocumented immigrants are automatically ineligible for State medical assistance (except in emergencies), YNHH still requires them to apply before seeking free care:

> Before applying for Free Care Funds awarded by the Hospital, all patients must apply for SAGA/State assistance. This includes patients who are non-citizens (documented and undocumented residents).[4]

Many immigrants will not apply for medical assistance, even in an emergency, for fear of jeopardizing their immigration status.[5] "I've got people who won't apply to DSS," said a case manager at Fair Haven Community Health Center. "And I can't guarantee [immigration agents] won't track them down. I mean, I'm 99 percent sure they won't, but I can't guarantee it." Immigrants seeking legalized status or even documented immigrants with family members seeking legalized status or new visas

will not apply for state assistance to avoid prejudicing their application by being characterized as a "ward of the State."

Patients who are clearly ineligible for Medicaid/SAGA

For a large subset of patients eligible for YNHH's free care program, it makes no sense to apply to Medicaid because their income or assets are obviously above the State's eligibility cutoff, the patient already has insurance (either newly acquired or insurance that wouldn't cover the hospitalization at the time), or the patient is applying too late for retroactive coverage. While a patient with income up to 250% of the federal poverty line can qualify for free care, State assistance has much lower income cutoffs, anywhere between 55% and 185% of the poverty line depending on the program and the age of the applicant. For example, the income cutoff for SAGA for adults is currently $477/month for a single adult (and assets of no more than $1000); for YNHH's free care program, the cutoff is $1940/month (with no asset test).

> *"All we can do is take a careful look at all of our policies and create individually tailored arrangements that essentially get the job done."*
>
> **William Gedge**
> **Yale-New Haven Health System**
> **VP of Payer Relations**

Patients with income low enough to qualify for free care report contacting their local Department of Social Services office about State assistance, being asked screening questions about income and assets, and being told not to bother applying because their income is above the cutoff. Patients with insurance don't want to apply for State health insurance when all they want is financial assistance with their hospital debt. At this point, patients can't comprehend the need to go through the lengthy application process, which includes filling out a 14-page application and furnishing numerous documents such as affidavits of income and proof of household expenses. Patients and case managers alike describe the process as onerous and confusing. They also report that Yale-New Haven does not provide adequate guidance to applicants during the process.

> *"Yale-New Haven is putting up too many obstacles to free care."*
>
> **Case manager**
> **Fair Haven Community Health Center**

Unfortunately, YNHH allows no flexibility, even for patients whom a social worker can easily see would not qualify for the state program. For these individuals, the state assistance application serves no purpose other than to delay and frustrate. And effectively so: at this point, many would-be free care applicants report having abandoned the process altogether.

New bureaucratic barriers

It is disconcerting that at a time when community and government officials were calling for broader access to free care at YNHH, the Hospital not only cut the underinsured out of its free care program (as will be discussed in the next section), but also made application requirements for the remaining eligible patients even more stringent. "Yale-New Haven is putting up too many obstacles to free care," said

Denise Dean, who assists uninsured patients at the Fair Haven Community Health Center. "Since the Attorney General sued them, they've made it *more difficult* to receive free care."

Proof of income requirement change

As recently as one year ago, while it preferred pay stubs or tax returns, YNHH would accept handwritten letters from case managers as proof of income. Now, the Hospital requires pay stubs, tax returns, or a notarized letter from the employer on company letterhead. This produces serious complications for some, especially immigrants, who are paid in cash or are working illegally. The major obstacle becomes daring to ask the employer to spend time to write a letter or have it notarized. According to Ms. Dean, in an effort to obtain proof of income, an immigrant farm worker with YNHH debt was fired when she roused the suspicion of her supervisor merely by asking the location of the employer.

Daunting new requirement: Notarized "supporter" petitions

William Gedge, the payer relations chief of the Yale-New Haven Health System, described in an interview what he called the "$64,000 question": "How do we differentiate those who truly don't have the ability to pay and those who do and choose not to?"[7] Proof of income of patients and their spouses is apparently no longer enough. Recently, YNHH began to require unemployed free care applicants to identify any person who provides them with financial support, and to disclose details of the support on an official form. The "supporter," who is often not related to the applicant, must also have the form notarized.[8]

In the opinion of case managers, the "Declaration of Support and Residency" is an excessive requirement that unnerves many poor people from applying for free care. "If I'm living in your house with you and your girlfriend, why are they going to take your salary into account?" asked case manager Victoria Restrepo. Mexican immigrants of different families often share a residence and support one another, she noted.

Case managers also reported that the "supporters" are very hesitant to sign the form. "There are a million reasons why Mr. Smith doesn't want to come in and do this," said Ms. Dean, "starting with the fact that he himself is not a citizen." Immigrants are often afraid to sign anything, she said. Even worse, a notary public requires photo identification, which undocumented immigrants often do not have. Also, supporters have refused to sign out of fear the Hospital will make them responsible for paying someone else's debt—an incorrect although not completely irrational fear. (YNHH does ask companions of patients in the ER to sign guarantor agreements, which make the signer fully liable for the patient's charges; sues spouses of patients with hospital debts; has drained everything from jointly held bank accounts for one person's outstanding debt; and has placed liens on homes jointly owned by unrelated persons.)

Carelessness, delays, and poor communication

Even for trained case managers with years of experience, YNHH's free care application process is unnerving. "I don't know how anybody does it without a case manager," said one case manager. A simple, straightforward case for free care, the case managers said, may take a year to process. Case managers report that when Yale-New Haven Hospital finds mistakes or missing information, it does not send one letter that lists all the necessary corrections, but rather issues one letter per error with three weeks between letters. Therefore, the Hospital can take up to twelve months to reach a decision on a complicated case. YNHH reportedly does not acknowledge when it receives a free care application. The first notification from the Hospital, the case managers said, is often the denial letter mailed to the patient. A case manager described the frustration with the Hospital as follows:

> They never return your calls. Every time I ask a question, they tell me something different. Every time the letter says one thing, the person on the phone says something different. They're not trying to assist people.

In another recent case, the Hospital denied a free care application because the employer letter wasn't notarized. Ms. Restrepo, who assisted this particular client, said it was yet another unexpected obstacle. "They never told me it had to be notarized until the application was denied," she said. Quite often, news of a change in the Hospital's free care policy never reaches the case workers, causing delays, confusion and frustration.

"It's become very very difficult. The few [free care applications] that have been approved were real battles"

Victoria Restrepo
Case manager at Fair Haven Community Health Center

The increasing difficulty that case managers have encountered when helping patients to apply for free care at Yale-New Haven Hospital led at least one of them to conclude that the process is designed to reject as many qualified applicants as possible. "It's become very, very, very difficult," said Ms. Restrepo. "The few that have been approved were real battles."

The experience of undocumented immigrants

Eight percent of the New Haven population identified itself as "not a citizen" in the 2000 Census.[9] Undocumented immigrants typically work low-wage, under-the-table jobs for employers who do not offer health insurance. And yet, undocumented immigrants are severely disadvantaged when applying for YNHH free care. The disadvantage begins with the Hospital's unyielding state assistance denial prerequisite, and continues with the new requirements for notarized letters of support and letters from employers to prove income.

Case in point: A nine months-long application ordeal

The Connecticut Center for a New Economy received a copy of a letter sent October 20, 2004 from Victoria Restrepo, a case manager at the Fair Haven Community Health Center with ten years of experience, to Bernard Lane, the head of Patient Accounts at YNHH. For nine months since January 2004, this seasoned social worker has tried every conceivable way to help a poor, Spanish-speaking family

cover a $6,868 debt incurred from an uninsured childbirth. Here are some excerpts from the letter, which was carbon-copied to elected officials, Attorney General Blumenthal and local advocates:

> I have never had such a difficult time accessing Free Care funds for any family. I will document for you the steps I took to try to get this baby's Yale bill covered by your Free Care funds, and you will clearly see that I have gone over and beyond what is necessary. As of today, nine months later, this child's case is still being denied by your office:
>
> - 1/07/04…Initiated application for Free Care under mom's name.
> - 3/04 Call to [YNHH] Patient Accounts and spoke with A. to check on application. Stated application was received on 2/04, but not processed yet, and she will call me back.
> - 5/04 Call to Patient Accounts, spoke with J., who said that application had to be in child's name. Application in child's name faxed to J.
> - 5/04 Call to J. to confirm that she had received the application. J. stated to me that the application is not complete because it was "missing # of dependants." I told J. patient was only 1 year old and had no dependants. Corrected application with # of dependants, and faxed to J.
> - 6/18 Patient's mom received Collection Agency papers. Called R. from collection agency and told him they are pending Free Care Funds. R. stated that he would put account aside for 45 days.
> - 6/21 Call to J. to inquire about Collection Agency, left voice mail. She never returned my phone call.
> - 7/13 Call to J. again to check on application status. J. requested denial letter from State. Explained to her that child is on Husky, was never denied. J. requested that I fax her copy of [DSS/Husky] application, eligibility confirmation, and 5/04 mom's pay stubs and that would be all she needed. Documents faxed.
> - 7/13-7/14? J. called me and said that above documents are not good. She now needed a letter of eligibility from D.S.S. I told J. that D.S.S. wouldn't print a letter for a case opened one year ago. I called D.S.S. worker, who stated to me that she could not go back one year. I explained to the worker the situation with Yale, and how long I had been dealing with this bill. Worker agreed to mail me a print out with dates of the application and beginning of eligibility.
> - 7/19 Print out from D.S.S. faxed to J.
> - 9/13 Patient's mom called me stating new bill came to her house.
> - 9/15 Phone call to J., I was told she was out sick. Spoke with

M. about the case, who said could not find anything, and asked me to fax all papers to her again. All papers faxed to M. The same day I requested to speak to a supervisor. I was transferred to L., and asked why this case was taking so long. She stated she was going to take a look at it and call me back." She did not call.

- 9/28 Call to M. who said to me that application was being denied again. I spoke with L. who requested <u>again</u> last 2 pay stubs of both parents.
- 10/5 Pay stubs faxed to L. Later M. called me, stated that "D.S.S. print out was not on letterhead and had no stamps, nothing to indicate that came from D.S.S." I explained to her that I have been doing this for years, and that D.S.S. would not provide it on letterhead. She told me to at least have the letter stamped by D.S.S., and fax it to her.
- 10/6 Trip to D.S.S. to have print out stamped. Stamped D.S.S. letter faxed to L. along with fax of confirmation of eligibility from D.S.S….
- 10/7 Monique called me stating that confirmation of eligibility "not good, because it is a fax cover sheet**,"** also that D.S.S. stamped letter was "not good enough." She stated that mom has to find original denial letter or patient will be denied again.

It is obvious that Yale New Haven Hospital has given this poor mother the runaround in order to avoid payments from the Free Bed funds….

