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Surviving Spouses May Not Be Responsible for Partners' Medical Bills

A call from a debt collector may add to the challenges that bereaved people are already dealing with. But spouses “should not assume that they have to pay.”

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By Ann Carrns

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The death of a spouse can be devastating, and in the aftermath, calls from collection agencies about medical bills and other debts could not come at a worse time.

But surviving spouses may not be responsible for unpaid medical bills, federal consumer agencies and legal experts say. Rules governing such debt vary by state and can be complex.

“They should not assume that they have to pay,” said Anna Anderson, a staff attorney at the National Consumer Law Center.

Bereaved people are already navigating emotional, financial and logistical challenges, so a call from a debt collector may make them feel pressure to pay a bill they may not actually owe, said Julie Margetta Morgan, associate director of the Consumer Financial Protection Bureau’s research, monitoring and regulations division.

When a spouse dies, “people are in a particularly vulnerable time of life,” she said.

Two-thirds of new surviving spouses are women, and their average age is 71, the bureau said this month in a blog post. Many report being depressed and lonely. New surviving spouses with unpaid bills report an average of about \$29,000 in unpaid medical bills, compared with about \$16,000 among the rest of the population, which may reflect their late spouse’s bills, the bureau said.

Complaints to the consumer bureau from surviving spouses show confusion and frustration with medical debt. “Am I responsible for his medical bill?” one widowed spouse wrote, adding that a bill had been sent to a debt collector even after proof of her husband’s death had been provided. “Since they do not accept the fact that he died and see his death certificate, what can I do?”

Even when survivors aren’t legally responsible for paying a medical debt, emotions can sway them, Ms. Anderson said. They may be grateful to the hospital and doctors who cared for their loved one and feel an obligation to pay. “There’s definitely a feeling of, ‘I am morally responsible and need to pay it,’” she said, even if the surviving spouse may struggle to afford it.

In general, according to both the consumer protection bureau and the Federal Trade Commission, you are not responsible for someone else’s debt. Rather, a deceased person’s estate — the legal term for someone’s money and property — is responsible for paying any medical bills or debts, as directed by state law. If the estate lacks enough funds, the debt may go unpaid, the bureau says.

Married couples often jointly own savings and investment accounts, with right of survivorship, so that when one spouse dies, the funds generally become the survivor’s property rather than part of the late spouse’s estate, said Ann H. Larkin,

an estate planning lawyer in Virginia Beach. (Surviving spouses could still choose to pay the bills using their funds, even though they may not be obligated to do so.)

While surviving spouses generally don't have to use their own money to pay their late spouse's bills, there are important exceptions, such as a car loan that both spouses signed or a jointly held credit card account.

And in nine "community property" states, including California and Texas, spouses may be equally responsible for debts incurred during the marriage, including medical debt.

Other states may have laws that hold spouses responsible for paying certain essential costs, like health care. Some states, however, have adopted reforms. Virginia, for instance, has changed its law so that a surviving spouse isn't responsible for a deceased partner's medical bills. And Minnesota recently passed medical debt legislation that bans the automatic transfer of such debt to a patient's spouse.

Lindy Yokanovich, founder and executive director of Cancer Legal Care, a nonprofit patient advocacy group in Oakdale, Minn., said the change would help prevent situations like patients' forgoing expensive treatments out of fear that they would impoverish their loved ones. Even if patients had health insurance, she said, they might worry about high deductibles and cost sharing. "They'd say, 'I'm not going to put my family into financial jeopardy,'" she said.

Monique Lavender Greenberg, an estate planning lawyer in Miami, said it was possible that a husband or wife might unwittingly sign a payment guarantee when completing the inevitable flurry of paperwork for a spouse's emergency hospital visit. If you've agreed to pay, she said, "you may be stuck."

Still, the consumer bureau said some debt collectors might claim that a surviving spouse owed medical bills without considering "specific facts or nuances" that might affect the spouse's legal rights.

ACA International, a group representing bill collectors, said in an email that while it "is not aware of this happening on a frequent basis," its members "have policies and procedures in place to work with creditor clients to ensure federal and state laws and regulations are followed, and to work with consumers in these tough situations."

The consumer bureau has proposed a rule that, if made final, would exclude all medical debt sent to collections from consumer credit reports. The bureau's research has found that medical bills in collections are often inaccurate or that the patient doesn't owe the bill at all, said Ms. Morgan, the agency's associate director of research, monitoring and regulations division.

While removing medical debt from credit reports doesn't eliminate it, Ms. Morgan said, it "takes away a big tool" that debt collectors may use to get people to pay. (A public comment period on the rule closed in August.)

Here are some questions and answers about the debt of deceased family members:

What should I do if I'm contacted by a collection agency about my late spouse's medical bill?

It's wise to seek help — ideally, from a lawyer, said Alexandra Armstrong, a certified financial planner and a co-author of "On Your Own: A Widow's Guide to Emotional and Financial Well-Being." Review any medical bills to make sure that they are accurate and to determine whether you owe them. "Have someone more clearheaded than you are at this particular time take a look at it," she said.

You have rights under federal law if you're contacted about a debt, including the right to receive certain details about the debt and the right to dispute it. (The consumer bureau offers sample letters on its website that you can use.) You also have the right to limit calls from the collector to times that are convenient for you.

What if I can't afford a lawyer?

You may qualify for free or low-cost help from local legal aid offices in your state.

Where can I find more information about handling debts of deceased family members?

The consumer bureau and the F.T.C. offer tips on their websites.

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