

# NEVER PAY

THE FIRST BILL

AND OTHER WAYS TO FIGHT THE  
HEALTH CARE SYSTEM AND WIN

46304331209 C0483

MARSHALL ALLEN

# Never Pay the First Bill

---

AND OTHER WAYS TO FIGHT  
THE HEALTH CARE SYSTEM AND WIN

MARSHALL ALLEN

PORTFOLIO / PENGUIN



PORTFOLIO / PENGUIN

An imprint of Penguin Random House LLC

[penguinrandomhouse.com](http://penguinrandomhouse.com)



Copyright © 2021 by Marshall Allen

Penguin supports copyright. Copyright fuels creativity, encourages diverse voices, promotes free speech, and creates a vibrant culture. Thank you for buying an authorized edition of this book and for complying with copyright laws by not reproducing, scanning, or distributing any part of it in any form without permission. You are supporting writers and allowing Penguin to continue to publish books for every reader.

Grateful acknowledgment is made for permission to reprint the following:

Excerpt on [this page](#) courtesy of Jeffrey Fox, Los Angeles

Sample letter on [this page](#) by Lisa Berry Blackstock/Soul Sherpa

Library of Congress Cataloging-in-Publication Data

Names: Allen, Marshall, author.

Title: Never pay the first bill: and other ways to fight the health care system and win / Marshall Allen.

Description: 1st [edition]. | New York: Portfolio/Penguin, [2021] |

Includes bibliographical references and index.

Identifiers: LCCN 2021005233 (print) | LCCN 2021005234 (ebook) | ISBN 9780593190005 (hardcover) | ISBN 9780593190012 (ebook)

Subjects: LCSH: Medical errors—United States. | Medical care, Cost of—United States. | Medical care—Quality control—United States. | Health insurance—United States.

Classification: LCC R729.8 .A55 2021 (print) | LCC R729.8 (ebook) | DDC 610.28/9—dc23

LC record available at <https://lcn.loc.gov/2021005233>

LC ebook record available at <https://lcn.loc.gov/2021005234>

*Book design by Tanya Maiboroda, adapted for ebook by Cora Wigen*

PUBLISHER'S NOTE

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, financial, or other professional services. If you require legal advice or other expert assistance, you should seek the services of a competent professional.

pid\_prh\_5.7.0\_c0\_r0

To anyone who's been pushed around by the American health care system

# Contents

---

*[Introduction: My Mom and Dad's Health Care Battle](#)*

## PART I

### Fighting Back

- [1. The Five Hidden Reasons You Should Fight Back](#)
- [2. Never Pay the First Bill](#)
- [3. The Insurance Warrior's Guide to Winning Your Appeal](#)
- [4. How to Handle Medical Debt Collectors](#)
- [5. Sue Them in Small Claims Court](#)

## PART II

### Avoiding the Need to Fight

- [6. How to Avoid Treatment You Don't Need](#)
- [7. Protect Yourself from Price Gouging](#)
- [8. You Might Save Money by \*Not\* Using Your Insurance](#)

## PART III

### Employer Section

- [9. The Conflict of Interest Undermining Employers' Purchase of Health Benefits](#)
- [10. The Buyer Sets the Price](#)
- [11. Check Your Receipts. You Might Be a Victim of Fraud.](#)

## CONCLUSION

[Standing Up to Bullies](#)

[Acknowledgments](#)

[Appendix A](#)

[Appendix B](#)

[Appendix C](#)

[Notes](#)

[Index](#)

[About the Author](#)

# Introduction: My Mom and Dad's Health Care Battle

---

I'VE BEEN AN INVESTIGATIVE REPORTER covering health care since 2006, and I've been continually astonished by the unfair nature of the American medical system. It's outrageous that we pay far more for health care than the citizens of any other country without getting our money's worth. It's alarming the way big players—drug companies, hospitals, insurance companies, and others—profit by exploiting our sickness and violating our trust. I talk every day to people who are getting taken advantage of by the system.

I wrote this book to arm individuals and employers with the knowledge, tactics, and inspiration they need to stand up for themselves and the people they care about. I also wanted to counter the idea that this is always a losing battle. Lots of people are fighting back and winning—saving hundreds or thousands of dollars by the savvy way they engage the system. I wanted to empower others to stick up for themselves and save big money. Little did I know that I would need to put my own advice into practice before I was through writing. But it happened, and I want to tell you that story here because it illustrates a lot of the principles that come into play.