Two weeks after Ms. Restrepo sent the letter, she received a written response from Yale-New Haven Health System senior vice president William Gedge along with a letter from Mr. Lane notifying her that the Hospital had decided to award free care to her client, with the following caveat: "The Hospital's Free Care Program only covers your accounts with Yale New Haven Hospital and does **<u>not</u>** include Yale University School of Medicine, Yale New Haven Emergency Physician billing or Yale Diagnostic Radiology." (emphasis in original). It has been the experience of the Hospital Debt Justice Project that Mr. Gedge reserves such close personal attention for those who have brought glaring cases of hospital inaction to the attention of Attorney General Blumenthal and local advocates such as the Hospital Debt Justice Project.

In his letter to Ms. Restrepo, Mr. Gedge appears to minimize the Hospital's responsibility for the drawn-out application process. He begins his apology by inviting Ms. Restrepo to share the blame:

> It appears that through the process there might have been several technical errors or gaps in communication where the necessary information might not have been provided correctly. However, the clarity of our response and the method at which the response was provided could have been improved significantly… It is clear that in multiple conversations between you and our staff or our staff and the family, we could have been clearer in our requirements and taken the next step to either call or pursue the informa-

> tion that was lacking in their application. I apologize that this did not occur.

According to this account, misstated instructions are "unclear," ignored phone calls are "failing to take the next step," and correspondence that amounts to a denial letter and referral of the bill to collections is "inadequately pursuing the information that was lacking in their application."

The Hospital Debt Justice Project has spoken with many former patients who would attest that Ms. Restrepo's frustration with YNHH's free care application process was not an isolated case. Furthermore, many qualified patients who apply for free care do not have a case manager helping them and don't have the skills or time to pursue free care as persistently as a case manager might. A denial letter from the Hospital or a demand for irrational and unreasonable application prerequisites is usually enough to discourage such applicants from pursuing the matter any further. Mr. Gedge's private interventions notwithstanding, case managers attest that free care is more difficult to obtain now than ever.

Collections manager has veto power over all free care

An internal memo obtained by the Hospital Debt Justice Project shows that a collections manager in the Yale-New Haven Health System Billing Office (SBO), Kimberly Colapietro, maintains the final say over all free care awards at both Yale-New Haven Hospital and Bridgeport Hospital, after a single "Free Care Coordinator," Gigi Lanier, reviews the applications.

> Her role as the Free Care Coordinator requires her to review each and every Free Care application and make a decision as to who is eligible or ineligible. Since her inception as Coordinator, Gigi has already reviewed hundreds of applications and forwarded them to Kim Colapietro for final review.

Court records show that Kimberly Colapietro is the very collections manager who for years has signed YNHH's "Affidavits of Debt" submitted to the court during collections lawsuits against patients. The affidavits name the patients and the amount being pursued, "plus interest and costs of suit," with statements to the effect of: "The plaintiff rendered said medical services to [patient] with the expectation that it be paid for same…there are no valid defenses to this action and the Plaintiff moves for entry of judgment…although demand has been made, the Defendants…have failed, refused and/or neglected to pay same." For each affidavit, Ms. Colapietro has taken an oath in person before a notary public as to its truth.

It is a clear conflict of interest if a manager in charge of collections is also charged with deciding who is worthy of free care. Maximizing collections revenue and ensuring that all patients in need of financial assistance receive it are two directly conflicting goals. Furthermore, it is widely rumored among Hospital and Health System staff that managers receive special year-end bonuses based upon the performance of their departments. (If these rumors are not accurate, it is incumbent upon the Hospital administration to dispel them by disclosing management's compensation

schemes to employees and the public.) Under such circumstances, a manager might even have a *personal financial incentive* to minimize free care awards.

Yale medical students seek community review board

In 2004, a coalition of Yale medical students, the Student Initiative for Health Care Access and Compassionate Care, made a proposal for a "community review board" to oversee YNHH's free bed funds, submitting the proposal to be considered for passage as a resolution by the New Haven Board of Aldermen. The students suggested that knowledgeable representatives from community organizations such as New Haven Legal Assistance Association and Connecticut Health Policy Project comprise the board. "We would like to oversee all of free care to make sure people don't fall through the cracks, because the system currently in place hasn't been working," a student told a reporter in December 2004. "The people on our proposed patient board would be ideal patient advocates, because that's what most of them do professionally. They would really know the community."[10]

The group has worked in conjunction with State Senator Toni Harp from New Haven, who is lobbying the hospital on the students' behalf. "They say their process is clear and is working, but it really isn't," Senator Harp told the *New Haven Register*. "Bed funds are very complicated, especially for people whose understanding is limited."[11]

Although the medical students first submitted their proposal to YNHH in May 2004, as of December they still hadn't received a response.[12] The Hospital cancelled four scheduled follow-up meetings. In comments to the press, YNHH has denied the necessity of such community oversight. "We feel we already have strong community input concerning these funds," hospital spokesperson Vin Petrini told a reporter. "We've got a strong structure in place."[13] This comment, of course, contrasts starkly with the reality of one YNHH System collections manager having final say over all free care awards.

PART II: GIVING WITH ONE HAND, TAKING WITH THE OTHER

How YNHH's minimal free care "expansions" were countervailed by retractions

Most prominent among the free care reforms Yale-New Haven Hospital announced in 2003 and 2004 in reaction to the public outcry against its uncharitable billing and collections tactics were:

- The "expansion" of its free care program to individuals with income up to 250% of the federal poverty line in October 2003; and
- The unveiling of a new "sliding scale" discount program for the uninsured in March 2004.

The Hospital portrays these changes as remedying shortcomings of the past and making the Hospital an "industry leader" in its policies towards the uninsured. The following analysis will explore each of these announced "reforms" and show that they either lacked substance or were countervailed, possibly even outweighed, by *regressive* changes to its charity policy made in the Fall of 2003. YNHH's policy changes possibly even had the net effect of *shrinking* the Hospital's safety-net, not expanding it (although without further disclosures from YNHH it is not possible to determine whether this is the case). The end result is a hospital that is by some measures less charitable than it was when criticism began in early 2003.

Rescinding charity for the underinsured

Amidst the fanfare of its charity care "reforms" and collection practices, YNHH made a quiet policy change in the fall of 2003 that drastically shrank the pool of patients eligible for free care by *disqualifying all underinsured patients*. "If a patient has insurance," reads a manager's memo dated October 1, 2003, "we no longer have an obligation to discuss Free Care with them, as they will not be eligible."[14] As early as August 2003, the Hospital's free care application began to specify:

> Patients with commercial insurance are not eligible for Free Care funds and Yale-New Haven Funds. These include patients with co-payments and deductibles, patients who have not followed the required procedures of their health plan to obtain coverage, or patients who have received elective services that have been denied medical necessity by their health plan.[15]

This was a completely new condition, absent from other application instructions in the past. Underinsured patients interviewed by the Hospital Debt Justice Project reported receiving free care from YNHH before this change.

The YNHH manager's memo regarding the change blamed it on the "Looney Bill 568," the bill sponsored by State Senate Majority Leader Martin Looney that led to the passage of Public Act 03-266. The Act granted greater consumer protections

to uninsured and underinsured hospital patients, effective October 1, 2003, including the right to a substantial discount on inflated hospital rates for uninsured patients up to 250% of poverty line, and did not include any measure to restrict or prevent a hospital from providing free care to the underinsured. But according to the YNHH memo:

> Anyone that has been granted Free Care until now will continue for the normal duration of 90 days. When/if they reapply and if they still have insurance they will no longer be eligible.
>
> If a patient has insurance we no longer have an obligation to discuss Free Care with them as they will not be eligible. This applies to any and all patients who have insurance regardless of high deductibles, co-pay, non FDA approved drug etc. Therefore, if a patients insurance will not cover a service, Free Care will no longer be an option. They will be counseled re: Medicaid, possible pharmaceutical company eligibility programs and self payments.
>
> There will probably be repercussions from this change for patients who were receiving off label drugs that were in the past eligible for Free Care, but with this new law will not be. Unfortunately there isn't anything we could do about this as it is the law…[16]

In a *New Haven Register* article covering the change, Attorney General Richard Blumenthal described the change as "dead wrong and completely self-serving," stating, "There is simply no logical or reasonable interpretation of the new law that would support the hospital saying … patients with insurance are ineligible for free bed funds." The article reported that neither Hartford Hospital nor the Hospital of St. Raphael draw distinctions between the underinsured and uninsured in their charity programs. Senator Martin Looney said of the change that, "It seems to be a very bad faith effort to try to evade the clear intent of the statute." He called YNHH's interpretation of the law "tortured": "Clearly, the statute mandates free care in certain circumstances, but it doesn't mean that there is a bar against providing it in other circumstances."[17]

"There is simply no logical or reasonable interpretation of the new law that would support the hospital saying patients with insurance are ineligible for free care."

Attorney General Richard Blumenthal

The *New Haven Register* profiled local resident Gladys Concepción, a diabetic immigrant earning less than poverty wages who owed tens of thousands of dollars to YNHH from her son's car accident back in 1991. The debt resulted after her insurance had been maxed out. Unable to pay and never informed of the Hospital's free care program, for over a decade Ms. Concepción suffered a wage garnishment from YNHH and battled attempts by the Hospital to foreclose on her home. In the summer of 2003, over a decade after her son's accident, Ms. Concepción finally learned about free care and successfully applied with the help of

patient advocates at Student Health Outreach, the Hospital Debt Justice Project, and students from the Yale Law Clinic.

"Oh my god, before I was always worrying they were going to come out of the blue and just take my house. That's all I was thinking about," Ms. Concepción said to a reporter. "I asked myself, how can people do this to me?" When the *New Haven Register* asked Yale-New Haven Health System Senior Vice President for Payer Relations William Gedge if a person like Ms. Concepción would qualify for free care under the Hospital's new rules, he replied, "Not on a routine basis."[18]

"Oh my God, before [being accepted for free care] I was always worrying they were going to come out of the blue and just take my house."

Gladys Concepción former underinsured YNHH debtor

YNHH's mission falters while need for help rises among the underinsured

The problem of inadequate insurance coverage is on the rise. According to a 2002 report by the Kaiser Commission on Medicaid and the Uninsured, "Underinsured in America," approximately 20 percent of individuals with commercial insurance are underinsured, meaning they face limits on coverage or substantial financial costs if faced with an illness. Eighteen percent of individuals with insurance reported postponing medical care because of inadequate coverage; fifteen percent had problems paying medical bills; and eight percent receive notices from collection agencies.[19]

When asked if patients like Ms.Concepción would qualify for free care under the Hospital's new rules, YNHH's Senior VP William Gedge replied, "Not on a routine basis."

Furthermore, the underinsured are possibly the principal victims of medical debt. A 2001 Harvard study found that nearly half of all bankruptcies were related to medical debt or the financial consequences of a medical condition. Of those bankruptcies, nearly 80 percent of the filers had health insurance.[20] A recent survey of Maine hospitals found that 40-50 percent of bad debt was owed by patients with health insurance.[21] Trends of cost-sharing imposed by employers to fend off rising insurance premiums indicate that this proportion may be rising. According to one hospital consultant's report, the share of medical costs that the patient is responsible for now averages 20 percent.[22]

In testimony to the House Committee on Ways and Means in June 2004, Nancy Kane, a professor at Harvard Business School and expert on hospital bad debt and charity care issues, emphasized the impact of hospital debt on both uninsured patients and low-income insured patients. "Even insured people incur medical debts; low-income insured people, like low-income uninsured people, do not fill needed prescriptions, skip follow-up treatment for life-threatening diseases like breast cancer,

"Even insured people incur medical debts: low-income insured people, like low-income uninsured people, do not fill needed prescriptions, skip follow-up treatment for life-threatening diseases like breast cancer, and do not see a physician when suffering acute illness."

