

**Bankruptcy: A
Solution to
Those with
Medical Debt &
Disabilities**



Compliments of:

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Introduction

The cost of health care has skyrocketed over the past few years. Additionally, when medical problems result in a person becoming disabled, the effect on one's finances can be devastating. Erin Shank has personal experience with this situation and that makes her uniquely qualified to represent clients facing high medical bills and those who are disabled or who care for the disabled. Erin's daughter Rachel is disabled. She has Down Syndrome, epilepsy and very delicate lungs. Rachel is now 14 years old and has been hospitalized 52 times. Erin has fought with insurance companies who refuse to pay medical bills. She has learned the patience that is necessary when dealing with the disabled. She also is very familiar with the provisions of the U.S. Bankruptcy laws that are specifically designed for those who are disabled or have serious medical conditions. Erin truly believes that God gave her Rachel so that she would have the first hand experience of helping disabled clients and those facing medical expenses and bills.

Medical Bills and Your Credit Report

According to the Commonwealth Fund, 44 million Americans are working hard to pay off medical expenses. For many of these Americans, bankruptcy is the appropriate option for resolving this financial situation. In fact, medical debt is one of the top three reasons Americans file a bankruptcy case. Although some people assume that their credit scores will be ruined when they file a bankruptcy case, many of our clients have reported to us that their credit scores actually improved after we filed their bankruptcy case. Medical bill collectors place derogatory remarks on their customer's credit reports. We

study each of our client's credit reports and make sure that all creditors who have placed derogatory remarks on our clients' credit bureaus are included in the bankruptcy filing. When our clients receive their bankruptcy discharge, we write the three credit bureaus, send them a copy of our client's discharge order and ask them to change their credit reports to reflect that all of these debts have been discharged. Under the Fair Credit Reporting Act, the credit bureaus have 30 days to make these changes. This work is performed by our firm for no additional cost. Most bankruptcy attorneys do not do this for their clients. We believe that insuring that all of our clients' credit reports reflect that their debt has been discharged is a very important element for our clients who are seeking a financial fresh start.

Medical Bills & Bankruptcy

Whether an individual is paying the medical bills associated with an illness or an injury, the cost of treatment can be astounding—even with health insurance coverage. The purpose of bankruptcy is to assist consumers in resolving their overwhelming expenses so that they can move on and obtain a financial fresh start.

For medical expenses, consumers have two options for personal bankruptcy, Chapter 7 and Chapter 13.

Chapter 7 discharges the entire debt, which means that the consumer is no longer obligated to pay it. This includes medical bills, credit cards, utilities and personal loans.

Chapter 13 bankruptcy operates differently from Chapter 7. Instead of discharging the debts, the client requests

the Court to garnish his/her paycheck for the next three to five years to pay the debt back. Remember, Chapter 13 is a three to five year wage garnishment. If you file a Chapter 13 bankruptcy case you will actually be in an active bankruptcy case for three to five years. We find that filing a Chapter 13 case is very rarely the correct solution, especially for a disabled individual or someone facing a serious medical condition. If anyone has recommended that you file a Chapter 13 case, please see us for a second opinion! We offer a free initial consultation and can give you alternatives other than a three to five year wage garnishment to help you address your financial concerns.

Medical Bills & Chapter 7

When a consumer files for Chapter 7 bankruptcy, he is discharging or eliminating his debts completely. Chapter 7 can help consumers who are facing wage garnishments, repossessions and foreclosures as well. The exemption laws available to Texans allow them to keep their home, vehicles, contents of their home, tools of their trade, retirement plans, and many other assets. Creditors are prohibited from calling, writing, harassing or contacting the consumer during their bankruptcy case by the Automatic Stay, which provides the consumer with relief from constant collection calls and collector demands.

Additionally, after you have retained this firm to file a bankruptcy case for you, we will take all of your creditor calls and letters while we work with you to see that your case is prepared and filed. Stopping those endless calls and letters can be such a great relief!

Disability & Bankruptcy

When an individual becomes disabled, it is very common for them to decide to discharge the debt that they can no longer pay in a bankruptcy case. After all, a disability prevents a consumer from working for a period of time and prevents some people from returning to work at all. In 2012, it was estimated that over 56 million American consumers received \$778 billion in disability payments. Unfortunately, in 2012, the average monthly benefit paid was only approximately \$1,111, according to the Social Security Administration – not enough to cover average living costs, let alone medical bills and other expenses.

Bankruptcy for Disabled Consumers

In 2005, Congress passed laws that make filing a Chapter 7 case easier for the disabled or chronically ill. These are exceptions to the “Means Test”, which is the statutory formula that must be completed by all individuals filing a Chapter 7 bankruptcy case. First, Social Security disability payments are not counted in the “Means Test”. Second, a “Serious Medical Condition” can be a “Special Circumstance” on the “Means Test”. The cost of caring for a disabled or chronically ill member of the family can also be a deduction on the “Means Test”. The cost of health insurance is a specific line item deduction of the “Means Test”. We find that the appropriate use of these exceptions allows our clients to have their debts discharged in a Chapter 7 case, which only lasts three months and does not involve a monthly wage garnishment to repay the creditors, which is required with a Chapter 13 filing.

Bankruptcy & Disability Payments

A common concern among disabled consumers is whether or not filing for bankruptcy will impact their government disability benefits. Without steady income, disabled individuals rely heavily on their Supplemental Security Income disability payments. Social Security disability payments are protected if a consumer files for Chapter 7 bankruptcy – meaning creditors cannot seize them. Also, Americans are allowed to continue receiving ongoing Social Security benefit payments in a Chapter 7 filing. Congress recognized that consumers rely heavily on these payments to support themselves—and frequently dependents—because they are no longer able to work and this income is completely protected from the reach of creditors in a bankruptcy case.

About Our Law Firm

The Law Firm of Erin B. Shank, P.C. is exclusively dedicated to representing clients filing bankruptcy cases in Central Texas. Erin is a proud member of the National Association of Consumer Bankruptcy Attorneys and co-chair for the Western District of Texas. Erin has been practicing exclusively bankruptcy law in Texas for 30 years.

Our offices are located at 1902 Austin Avenue, Waco, TX 76701 and 1711 East Central Texas Expressway, Suite 107, Killeen, TX 76541. We offer comprehensive and personalized consultations to those who are considering bankruptcy as an option for handling overwhelming debt. Please call us at (254) 296-1161 in Waco or (254) 690-4110 in Killeen to schedule a free initial consultation or visit us online at www.centraltexasbankruptcy.com or texasmilitarybankruptcy.com.

Other Reports Available from Our Firm

- *Bankruptcy & the Military: What You Need to Know*
- *Bankruptcy: A Fresh Start for Your Family*

About BEST LEGAL PRACTICES

Best Legal Practices is the vision of Robert Armstrong and Sanford M. Fisch, co-founders of the American Academy of Estate Planning Attorneys and co-authors of *The E-Myth Attorney: Why Most Legal Practices Don't Work and What To Do About It* and most recently *Dominate Your Market! The Attorney's Complete Guide to Online Marketing and Social Media*.

Best Legal Practices was founded to provide a comprehensive selection of educational tools and resources to attorneys of all areas of practice.