My two brothers and I watch over our dear parents as they age. My mom and dad agreed to let me share our family's story because they care about accountability and justice and helping others. My dad, who just turned eighty, suffers from a slowly advancing form of dementia but is in excellent physical health. After years of his decline and my mom's own health challenges, it became clear that she needed help caring for him. In the fall of 2019, at the same time I started writing this book, we made the difficult decision to admit Dad into an assisted living facility.

As a journalist, I've written almost every type of health care horror story, including those about the problems in long-term care homes. We did an extensive check to make sure we avoided any truly dangerous places for Dad. My parents and my older brother live in northern Colorado, and thankfully we found a nice assisted living facility near them. The place was expensive—more than \$6,000 a month—but brand new and well appointed, with flat screen televisions, comfy couch areas, and good food. The staff was also kind and truly seemed to care about my dad.

The problem is, they got something extremely confused during the admission. My mom has my dad's power of attorney, so she has the legal right to determine what type of care he should receive. She told the staff that she would continue to pick up Dad to take him to his established primary care doctor. My older brother was with her when she signed the admission paperwork, and they both say Mom's direction was clear: Dad should not receive routine medical care at the assisted living facility. The facility's executive director still had my mom sign a consent form for the primary care group that provided medical services at the facility. Mom's understanding was that she signed it in case Dad needed emergency care, not for anything routine.

My mom and brother visited my dad almost every day or picked him up and brought him to church or family events. After he had been there for more than a month, they noticed a dramatic mental decline. He went from a warm, personable demeanor to acting lethargic and detached, almost robotic. Mom noticed but chalked it up to the dementia. Perhaps he was having a hard time with the transition.

Just before Christmas Mom got a pharmacy statement in the mail. It showed that, unbeknownst to her, my dad had been on a drug called tamsulosin, also known as Flomax, for more than a month. The statement said a nurse practitioner whom Mom had never heard of put Dad on the medication. Mom didn't understand—how could there be a new drug that she hadn't approved or known about? And who was this nurse practitioner? She quickly realized that the drug could have caused Dad's recent decline. And when she looked up the possible side effects, they aligned with his symptoms of cognitive impairment. She called the administrator at the assisted living facility and ordered them to stop the

Flomax immediately. They complied. Thankfully, Dad bounced back as soon as they stopped the drug. He had recovered, but it was despite the people who were supposed to be caring for him, not because of them.

Mom had already been unimpressed by the facility. The place felt empty, they often canceled activities, and Dad didn't get enough stimulation. She had already planned on moving him out, but this sealed it. Soon after the new year he moved to a different facility, where things went much more smoothly. About two months later, we all got hit with the COVID-19 pandemic. We moved Dad back in with Mom and they have been doing great. They are so happy and content to be together.

But it turns out the medication error was only one of the problems. Soon after the move out of the first facility, the billing department from the primary care medical group came calling. They didn't have Dad's Medicare insurance information. That's because they were never intended to provide his care. But they wanted his Medicare details so they could bill for a routine exam that the same nurse practitioner had performed on Dad. What!? This was the first my mom had heard of any exam! There wasn't supposed to be any routine treatment on Dad. The bill came to \$445, they said, which sounded steep to me for an exam on a healthy dementia patient.

I marveled at the irony of this situation. At the same time my dad suffered a medication error and my mom got billed for an unnecessary exam that violated her power of attorney, I happened to be writing this book about how patients can stand up for themselves when they're getting pushed around. The primary care group had stuck the parents of the author of *Never Pay the First Bill* with a bogus medical bill. Well—here we go. Game on. I had learned so many things while writing this book and now I would get to put them into practice. I knew I had the knowledge to handle the situation—it's right here in these pages. And I also had the motivation. Mom made me the point person and I began the process of unraveling the problems. I had to find out how the medication error had occurred. And I needed to persuade them to waive the bill.

Mom had already complained to the primary care group about the medication error. She said she wanted a full explanation for what had happened, and an apology. The primary care group responded with a short

letter to say they were looking into it, but they seemed to miss the point. “We apologize for this medication occurrence,” the letter said. That’s a strange apology because they didn’t call the *occurrence* what it was: an error. My dad should have never been put on Flomax.

The letter came from the nurse practitioner, so I called her. To her credit, she spoke to me and was extremely apologetic and concerned about the error. She told me that the letter should not have minimized it. “It is an error,” she said. “He was not supposed to be on the medication and he did receive it.”