Dr. Nancy Kane
Harvard Business School

and do not see a physician when suffering acute illnesses." Because of the impact on not just financial health, but physical health as well, Dr. Kane described the plague of medical debt among uninsured and underinsured alike as a "growing public health crisis."[23]

At this time of increased need among the underinsured, YNHH has drastically downsized its charitable commitment to this group. Before, a patient facing an unaffordable bill could theoretically apply to the Hospital for financial assistance and be rejected or accepted according to financial need. Under the new policy, the *type* and *origin* of debt incurred became the first thing that matters. For underinsured patients who incurred their debts as a deductible, a co-pay, a charge for a "pre-existing condition" or a procedure that was denied coverage by an HMO, financial assistance would no longer be available, no matter the size of the debt or the income of the patient.

How many uninsured patients vs. underinsured patients are seen at YNHH?

"Although the uninsured [sic] is a huge problem for us, a growing problem is the underinsured patient," YNHH's William Gedge said in an interview with a hospital trade publication.[24] Indeed, in recent years, the financial burden presented by the uninsured on YNHH has decreased, as inpatient uninsured volumes have remained low and outpatient uninsured utilization as a proportion of Hospital totals has significantly fallen.

Inpatient uninsured volumes at YNHH have consistently been a very small component of the Hospital's inpatient payer mix. Only 1,043 uninsured inpatients were discharged from YNHH in 2003, just 2.3% of the Hospital's total discharges. After adjusting with the case mix index (a multiplier used by the Medicare program to compensate for the differing severity of illness among payer groups), uninsured discharges in 2003 were just 1.8% of YNHH's total case mix adjusted discharges. Charges billed to uninsured inpatients, a measure of the volume of services provided, comprised only 1.7% of the charges billed for all hospital patients. (Trend lines show this to be a slight rise over 2002, when uninsured charges were just 1.0% of total charges and only 950 uninsured inpatients were discharged from the Hospital.)

While uninsured outpatients are a somewhat larger fraction of YNHH's outpatient payer mix, uninsured outpatient equivalent discharges[25] have dropped precipitously over the past several years. By this measure, the uninsured comprised 16.2% of all YNHH outpatients in 1997; this fraction steadily dropped during the years, landing at just 5.7% of all YNHH outpatients in 2003. Uninsured outpatient charges were an even smaller

According to a Harvard study, nearly 80% of medical debt-related bankruptcy filers had health insurance.

proportion of total outpatient charges: just 4.3% in 2003, compared to 13.7% in 1997, a 68.3% decrease over six years.

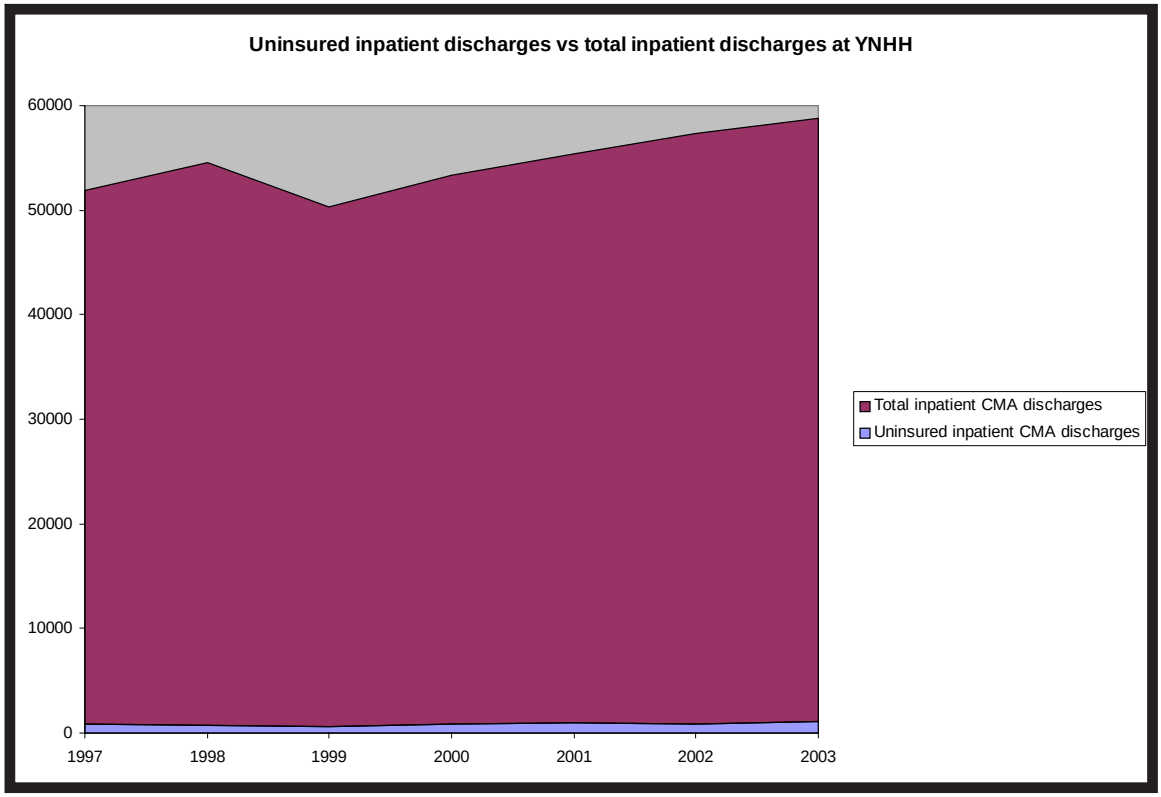
Based on the Kaiser Family Foundation's assessment that 20% of commercially insured patients are underinsured, in 2003, YNHH discharged an estimated 6,819 underinsured patients—3.4 times the 1,997 uninsured patients it discharged that year (inpatient and outpatient).[26] The adjacent graph shows that while uninsured discharges have trended downward, underinsured discharges have trended upward.[27]

In 2003, YNHH discharged an estimated 6,819 underinsured patients — 3.4 times the 1,997 uninsured patients it discharged that year.

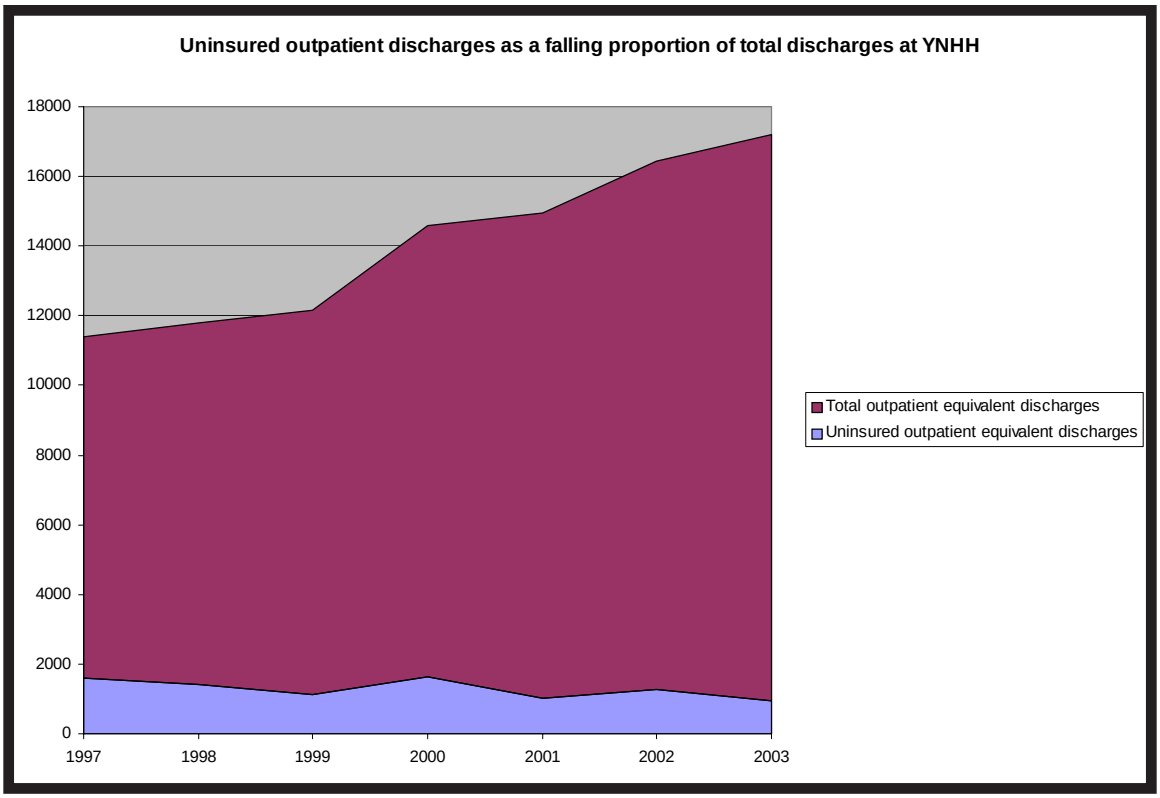
"Although the uninsured [patient] is a huge problem for us, a growing problem is the underinsured patient."
William Gedge
YNHH Senior VP

"On a case-by-case basis" only

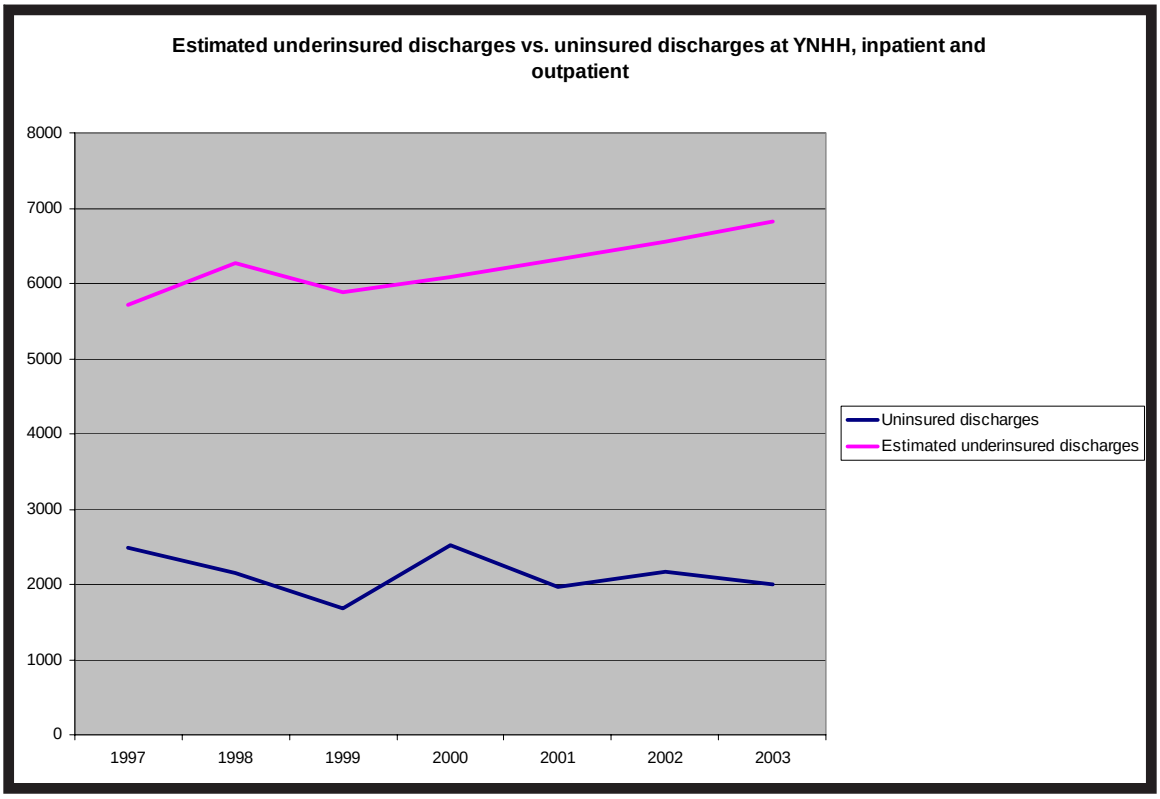
A visible change occurred in YNHH's free care application instructions some time in the spring of 2004. The newest



Source: Office of Health Care Access YNHH hospital annual reporting, Schedule UCT, fiscal years 1997-2003.



Source (both graphs): Office of Health Care Access YNHH hospital annual reporting, Schedule UCT, fiscal years 1997-2003.



version of the application instructions no longer states outright that underinsured patients are not eligible. In the opinion of the Hospital Debt Justice Project, this change was necessary to be in compliance with state law, since the application instructions apply to both internal hospital funds and donated free bed funds. The law requires hospitals to offer donated free bed funds to any patient who may have "limited funds to pay for any portion of the patient's hospitalization not covered by insurance"—insured or uninsured.[28]

The change in the application instructions does not appear to have signaled a reversal, however. A March 2004 *New Haven Register* story mentioned Attorney General Blumenthal's continuing concern about whether the underinsured would receive financial assistance at YNHH. When asked to elaborate on this point, Hospital spokesman Vin Petrini said that financial assistance for the underinsured will be considered on a case-by-case basis. Blumenthal replied, "If the hospital has persuasive evidence that the underinsured are receiving help, perhaps they will give it to us."[29]

YNHH maintains employee bonus programs linked to the financial performance of the hospital, which in theory could give employees the incentive to deny charity care whenever a decision is based upon "case-by-case" discretion.

A "case-by-case basis" consideration of the underinsured is clearly inadequate, since patients in need of help would be subject to the arbitrary calls of individual hospital managers who themselves may face internal budgetary pressures or financial performance goals. For example, YNHH maintains employee bonus programs linked to the financial performance of the hospital, which in theory could give employees the incentive to deny charity care whenever a decision is based upon "case-by-case" discretion, rather than a written policy with clear income guidelines.[30] The only visible reason for YNHH to insist upon a "case-by-case" treatment of the underinsured, as opposed to fully including them in the free care program as before, is so that the Hospital can reserve the right to reject underinsured patients more arbitrarily than has been the case in the past.

YNHH's "expansion" of free care?

Incredibly, even as it was implementing a change that cut out thousands of needy underinsured patients from its charity care program, YNHH boasted that it had "expanded" its free care program. In a full-page advertisement that appeared in the *New Haven Register* in February 2004, the Hospital wrote that it "undertook a comprehensive review of billing, collections and free care policies. … As a result of our review, the hospital: increased access to free care by changing the eligibility threshold to 250 percent of the poverty level," effective October 1, 2003. An op-ed by YNHH CEO Joseph Zaccagnino in December 2003 stated that the Hospital had "enhanced access to free care by increasing the number of patients who qualify by changing the eligibility threshold to 250 percent of the poverty level."[31]

Even with the issue of the underinsured aside, this "expansion" actually changed much less than the Hospital led the public to believe. YNHH's free care applications during the two years prior to October 1, 2003 already showed an income eligibility cutoff of 250% of the poverty line for free bed funds, or the endowment of pooled donations specifically dedicated to free care for the poor. These applications showed an income eligibility cutoff of 150% for the "Yale-New Haven Fund," or the Hospital's general free care program. While the Yale-New Haven Fund is a voluntary program subject to the arbitrary funding and policy decisions of YNHH, the free bed fund program is regulated by state laws that require the Hospital to disclose the program to all patients in need and give them ample opportunity to apply and reapply.[32]

So for years, patients up to 250% of poverty were already eligible for free care at the Hospital and (theoretically) guaranteed access to free care funds by law. [33] The only change YNHH made was to align the "Yale-New Haven Fund" income cutoff with the free bed fund cutoff.

A factor that may have influenced YNHH's decision to align the income requirements was the new state law passed in 2003 granting considerable rights during the collection process to uninsured hospital patients with income of less than 250% of poverty. Effective October 1, 2003, before any patient can be sued by a hospital for an outstanding debt, the hospital must determine whether the patient is uninsured with income below 250% of poverty. Such patients are then legally entitled to a considerable discount off their bill down to the rate of "cost," which in YNHH's case is about 56% off of a typical uninsured patient's bill. This eliminates the Hospital's ability to profit from such a patient, and greatly reduces the cost-effectiveness of sending such a patient's bill to a collection agency or attorney. It is pure business savvy for a hospital to decide, in the wake of this new law, to provide full charity care to patients who qualify for the state discount.[34]

For years before YNHH's "expansion," patients up to 250% of poverty were already eligible and (theoretically) guaranteed access to the Hospital's free care funds by law.

A band-aid on the wound: The "sliding scale" discount program

In 2003, patient advocates across the country, including the Hospital Debt Justice Project, began expressing outrage over what they call "discriminatory pricing," the widespread practice among American hospitals of charging uninsured patients much higher rates than they charge to any other payer group, such as private insurers, Medicare and Medicaid. For instance, at YNHH, while commercial insurance companies received discounts averaging 49% off of the "sticker price" in 2003, uninsured patients were expected to pay the full, undiscounted rate. In the recommendations to *Uncharitable Care,* the original report criticizing YNHH's collection practices released in March 2003, the Connecticut Center for a New Economy wrote: "The uninsured, the only patients who are always

billed full hospital charges, should receive discounts comparable to those received by insured patients."

After months of delays blamed upon a supposed need for "federal approval" (an excuse that was long disputed by patient advocates and finally debunked in February 2004[35]), YNHH finally announced a partial discount program in March 2004."At Yale-New Haven Hospital," said Hospital President and CEO Joseph Zaccagnino, "we have carefully considered how we can make care more affordable for those patients who do not qualify for free care."[36] The Hospital's new "sliding scale" discount program advertises discounts to the rate of cost (approximately a 57% reduction) for patients whose incomes range from 250 to 350 percent of the federal poverty level ($47,125 to $65,975 for a family of four).[37] "We thought it was the right thing to do," said Hospital spokesman Vin Petrini.[38]

The "sliding scale" program is important and long overdue—for those patients that qualify. However, as described below, the limited nature of the program—which doesn't apply to patients below 250% of poverty or above 350% of poverty or to underinsured patients—means that the Hospital has not yet fully addressed the injustice of discriminatory pricing. Also, given the limited pool of eligible patients, the new discounts are unlikely to make up for the negative impact of YNHH's new policy of disqualifying the underinsured from its free care program.

Small number of uninsured patients at YNHH with income between 250%-350% of poverty line

The impact of YNHH's new "sliding scale" program is much more limited than it would seem, since only a relatively small number of uninsured patients are seen at the Hospital, and only a fraction of those patients fall within the income guidelines of the program. About 2.6%, or 1,997, of discharges at YNHH were uninsured in 2003. According to the Kaiser Family Foundation, 58% of Connecticut's uninsured have family earnings below 200% of the federal poverty line.[39] So, only a fraction of that 2.6% slice of discharges would qualify for the "sliding scale" program.

YNHH still overcharging patients below 250% of poverty line who can't navigate free care program requirements

In its press release and advertisements about the "sliding scale" program, YNHH led the public to believe that uninsured patients with incomes below 250% would "automatically" be given free care, making moot any need to apply the "sliding scale" discount to their accounts. However, as this report illustrates, patients still face an extremely onerous application process for free care. As a result, patients who are below 250% of the poverty line and become discouraged or are unable to navigate the free care application process, or undocumented immigrants who are afraid to apply, will still be charged the astronomical, undiscounted rates YNHH expects only of the uninsured. While state law entitles discounts to uninsured patients with incomes below 250% of poverty, this applies only if the patient has been rejected from the state Medicaid program. Patients who are not aware of the legal entitlement and its prerequisites will still be overcharged by YNHH.

YNHH still overcharging underinsured with non-covered procedures or out-of-network insurance

Usually, insured patients are never charged the full, inflated hospital rates that uninsured patients are forced to pay, since their insurance companies negotiate discounts from the hospitals they network with. However, insured patients who must go to an out-of-network hospital (as often happens in emergencies), or whose hospital services aren't covered because of a "pre-existing condition" or other claim dispute, will usually be charged at the full rate, just like uninsured patients. Still, according to the "Sliding Scale" program's application, "Patients covered by any commercial healthcare plan, including but not limited to Worker's Compensation, automobile insurance or any governmental coverage (Medicare, Medicaid, etc.) may not be eligible for the Sliding Scale Program."[40]

YNHH still overcharging patients over 350% of poverty line

Patient advocates argue that no uninsured patients, even middle class families, should be charged rates higher than all other payers are expected to pay. While YNHH may provide a 40-50% discount to a powerful HMO, it expects all patients with a combined family income over 350% of the federal poverty rate to pay full price. This may be most catastrophic for middle-class single people and couples without children. A single person with income over $32,585, or a married couple with a combined income of over $43,715, are still expected to pay the Hospital's discriminatory, undiscounted rates.

Is YNHH disclosing the program to all patients?

The Hospital Debt Justice Project recently received a phone call from the wife of a hospital patient who had suffered severe brain trauma and was treated in August 2004 at YNHH. Lacking insurance, he racked up a devastating bill of nearly $100,000. Healthcare professionals themselves, the couple understood that their bill was calculated at the full "charge," and asked the hospital billing staff if there would be a way to receive a discount down to the price the Medicare program pays for services. Instead of informing the couple of the sliding scale program and encouraging them to apply, the hospital representative told them that their only option would be a 20% discount, and *only if they paid in full within 30 days*, a financial impossibility for this family. The couple was surprised to learn from the Hospital Debt Justice Project that YNHH had a program that claimed to alleviate discriminatory pricing.