I appreciated that she admitted it. And I could tell she was sincere. That’s more than many patients ever get. She also apologized and said she was trying to figure out how it had happened. It turns out a refill request had somehow been originated at a long-term care pharmacy used by the primary care group, which has medical providers throughout Colorado. She didn’t know how that had happened but assured me that she had changed her practice. She would never again approve a medication refill without checking the patient’s records.

I’ve spoken directly to hundreds of victims of medical errors. Most of them did not get an apology when they or their loved one suffered from a medical error. Medical professionals tend to go with the language used in the letter—calling an error an occurrence, or an “incident,” to avoid taking responsibility. No one ever did tell us how the pharmacy made the mistake.

Now I had to sort out what led to the bill for \$445. I called the primary care group and got connected to a woman in the billing department. She explained to me that the same nurse practitioner who had made the medication error also had done an examination just days after my dad was admitted. I tried to explain that there should have been no exam at all, because my mom, who has the power of attorney, hadn’t given consent. The woman from the billing department didn’t want to hear about that. She just wanted Dad’s Medicare insurance information so she could submit the claim.

What type of care did you provide to my dad? I asked. “Kind of like an exam,” the woman said. “We’re unable to bill any insurance. So we’re just sitting here with a \$445 balance. If he had coverage, I need to know.”

What type of exam? I asked, leaning forward in my seat and taking notes on my computer. “What code did you use to bill it?”

“We used an evaluation and management—E&M—code,” she said, “99328.”

“What does that code mean?” I asked. “Is it based on the time spent on the exam?” I was fishing to see if they were upcoding—using a code that overstated the complexity of what actually occurred so they would get paid more. My dad is healthy as can be, except for his dementia. He had had a full exam by his primary care doctor before being admitted to the assisted living facility and was in great shape.

“It’s based on level of service,” the woman explained. “That 99328 would qualify as a level 5 new patient service. A little more intensive than the initial level.”

*A little more intensive?* Basic exams are coded from level 1 to 5. Level 1 is the least intensive. Level 5 is not something a physically healthy guy like my dad would need. I later looked up the code online and saw it describes an examination that requires seventy-five minutes or more with a patient and his family, usually because the patient has developed a significant problem that requires medical decision making of high complexity.<sup>1</sup> I suspect that type of exam didn’t happen with my dad.

The woman from the billing department was getting frustrated. If I didn’t provide the Medicare insurance information, she said she would bill my mom. I asked her to please send me the medical records that justified the level 5 billing code. But I never heard from her again, and a few weeks later my mom got a bill in the mail for \$445.

The primary care group had escalated the situation. Our dispute had entered a new phase. The bill caused a lot of stress for my mom. She didn’t like someone coming after her for money. I knew what to do, because I had just been working on the chapters in this book about how to dispute an unfair medical bill and how to sue your medical provider if you get billed unfairly. I was excited to use these methods myself.

I talked to the director of business administration for the primary care group. We traded some phone calls and email—it took a lot of urging—but finally he sent me the medical records from the examination. He also sent the consent form that my mom had signed and claimed it justified the

exam. It seemed that the assisted living facility had botched the consent process during my dad's admission, and that led to a miscommunication. The primary care group mistakenly believed it should be providing care to my dad.

But that doesn't justify leaving my mom out of the picture. The nurse practitioner should have involved my mom in every aspect of the care. There should have been no history and physical of my dad, given his cognitive limitations, without the presence of my mom, who until that point had been his full-time caregiver. The bill "needs to be waived and the account needs to be cleared," I wrote to him in one email. "Obviously you should not be billing patients for exams that are unnecessary, incomplete, and violate the patient's power of attorney."

I also called the assisted living administrator and told her what I thought had happened, and that the primary care group was coming after my mom for \$445. She suggested they should waive the bill. I told her I agreed and that perhaps she could urge them to back off and let things go.

I also made it clear to all three of them—the facility, the primary care group, and the nurse practitioner—that if we didn't get the situation resolved in a way that was fair and that answered all our questions, I would escalate my concerns. I told them I would have no choice but to file complaints against the licensing boards for the nurse practitioner, the facility, and the pharmacy. Then the state regulators could investigate whether they violated Mom's power of attorney, and they could also figure out how the medication error occurred.

I think it was my brother's visit to the assisted living facility to make copies of the medical records that finally loosened them up. I live in New Jersey, so he had to make copies of all the records so we could see what consent documents my mom had signed. I also wanted to see if they had Dad's primary care doctor properly listed anywhere in the records. Sure enough, the name of his actual primary care doctor was right there on the face sheet of his medical record. The primary care group should not have been involved in any routine care without my mom's consent.