PART III: THE NUMBERS BEHIND THE SMOKE AND MIRRORS

YNHH free care in 2003 still fell short

An analysis of hospital data disclosed to the Connecticut Office of Health Care Access reveals that while YNHH provided more free care in fiscal year 2003 than in the years immediately proceeding, it still provided less free care than it has in the recent past, and less than other hospitals, including its closest peer in the state, Hartford Hospital. Hospital data also shows that YNHH's overall burden of uncompensated care (free care and bad debt) has fallen in recent years.

How YNHH inflates its free care figures

YNHH flaunts stunning free care numbers in advertisements and the press on the order of tens of millions of dollars. However, YNHH substantially inflates the charity care figure that it uses in publicity, calling it "free and *undercompensated* care," a wordplay that allows it to lump in types of uncompensated care that cannot truthfully be referred to as free care: bad debt and Medicaid shortfall. While free care (also known as charity care) is care provided to a patient who has qualified under a hospital's written charity care policy, with no further expectation of payment, bad debts are accounts that, in YNHH's case, have not received payment after usually about 90-120 days and that have been referred to outside collection agencies and attorneys for further pursuit.[41] Medicaid shortfall refers to government underpayments for patients with Medicaid insurance, partial losses which are generally made up for in the inflated prices charged to other payers (a practice known as "cost shifting") and in reimbursements from the state.

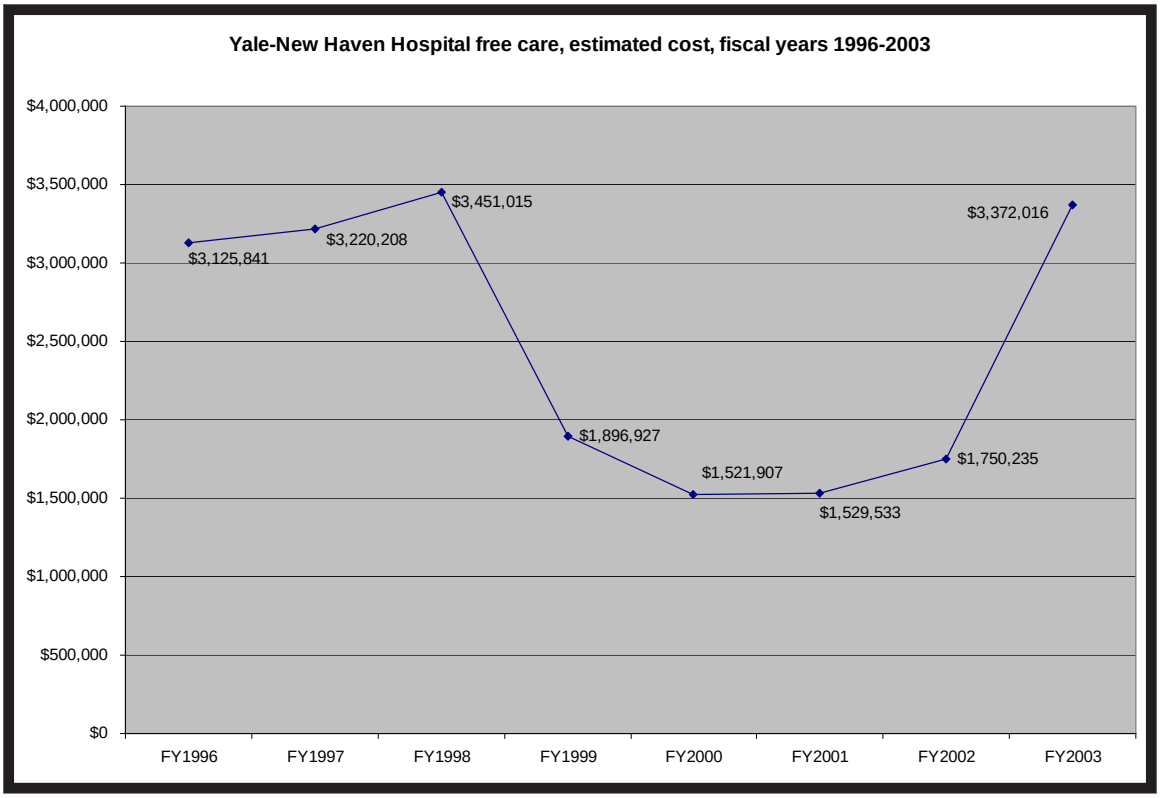
While bad debt and Medicaid shortfall are two of the myriad operating expenses a typical hospital faces, only *free care* is a true measure of a hospital's charitable commitment to its uninsured and underinsured patients. The Hospital's levels of actual *free care* will be analyzed in the next subsection.

Another way YNHH inflates its charity care numbers is by reporting free care at the full inflated "sticker price," known as the gross charge, rather than at the level of actual cost to the Hospital. Since YNHH jacks up its charges considerably each year, this can lead to the illusion that, all else being equal, the Hospital is expanding its charity care offerings more than it truly is. The following analysis will estimate the true *cost* of YNHH's free care using a widely accepted methodology, multiplying free care charges by the Hospital's overall cost-to-charge ratio.

YNHH provided less free care in 2003 than in 1998

At full gross charges, financial disclosures to the Office of Health Care Access show that YNHH provided $7.8 million in free care in fiscal year 2003.[42] Based on the Hospital's ratio of total costs to charges for that year, the actual cost of this care to the Hospital was approximately $3.4 million. So, while YNHH's free care offerings in 2003 did go up compared to fiscal years 1999-2002 (which were already extremely

low), the value of YNHH's free care in 2003 was actually less than it was in 1998, and only slightly higher than in 1996 and 1997.[43]



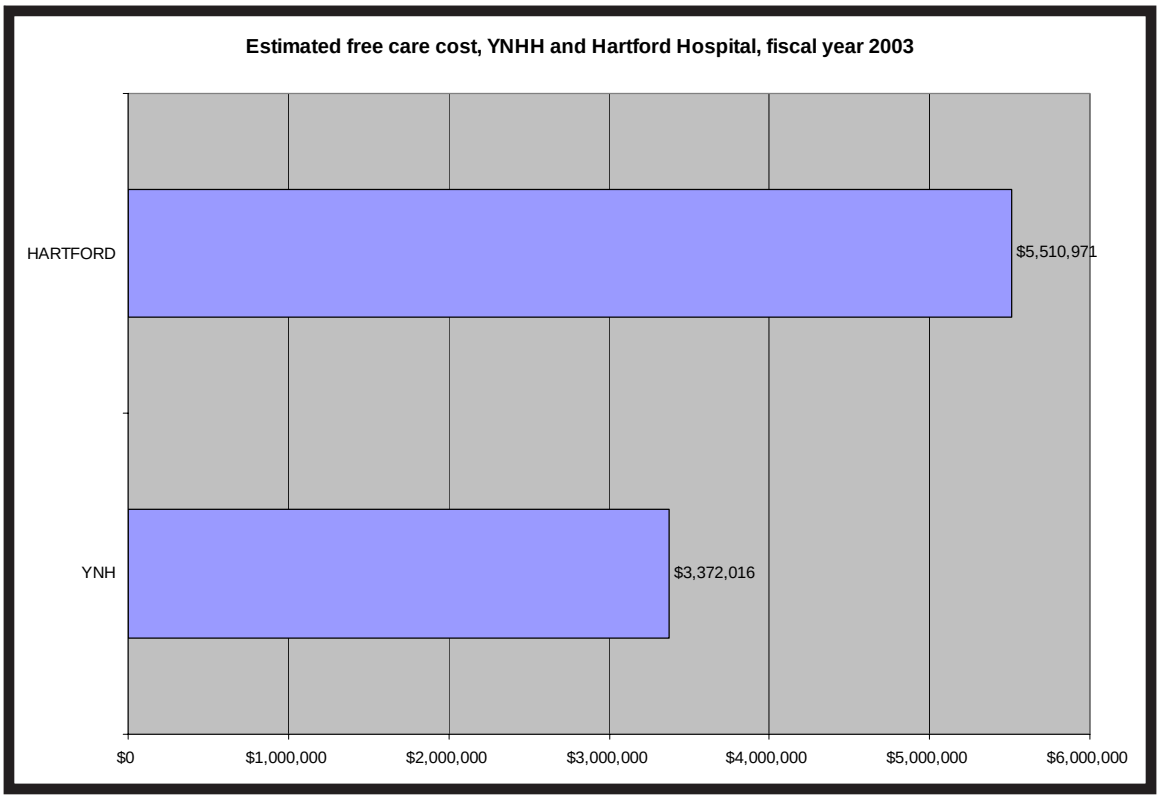
Source: Office of Health Care Access Yale-New Haven Hospital annual reporting, Schedule 300, fiscal years 1996-2003.

YNHH provided less free care than several other Connecticut hospitals

"For the record, Yale-New Haven Hospital, located in one of the poorest U.S. cities, provides more free and charity care than any hospital in Connecticut," wrote Joseph Zaccagnino, YNHH's CEO, in his December 2003 op-ed. Perhaps when relying on the Hospital's inflated figures, this statement could be true. However, using what the State recognizes as actual *free care* figures (not lumping in bad debt or Medicaid shortfalls) and considering the *cost,* as opposed to the inflated charge, YNHH actually provided significantly *less* free care than a number of other hospitals in FY 2003, in spite of the pressure it came under that year to improve its charity care record.

In fact, even *without* taking hospital size into account, and after adjusting free care charges down to an estimate of cost, YNHH provided less free care than Hartford Hospital and Greenwich Hospital. Hartford Hospital, the second largest hospital in the state (about 10% smaller than YNHH based on patient days), provided $5,511,000 worth of free care, compared to YNHH's $3,372,000. Greenwich Hospital reported free care worth $3,980,000 (surprisingly high considering the hospital's location in a very affluent area).

Taking hospital size into account by taking a ratio of free care charges to all hospital charges for patient services, six hospitals exceeded YNHH in free care offerings. Surpassing YNHH, where free care comprised 0.53% of all charges, were Windham Hospital (0.65%), Stamford Hospital (1.00%), Norwalk Hospital (0.79%), Hartford Hospital (1.13%), Greenwich Hospital (2.23%), and Danbury Hospital (0.79%). YNHH tied with St. Vincent's Medical Center (also 0.53%).