Ultimately, I was gathering these records and taking notes in all these conversations to prepare for what might need to come at the end of the line. I was prepping to sue them in small claims court—an inexpensive

venue for resolving disputes that doesn't require an attorney. I have a chapter in this book about how you can use small claims court to win your health care billing battles. I was building my case, putting the evidence together, piecing together the puzzle to figure out what went wrong and who was responsible. I made it clear to all of them that we were not going to stop and were not going to back down until we were treated with the fairness we deserved.

I will give the assisted living administrator credit for being open. She welcomed my brother's visit and let him make copies of the records at their machine. They didn't charge him like some medical facilities do, which is ridiculous because every patient has a legal right to a copy of their medical records. As my brother made copies of the records, he said he sensed it might be making the administrator a bit nervous. She hovered near him and made halting conversation. "Are you trying to shut us down?" she asked him at one point.

He assured her that we had no interest in shutting them down and that we don't care about money. "We care about what's right and just for people," my brother explained.

Then he asked her if she knew what I did for a living. Yes, the administrator said, she knew I was a journalist. "You should read some of his stories," my brother said.

I sort of wish he hadn't said that because it might have tainted my case study. I try to go through these situations without people knowing I'm an investigative reporter because it allows me to get a purer picture of how the public is treated.

I don't know if my brother's mentioning my muckraking credentials did it or not, but I got a call a day or so later from the business director of the primary care group. "I'd like to see if we could come to a conclusion on this," he said. This time his tone was deferential. He said he'd spoken to the assisted living facility administrator the day before and decided we could argue back and forth forever, but that they would go ahead and clear the bill. "It's just the prudent thing to do," he said.

I didn't argue with him or talk back. One of the fundamental rules of negotiating says to keep your mouth shut if things are going in your favor. I thanked him and asked him to please send me confirmation in writing by

the end of the day. He did so, and I forwarded it to my mom, and she rejoiced.

Case closed.

I didn't even need to file a case in small claims court, which bummed me out just a little.

I asked both the assisted living administrator and the primary care group business director to comment about the situation for this book, but they declined.

I was pleased to see how well the tactics I describe in this book worked for me. Some people might not blink at a \$445 bill—they'd just pay it. But many Americans barely have that much in their savings account.<sup>2, 3</sup> My family could have paid the bill, but it would not have been right and there would have been zero accountability for everyone who made the error and sent the bill. Plus, it didn't take us more than a couple of hours total to fight the bill. Saving \$445 for my mom and dad was a nice return on our investment.

It felt good to stand up for what's right and save hundreds of dollars. Now I want you to enjoy that same satisfaction and relish a similar financial reward. This book is for anyone who has ever felt bullied by the health care system. You may be someone who has a sense that you're not getting a fair shake as you see more and more money get taken out of your paycheck for insurance premiums. Perhaps you were hit hard by the COVID-19 pandemic and lost the insurance coverage you had through your job. Or maybe you are covered through a health care sharing organization, or have a high-deductible health plan, so you pay a lot out of pocket and need to make sure you get the best deal. Maybe you're younger, at the start of your career, and perplexed by our convoluted health care system. This book is going to teach you life skills that could save you hundreds or thousands of dollars every time you buy a medication, or go to the doctor or hospital, or get a lab test or an MRI.

This book will reveal the hidden tricks the health care industry uses to make your money disappear. It will also show you how to identify errors in your medical bills and what to do about them. And it will lay out the tactics insiders use to fight back. Applying these tips could save you big money, and you will also bask in the pride of standing up for yourself—

and that's priceless. American medicine can be a bully, counting on us to remain passive and keep paying. I'm going to show you how to stick up for yourself and make the bully back off.

My goal is to empower you as you think about this problem. The health care industry has conditioned us to think there's nothing we can do about the ridiculous prices and unfair medical bills. The health care industry has been making us think that it sets all the rules and our role is to passively comply. It's set us up to be victims. But it doesn't have to be this way. We can be victorious.

This book shows how to avoid unnecessary care, how to identify price gouging and fraud, and how to negotiate a bill to get it reduced. As I mentioned, I also explain how to use small claims court to sue a hospital or doctor if they aren't willing to treat you fairly. I will provide step by step instructions on how to do all those things and more.