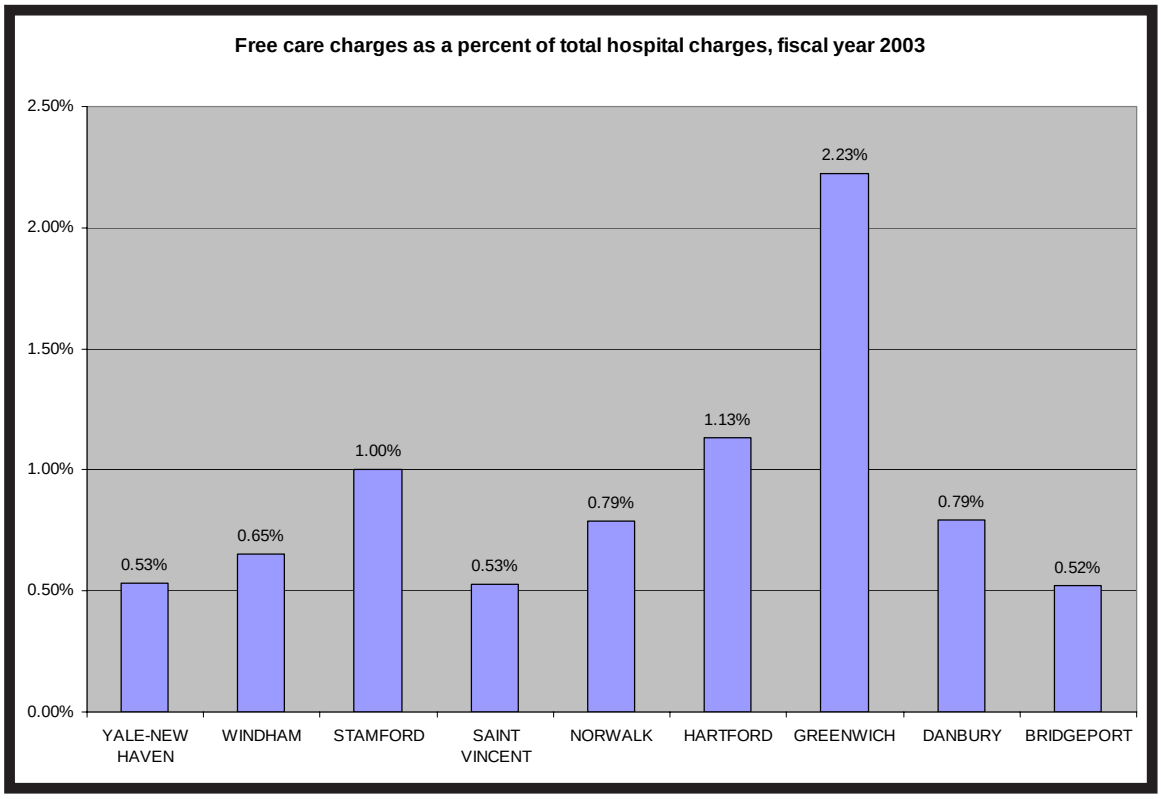


Source: Office of Health Care Access hospital annual reports, Schedule 300, fiscal year 2003.

YNHH reported less uncompensated care than majority of CT hospitals

When comparing free care offerings of hospitals, it is also helpful to compare uncompensated care (free care plus bad debt). Within certain constraints, hospitals essentially have a choice of whether or not to designate an unpaid account free care or bad debt. A low combined free care and bad debt indicates that the hospital either confronts relatively fewer unpaid accounts (probably due to lower volume of uninsured and underinsured patients), or has an effective collections process that keeps bad debt low.

YNHH's uncompensated care as a percent of total charges, 2.2%, was lower than 20 other Connecticut hospitals in 2003—*two thirds of Connecticut's hospitals*—whose proportion of uncompensated care out of total charges ranged 2.3% to 6.0%. Among those bypassing YNHH were the Hospital's closest peers, the Hospital of St. Raphael (2.3%) and Hartford Hospital (3.7%). This contrasts strongly with CEO Zaccagnino's statement that YNHH provided more "free and charity care" than all other Connecticut hospitals.



Source: Office of Health Care Access hospital annual reports, Schedule 300, fiscal year 2003.

Uncompensated care went *down* at YNHH in 2003

Lately, hospital industry analysts, as well as many hospitals, have been talking non-stop about the growing burden of uncompensated care costs, particularly rising levels of bad debt expense. "Lack of insurance as well as higher co-pays are leading more people to avoid hospitals unless absolutely necessary," rating agency Moody's Investors Service recently reported. "When they eventually do have to be hospitalized, they require more care and incur higher costs than they would have otherwise."[44] Indeed, YNHH's Zaccagnino stated in a press release, "The challenge of paying for the care of the uninsured and of those with inadequate insurance coverage continues to grow, placing extraordinary pressure on these individuals and the entire health care system."[45]

In spite of this economic environment, YNHH's combined free care and bad debt has *decreased* markedly since 2001, falling from an estimated cost of $17.6 million in 2001 (its highest level 1996-2002) to $15.0 million in 2002 and $14.0 million in 2003—a 21% drop over three years. Uncompensated care increased 12% at Hartford Hospital during that time.

Why is YNHH's uncompensated care so low?

It seems strange that the state's largest hospital, "located in one of the poorest U.S. cities," as CEO Zaccagnino noted, yet in the middle of the most affluent state in the nation, would face significantly less uncompensated care relative to its size when compared to its Connecticut peers. One possible reason for the low and falling level of uncompensated care at YNHH may be the Hospital's especially effective collections. YNHH's disclosures to the state show an overall recovery rate on bad debt from collection agencies and attorneys of 33%, with returns from the law firm Tobin & Melien at 46.5%. These are much higher rates of return than industry averages, which American Credit Association International estimates at 6.5% and consulting firm Zimmerman & Associates estimates at 24%.[46]

Another reason could be YNHH's reputation as a harsh debt collector. The Access Project, a research group specializing in healthcare access issues, speculated on this point in a recent study. "Information is not available on whether the costs of attempting to collect from low-income uninsured and underinsured patients in fact exceed recovered revenues," (although in YNHH's case we know they do). "However, some of the health care finance experts we interviewed suggested that, even if this were the case, some hospitals might still view aggressive collection efforts as economically rational by discouraging uninsured patients from using the facility."[47]

Finally, YNHH maintains a written policy of denying care to patients who can't pay for services upfront or to patients with outstanding debts. (These policies are described at length in *Refusing to Care: Why Yale-New Haven Health turns away those who can't pay*, the companion report to *A Debt Past Due*.) As noted in Part II of this report, YNHH's uninsured outpatient volume has dwindled significantly over the past several years. Its uninsured outpatient charges in relation to total charges have dropped 68.3% since 1997.

PART IV: WHY FREE CARE MATTERS

YNHH's aggressive debt collection continues

When a patient who can't afford to pay a YNHH bill also can't access free care to assist with the bill, the account soon becomes "bad debt." After three to four months of internal collections, the bill is handed over to a collection agency or attorney. The brutality of this phase of collection at YNHH was revealed in the spring of 2003 in CCNE's report, *Uncharitable Care,* and in a number of high-profile news exposés, most notably the *Wall Street Journal.*

Inspired by reports of YNHH's ruthless collection tactics, the Connecticut legislature nearly unanimously passed a new set of laws in 2003, Public Act 03-266. Lawmakers took significant steps to reign in the some of the worst collection practices regularly employed by YNHH that until that time had been legal. YNHH publicized measures it had to take to comply with the new laws as if they were voluntary improvements in the Hospital's collection practices.

The latest public records and reports from patients show that YNHH continues with some of the most aggressive collection tactics permitted under law. It is also unclear whether the Hospital has complied with the new laws, and whether it has followed through on all of the representations made to the public about reforming collections. The result, when coupled with the obstacle course YNHH has built around its free care programs: *Patients are still being persecuted for the crime of being poor and sick.*

Collection lawsuits continue

A topical review of available court records at the Connecticut Judicial System website, which shows many but not all of the recent lawsuits filed by a certain party, shows that YNHH filed at least 59 civil collection lawsuits as of the end of October 2004 (seeking balances greater than $5,000), and 93 small claims lawsuits (seeking balances less than $5,000), for a total of at least 152 new lawsuits in the first 10 months of this year. The website shows that Bridgeport Hospital, a hospital owned by the Yale-New Haven Health System that runs its collections out of the same office as YNHH, filed at least 53 new civil and 126 new small claims lawsuits, for a total of 179 new collections lawsuits during the same time period. So, between the two hospitals, a minimum of 331 new patients and their families suffered collection lawsuits in the first ten months of 2004.

YNHH still charging maximum interest allowed by law and including court costs

In 2003, YNHH promised in letters to elected officials and full-page news advertisements that: "Collection attorney engaged by the hospital are being instructed to… eliminate court costs from patient bills." In a May 7, 2003 letter to local elected officials and state legislators, YNHH's Chief Operating Officer Marna

Borgstrom also claimed that the hospital had "voluntarily limited interest collection on patient accounts." However, all court records reviewed indicate that the hospital is still obtaining court approval for and charging court costs, as well as the legal maximum of 5% annual interest on judgment debts. (The maximum judgment interest on hospital debt was lowered from 10% to 5% by Public Act 03-266.) Indeed, one patient reports that YNHH will even seek interest allowable by law in other states, such as New York.

YNHH still using notorious collection law firm Tobin & Melien, despite promises

The collection law firm Tobin & Melien has served YNHH for over a decade. Its arsenal of collection tactics included rapid-fire default court judgments against debtors, intimidating "debtor examination" hearings, arrest warrants to bring patients into court, 25% wage garnishments, no-warning bank account seizures and, worst of all, foreclosures on homes. State records show the firm brought in an astonishingly high 47% rate of return on collections for YNHH.[48] The firm's most infamous collection case was that of 78 year old Quinton White, who was profiled in the *Wall Street Journal* due to the 20 years he had suffered YNHH's collection attempts, including liens and the seizure of his retirement savings.[49]

YNHH unequivocally stated in numerous venues that it would "sever all ties" with Tobin & Melien. Court records and patient stories show that YNHH has broken this very simple promise. A topical review of available court records shows that Tobin & Melien is still actively representing YNHH in numerous collection cases filed prior to 2004, and represented the Hospital in at least three new cases. In addition, in 2004 Tobin & Melien filed court "appearance" forms for YNHH in at least 9 instances of foreclosure by other creditors on homes against which the Hospital had outstanding liens. (Such "appearance" filings are necessary when the lien holder wishes to protect its stake in the property during the foreclosure process.)

Also, Bridgeport Hospital, YNHH's sister hospital in the YNHH System, continues to use Tobin & Melien. Although Bridgeport Hospital never promised to fire the firm, if the YNHH System has acknowledged the firm is over-aggressive in pursuing its New Haven accounts, it presumably would anticipate the same behavior in Bridgeport. Nevertheless, the firm filed at least five new collection cases for Bridgeport Hospital in 2004, and filed appearances in at least three foreclosure proceedings.

YNHH filing many lawsuits in Milford and Meriden—easier default judgments?

A new pattern has arisen in 2004 not seen in prior years: YNHH is choosing to file most of its collection lawsuits not in the New Haven Superior Court, as was typical in the past, but rather in Meriden and Milford. Out of 59 new civil suits so far in 2004, 25 cases were filed in Meriden, 11 in Milford, and just 15 in New Haven. Out of YNHH's 93 new small claims suits, 30 were filed in Meriden, 32 in Milford, and 13 in Derby. This contrasts with Bridgeport Hospital, which files the majority of its suits in Bridgeport.