If we don't stand up for ourselves the abuse will never stop. Our costs will continue to rise. Our coverage will get worse. Our paychecks will be even more depleted. More people will go into debt. More of us will be sent to collections. On the flip side, if we deploy the strategies in this book, we can come out on top. We won't win every fight. But if we don't try we will lose every time.

This book also has a section for employers, who have been watching the cost of the health benefits they provide climb so high it's eating into their revenue and the money they devote to paying their employees. Depending on the size of their organizations, employers could save tens or hundreds of thousands or millions of dollars while improving the health care benefits enjoyed by their workers. Nobody else is going to fix this problem for us. Let's fix it for ourselves.

I want to make sure one thing is crystal clear: No matter what you're told, it doesn't have to be this way. The American health care industry could provide better care for less money. But that hasn't been its goal.<sup>4</sup> And that's where we come to my reason for writing this book. I have an audacious proposal: We should be paying less for health care and getting more for our money.

My goal is to leave you feeling inspired and equipped to overcome this problem. Please do me a favor: Contact me when you have a victory, big

or small, via my website, [marshallallen.com](http://marshallallen.com). I want to write up and share as many of your stories as I can. We can all be an inspiration to one another. And we can also share the tips and tricks and tactics that we used to win. Let's build the momentum so this movement grows, so we can finally get what we deserve: better health care that costs less.

**PART I**

---

# **Fighting Back**

# 1

---

## The Five Hidden Reasons You Should Fight Back

IF YOU'RE READING THIS BOOK, you might have a sneaking suspicion that the health care system has been taking advantage of you. Working Americans have their health care costs rise every year, and it's been going on for decades. You may be spending a large portion of your income on insurance premiums and deductibles and out-of-pocket costs. You may have switched to a health care sharing or high-deductible plan to try to save money. Or maybe you are uninsured, or even in debt because of medical bills. If you're an employer, you've probably seen your organization's health care costs rise. It's cutting into your profit and what you can afford to pay your employees. You are not alone.

We are in a dire situation. The average premiums for a family's health insurance are greater than a typical family's house payment.<sup>1</sup> Many Americans have such exorbitant deductibles—the amount they must pay out of pocket before their insurance plan kicks in—that they pay cash for all but the most expensive care. Tens of millions of Americans have medical debt in collections. And tens of millions are uninsured or underinsured—numbers that spiked due to the job losses caused by the coronavirus pandemic.<sup>2</sup>

The health care industry has made things plenty confusing for us when it comes to getting a fair deal. We've been made to think we need someone else to figure it out, and that it's too complicated for us to handle. The industry wants us to stay lazy and keep handing over our cash without asking any questions. The industry wants us to think there's nothing we can do.

**BUT THE TRUTH IS YOU CAN FIGHT BACK AND WIN.**

With the right tactics and persistence you can push back and come out on top. You can stand up to the bullies in the health care system. Each battle will have varying circumstances and stakes, but similar strategies and principles apply.

But before we get to tactics, let's get to mindset. What did I learn when I fought back for my parents in the incident I described in the introduction? Here's my first observation: It can be hard to push back. It may be time consuming and inconvenient. It took me and my brother a few hours to make phone calls, gather records, email, and negotiate to understand what happened and defend ourselves from the unfair medical bill. I looped my sister-in-law into the conversation, because she's a nurse who has worked for years as a nursing home administrator. It may take specialized knowledge and it requires motivation. And even then it is still a logistical challenge. If you're reading this book, I am guessing you know this, too. But there's also a payoff for the inconvenience. It feels good to stand up for yourself and save a lot of money.

I also learned that it may be socially awkward to challenge the same people who were once my dad's caregivers. The assisted living administrator was a kind woman who genuinely cared for my family. And I had to point out where things went wrong with the care provided to my dad. That's no fun. I also had to deal with the subtle social pressure from the primary care group. They acted like my mom had done something wrong. They seemed entitled. Everyone acted like it was just routine to violate a patient's power of attorney and do an unnecessary exam and bill Medicare for it. They barely took responsibility for the medication error. They were unaccustomed to the family member of a patient asking them questions or expecting them to justify themselves. Maybe you can relate. But it's often going to be uncomfortable to tell someone to stop taking advantage of you. We should expect some pushback when we stand up for ourselves.

I learned that this process is especially difficult for a patient or caregiver. My mom felt betrayed by the way these caregiving companies did business. Her anxiety spiked when she got the bills for the exam. When she got the second bill notice she was starting to crack: "I am