When a patient doesn't show up to defend him or herself in court, YNHH wins a collection judgment by default, giving it full reign to charge maximum judgment interest, file liens, and eventually garnish wages or engage in other tactics. In addition, thanks to new laws passed in 2003 with Public Act 03-266, if a patient comes to court and professes inability to pay, YNHH is required by law to inform that patient of free care programs and immediately cease collection if that patient expresses interest in applying. Prior research shows that only about 9% of debtors sued by YNHH hire attorneys, and only 21% seek to represent themselves in court, with the other 70% never showing up in time to prevent a judgment, allowing YNHH to win the vast majority of its lawsuits by default (86%).[50]

By choosing to file most of its lawsuits outside of New Haven, YNHH may be discouraging even more patients from showing up to court, particularly those who have difficulty getting time off of work or finding transportation, thus increasing its chances of winning default judgments and protecting itself from its legal free care disclosure and stop collection obligations. Indeed, the Hospital Debt Justice Project interviewed a patient who lived in public housing in New Haven who had a default judgment filed against her after she couldn't get time off from work or transportation to attend court in Meriden in early 2004.

Also, suing patients in distant suburban courts may enable YNHH to avoid its legal obligation under the new hospital billing law, Public Act 03-266, to immediately cease collections activity if it learns the patient may be eligible for free care. If patients are less able to show up to court, the hospital's collection representatives are less likely to be exposed to facts indicating the patients' eligibility for free care.

Patients report not being informed of free care before being sued

The *New Haven Advocate*, a local paper that closely monitors YNHH's collection record, wrote in a July 2004 article:

> Lucretia Faulk remembers reading articles about Yale-New Haven Hospital's vicious tactics against poor people who got sick and couldn't pay their bills. Now that a stroke has left her blind, Faulk doesn't read the papers anymore. But Faulk, who's unemployed and uninsured, knows that the hospital will sometimes still sic lawyers on low-income patients rather than steer them to the hospital's charitable funds. She knows this because it happened to her. Yale-New Haven has sued her for the $25,862.91 she couldn't pay for her hospital stay after the stroke.[51]

The article included other examples of patients blindsided by collection lawsuits at the hands of YNHH. While the paper credited the Hospital with some changes, such as no longer initiating foreclosure cases, "That doesn't help the latest patients getting sued." "Merely by filing suit, the hospital is driving families in precarious financial straits into even deeper debt," the paper reported.

YNHH's new lien policy: Keeping liens on?

YNHH announced in November 2003 that it was releasing the "vast majority" of 2,500 outstanding liens, although it would not disclose under what circumstances it would still attach the homes of patients, or why it was still maintaining a certain percentage of the liens. For months following its announcement, the land records showed very few lien releases at all, in spite of the Hospital's public claims that it had released anywhere from 92% to 99% of the liens. Between October 1, 2003 and January 12, 2004, a total of only 25 liens had been released in New Haven.

Finally, after protracted lobbying by community groups, YNHH finally began to remove a significant number of liens in March of 2004. However, the lack of transparency in the process still casts doubt on whether the hospital has followed through on its claims. Scattered evidence shows that a number of liens still clearly remain, and that YNHH's new lien policy still punishes many who are too poor to pay for medical care for owning a home.

YNHH still attaches homes worth more than $125,000; homes worth less are protected by new law

Public Act 03-266 granted protection to the first $125,000 worth of a family's home from hospital debt collectors, effective October 1, 2003. The Hospital Debt Justice Project learned that YNHH's new policy is to still maintain liens on homes of individuals if their debt is greater than $1,000, or if their property is valued at more than $125,000—a strict correlation with the new exemption, and another example of YNHH not going beyond the requirements of the law.

A YNHH patient shared with the Hospital Debt Justice Project a letter that he received from YNHH's Senior VP, William Gedge, explaining why the Hospital would not remove the lien from his home:

> In your circumstance, the outstanding account balance is over $1,000. Your property at 92 Alden Drive in Guilford is assessed at $152,560. Neither criteria made you eligible for the lien release program. Releasing the property liens did not remove the outstanding balance due on the accounts.[52]

Liens showing up in court cases

One indication of whether YNHH still has liens outstanding on homes is whether the Hospital comes up as a defendant in court records when other creditors file for foreclosure on those properties. If so, it means YNHH's interest in the property is still being recognized. Online court records show that YNHH was a party to at least 38 of such foreclosure proceedings, and filed appearances in 12, indicating an interest in defending its stake in the homes. The majority of these outstanding liens, 26, were located in the city of New Haven.

Liens remain that violate YNHH's new policy

The Hospital Debt Justice Project did a random survey of the YNHH liens that came up during foreclosure proceedings, cross-referencing the names and addresses

with other court records and with the city databases of property assessments to determine whether the Hospital was only maintaining these liens on properties worth greater than $125,000 or on the homes of patients with balances greater than $1,000. The finding was that YNHH violated its own policy under both of these criteria.

- José C. had multiple YNHH liens on his Middletown Avenue home totaling $3,096 that surfaced in a June 2004 foreclosure proceeding. His home was assessed at only $67,410.
- The $673 lien on Ann S.'s Pardee Street home in New Haven surfaced in a March 2004 proceeding. Her home was assessed at $56,910.
- The $271 lien on Angel T.'s Lenox Avenue home surfaced in a January 2004 foreclosure proceeding. His home was assessed at $79,030.
- The $246 lien on Richard R.'s West Haven home surfaced in a June 2004 proceeding. His home was assessed at $79,800.

Wage garnishments and other tactics

Patient interviews show that YNHH is still employing wage garnishments as a means of collecting outstanding accounts. YNHH routinely seeks to garnish 25% of the debtor's paycheck, the highest rate allowed by law. Dozens of interviews with patients who have suffered YNHH wage garnishments in the past show this to be a devastating practice that severely diminishes poor families' ability to meet everyday needs.

It is very difficult to monitor the rate at which this and other tactics are being employed by YNHH, and there is no systematized community monitoring or public visibility to hold the Hospital accountable to its promises of reform. And due to the vague and incomprehensive nature of many YNHH reform announcements—i.e., YNHH will "limit" interest, "reduce" the use of certain tactics, etc—there is no clear standard for the Hospital to be held accountable to. Due to YNHH's violation of even its most simple promises, such as firing Tobin & Melien, the involvement of the community and a clearly written, comprehensive code of conduct for the collection process is a necessity to prevent past extremes from continuing or reemerging.

Lucanus Hotaling

[Note: The following is a compendium of letters the Hospital Debt Justice Project received from Mr. Hotaling.]

On December 30, 2001, I woke up around 2 am with my fifth kidney stone, the pain more intense than any before, which I didn't think was possible. After trying best I could to tough it out, I woke my brother and he drove me over to the Yale-New Haven Emergency Room.

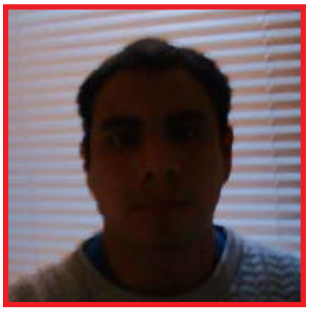
As they wheeled me down the hall for an MRI to determine the size of the stone, I told the doctor I'd rather not have the scan because I was uninsured. He told me, "Don't worry it'll be fine." Then they ran two scans, because the operator forgot to take off my belt the first time and the metal messed it up. Afterward a doctor came over, explained that it was a big stone but that there was nothing they could do, just to buy a big bottle of Motrin, go home and drink a lot of water. When I got the bill, it was kind of funny, $1,800 for advice to buy a bottle of Motrin—and they charged me for both MRIs.

It took me a while to start payments since I was only making minimum wage as a dishwasher and at a coffeehouse. Rent and food came first. By August of 2001, I had moved back to NYC and was just starting to get on stable footing when I got a notice that Yale-New Haven had sued me. I sent payments to the attorneys, after a few months whittling the bill down to around $400. But then I moved and lost track. In June 2003, a former roommate told me a new law firm had been looking for me. I gave them a call, and it was that Yale-New Haven debt, but now back up to $2,180! In order to stop a summons, I sent them $500 the next day. I honestly wanted to take care of this.

I made a total of over $1,000 in payments during the next year, but I'm a stagehand by trade, with seasonal work. The fall and winter was a lean time, and they didn't like it. After all their threats, the new summons they sent this summer (August 2004) came as no surprise, except that the bill's back up to $1,791, "with interest from January 27, 2001, and attorney fees of $268.71, plus costs." They gave me twenty days to give my response. Guilty or not.

At no time was I informed of any financing plans or programs for folks with no insurance. Since then, I've learned that Yale-New Haven is a non-profit organization with special funding specifically for helping uninsured people. What they're doing with that money I don't know. It's easy to pull off smoke and mirror parlor tricks with folks that walk two miles to work every day because spending money on the bus would mean not being able to eat dinner. Last January, one of their collection reps called me irresponsible. Irresponsible? They should look the word up in the dictionary all the way right back to Yale-New Haven Hospital.

Javier Velez (pseudonym)



I came to this country from South America to make a new life for myself. Unfortunately, I have been unable to find consistent work that provides me with health coverage, and I can't apply for state medical because I'm undocumented. In February of 2003, I was forced to go to the emergency room at Yale-New Haven Hospital. I was vomiting and feeling very nauseous. I spent a whole day in the emergency room of Yale-New Haven Hospital. After my stay, I began to receive bill after bill for $3,800. I had no way to pay this bill. I called for help to pay the bill, and the woman told me that they would send me a form. The only mail I received was an order from a court in Meriden in March 2004 to make payments on the bill.

[Note: YNHH withdrew its lawsuit against Mr. Velez in September 2004 after hospital administrators were confronted by his sister in front of a crowd at a public meeting. However, the Hospital is still billing him for the $3,800, sending another bill on October 28, along with an application for State medical assistance but no free care application. Mr. Velez's bill is far too old to be eligible for retroactive State coverage.]

CONCLUSION AND RECOMMENDATIONS

The Yale-New Haven Health System made a profit in fiscal year 2003 of $65.2 million.[53] Part of this profit was realized by substantial contributions from the government to subsidize the hospital's charitable missions. As a nonprofit, Yale-New Haven Hospital receives valuable tax exemptions in exchange for providing charity care and benefits to the community. The local property tax exemption alone saved Yale-New Haven Hospital approximately $14.5 million last year; federal and state income tax exemption and inexpensive tax-exempt bond financing probably saved the Hospital many millions more.[54] In addition, state and federal subsidies such as Disproportionate Share Hospital (DSH) payments reimburse the Health System every year for tens of millions of dollars in bad debt, charity care, and Medicaid underpayments.

To justify its valuable tax exemption, YNHH stated in its 2002 Form 990 submitted to the Internal Revenue Service: "As an institution committed to the welfare of the community, Yale-New Haven has a broad responsibility to provide care for the entire region—city and suburbs, insured and uninsured." The community desperately needs YNHH to live up to this obligation. Unlike many other states, there are virtually no public hospitals in Connecticut to serve the role of healthcare safety-net for the poor. All of our hospitals are thus responsible for addressing the health care needs of the uninsured and the underinsured. When YNHH shirks its obligation to uninsured and underinsured patients, not only do patients suffer, but an unfair burden is placed on the hospitals that *do* act charitably.

The Hospital Debt Justice Project urges public officials and community leaders to defend the right of poor patients to access affordable hospital care in New Haven and across the state by holding Yale-New Haven Hospital to the following reforms:

- **Re-include the underinsured in the free care program in a standardized, non-arbitrary manner.** The working poor who can't afford to pay for hospital care should be considered for free care on equal terms, whether their debt arose from lack of insurance or inadequate insurance.
- **End discriminatory pricing by expanding the "sliding scale" program.** YNHH should not bill inflated, discriminatory prices to any patients, whether low-income, middle class, uninsured or underinsured.
- **Take down unnecessary barriers in the free care application process.** Remove the absurd requirement that free care applicants submit a written denial for state medical assistance after the state's three-month deadline for retroactive hospital coverage has passed. End other excessive and chilling requirements such notarized letters from household supporters and employers.

- **Distribute an official list of requirements for free care.** No more arbitrary policy changes that are not written down. Communication with patients and case managers about problems with applications should be prompt and clear, and no collection activity should proceed while an application is pending.
- **Stop all punitive collection practices.** It's past time for YNHH to curb its use of collection lawsuits against poor patients and to fully renounce the use of unsavory tactics such as liens, wage garnishments, bank account seizures, and high interest charges. The community deserves a written code of conduct regarding collection practices, as well as involvement in monitoring the process to ensure accountability.

Notes

[1] Yale-New Haven Hospital was sued by Connecticut Attorney General Richard Blumenthal for hoarding free bed funds; profiled in front-page *Wall Street Journal* and other major news media for its outrageous collection practices; slammed by CCNE reports for its uncharitable treatment of the poor; targeted by new state laws passed to reign in hospital collections and improve patient access to charity care; and subjected to four different private class action lawsuits relating to its policies towards the uninsured and underinsured.

[2] Summary and Instructions to Patients for Sliding Scale Application, Yale New Haven Health.

[3] Summary and Instructions to Patients for Yale-New Haven Hospital Free Care Funds Application, revised 08/06/03, Yale-New Haven Hospital.

[4] Summary and Instructions to Patients for Sliding Scale Application, Yale New Haven Health.

[5] See *The New York Times*, "Caught in the Health Care Maze: A Korean Family's Story," July 26, 2004.

[6] *Modern Healthcare*, "Balance past due; Hospitals use technology to get a handle on the thorny and complex issue of bad-debt collection," 9/22/03.

[7] *Modern Healthcare*, "Balance past due; Hospitals use technology to get a handle on the thorny and complex issue of bad-debt collection," 9/22/03.

[8] Yale New Haven Health, "Medical Assistance Program, Declaration of Support and Residency."

[9] 2000 United States Census Demographic Profiles, New Haven (city), Connecticut.

[10] *Yale Daily News,* "Students advocate review board," 10/3/04.

[11] *New Haven Register,* "Harp urges liaison for bed funds," 11/29/04.

[12] *New Haven Register,* "Harp urges liaison for bed funds," 11/29/04.

[13] *Yale Daily News,* "Students advocate review board," 10/3/04.

[14] Memorandum written by Sandy Elkin-Randi, YNHHS manager of outpatient registration, 10/01/03.

[15] "Summary and Instructions to Patients for Yale-New Haven Hospital Free Care Funds Application," revised 08/06/03, Yale-New Haven Hospital.

[16] Memo from Sandy Elkin-Randi, Yale-New Haven Health System Manager of Outpatient Registration, to Arthur Lemay and Medical Oncology Staff, 10/1/03, "Subject: Free Care."

[17] *New Haven Register,* "State, Y-NH differ on new law; Dispute escalates over hospital's free-bed funds," 11/30/04.

[18] *New Haven Register,* "Hospital's free-care fund helped, but it took 8 years," 11/30/04.

[19] Kaiser Commission on Medicaid and the Uninsured, "Underinsured in America: Is Health Coverage Adequate?" July 2002.

[20] Jacoby MB, Sullivan TA, and Warren E. "Rethinking the debates over health care financing: Evidence from the bankruptcy courts." New York University Law Review, Volume 26 (2), May, 2001.

[21] Survey of hospitals that keep track of bad debt by payer source only. Testimony of Nancy Kane, Professor, Harvard Business School, before the Subcommittee on Oversight of the House Committee on Ways and Means, June 22, 2004: "Medical Bad Debt—A Growing Public Health Crisis."

[22] Zimmerman & Associates Revenue Cycle Benchmark Report, 2004.

[23] Testimony of Nancy Kane, Professor, Harvard Business School, before the Subcommittee on Oversight of the House Committee on Ways and Means, June 22, 2004: "Medical Bad Debt—A Growing Public Health Crisis." In describing the experiences of the low-income insured, Dr. Kane referenced a study in the Commonwealth Fund Quarterly, Summer 2002, p. 8.

[24] *Modern Healthcare*, "Balance past due; Hospitals use technology to get a handle on the thorny and complex issue of bad-debt collection." 09/22/03.

[25] Outpatient equivalent discharges are a measure of patient volume based on the total outpatient billed charges as they relate to the ratio of the Hospital's inpatient discharges to inpatient charges.

[26] Twenty percent of commercially insured case mix adjusted inpatient and outpatient equivalent discharges. Case mix adjusted inpatient discharge numbers may be very slightly higher because the case mix index reported by YNHH for the commercially insured also includes the uninsured, which have a slightly lower case mix index (1.2 for insured vs. 1.0 for uninsured).

[27] Since the proportion of insured patients who are "underinsured" has by many reports grown in recent years, arriving at the estimated 20% today, the actual upward tendency of underinsured discharges is probably steeper.

[28] Connecticut General Statutes Section 19a-509b. It is uncertain what date YNHH made the change in its application instructions, or whether it completely stopped distributing the prior version. One Hospital patient received a version of the free care application that excluded the underinsured outright as late as May 2003.

[29] *New Haven Register*, "Poor will get helping hand at Y-NH," 3/19/04. Also, a May 10, 2004 *Hartford Courant* editorial stated that YNHH would merely "consider" providing financial assistance to low-income patients who have insurance but face high deductibles or co-pays.

[30] YNHH's bonus program, the "Performance Incentive Program," is linked to pre-set threshold goals in the areas of financial performance, patient satisfaction, cost per day, and cost per discharge, according to YNHH newsletters.

[31] *New Haven Register,* Op-ed, "Union targets Y-NH billing," Joseph Zaccagnino, 12/22/03.

[32] Connecticut General Statutes Section 19a-509b.

[33] The low rate of expenditure of the hospital's free bed fund endowment and patient reports of difficulty accessing the funds prompted Connecticut State Attorney General Richard Blumenthal to sue YNHH to enforce the free bed fund laws in February 2003, as well as three class action lawsuits in late 2003 and 2004. According to hospital documents, for years YNHH reported extremely few free bed fund applications and spent very little of its investment returns on the endowment. While the free bed fund endowment grew from $17 million in 1996 to nearly $37 million in 2000, YNHH reported an average of only 55 free bed fund applications per year during that time (YNHH submission for Connecticut Attorney General 2001 survey of hospital free bed funds). For further information, see the previous CCNE report, *Uncharitable Care.*

[34] Based upon ratio of operating expenses to total charges, based upon financial data from Office of Health Care Access, Yale-New Haven Hospital fiscal year 2003 annual reporting, Schedule 203.

[35] In response to community criticism, hospitals (including YNHH) blamed Medicare rules for their discriminatory pricing practices and claimed they needed federal approval before they could implement discounts for the uninsured. After sending out letters to various individual hospitals in 2003 denying that Medicare regulations prevented discounts to the uninsured, the Center for Medicare and Medicaid Services (CMS) issued an unequivocal statement in February 2004 that "Nothing in CMS' regulations, Provider Reimbursement Manual, or Program Instructions prohibit a hospital from waiving collection of charges to any patients, Medicare or non-Medicare, including low-income,

uninsured or medically indigent individuals, if it is done as a part of the hospital's indigency policy." (CMS "Questions on Charges for the Uninsured," 2/17/04.) This confirmed the long-held position of community advocates that hospitals could implement discounts for the uninsured at any time, just as they do for private insurers.

[36] *Fairfield County Business Journal*, "Yale-New Haven Hospital offers a discount program," 05/10/04.

[37] Yale-New Haven Hospital news release**,** 03/18/04.

[38] *New Haven Register*, "Poor will get helping hand at Y-NH," 3/19/04.

[39] Kaiser Family Foundation State Health Facts, nonelderly uninsured, 2002-2003. www.statehealthfacts.org.

[40] Summary and Instructions to Patients for Sliding Scale Application, Yale New Haven Health.

[41] Association of Independent Certified Public Accountants 2003 Audit and Accounting Guide for Health Care Organizations; Office of Health Care Access regulations free care and bad debt definitions, Sec. 19a-167-55(b)(33) and (5); Yale-New Haven Health System Credit and Collections Policy.

[42] Fiscal year 2003 ran from Oct. 1, 2002 to Sept. 30, 2003.

[43] All free care, cost and charge data for YNHH and other hospitals discussed in this section obtained from Office of Health Care Access annual hospital reports, Schedule 300.

[44] *AHANews.com,* "Moody's: Growth in uninsured increasing hospital bad debt," 5/14/04.

[45] Yale-New Haven Hospital press release, 3/18/04.

[46] ACA International 2000 *Top Collection Market Survey;* Zimmerman & Associates Revenue Cycle Benchmark Report, 2004.

[47] The Commonwealth Fund, "Unintended Consequences: How Federal Regulations and Hospital Policies Can Leave Patients In Debt," by Carol Pryor and Robert Seifert (The Access Project) and Deborah Gurewich, Leslie Oblak, Brian Rosman and Jeffrey Prottas (Heller School for Social Policy and Management, Brandeis University), June 2003.

[48] Office of Health Care Access, YNHH annual reporting FY 2003, Schedule COLL.

[49] *Wall Street Journal,* "Twenty years and still paying," 3/13/03.

[50] Statistics for 2001. See *Uncharitable Care,* p. 13 for methodology.

[51] *New Haven Advocate,* "Hospital Heat: Yale-New Haven promised to stop hounding poor people who can't pay bills. And it has made changes. That doesn't help the latest patients getting sued." 7/1/04.

[52] Letter from William Gedge, Senior Vice President Yale New Haven Health Services Corp., to Peter Smith, 12/3/03.

[53] Yale-New Haven Health Services Corp., Consolidated Financial Statements, FY 2003.

[54] Property tax of Yale-New Haven Hospital estimated by multiplying 3.95 mill rate and the Hospital's real property values available from 2002 New Haven Assessor's Property List plus 70% of the equipment value listed in FY 2003 audited financial statement (the estimated value of the Hospital's personal property).

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