ADMINISTRATIVE OFFICE OF THE COURTS



ONLINE DISPUTE RESOLUTION 2022

PILOT PROGRAM

PRESENTED BY:
THE TENNESSEE
ODR STEERING COMMITTEE

Hamilton County General Sessions Judge Alexander McVeagh; Chattanooga-Hamilton County Hospital Authority ("Erlanger"); Matterhorn; Legal Aid of East Tennessee; Volunteer Rule 31 Mediators.

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EXECUTIVE SUMMARY

Phase 1 Medical Debt Online Dispute Resolution Pilot

The Tennessee Administrative Office of the Courts ("AOC") was awarded a State Justice Institute ("SJI") Technical Assistance Grant ("TAG") to retain the services of Matterhorn by Court Innovations, Inc. ("Matterhorn") to assist the AOC with developing and implementing an online platform to resolve medical debt disputes in Hamilton County, TN, before a lawsuit is filed. We are preparing plans to establish similar programs in other areas of the state.

As of December 31, 2021, the AOC has completed Phase 1 of the Pilot known as 20T062.



CHALLENGE ODR SEEKS TO ADDRESS



The Sycamore Institute (a Tennessee based non-partisan "think tank") reported that 24 % of Tennesseans with a credit report had medical debt on their credit history in 2016 – the 10th highest rate in the country. Many of these collection cases end up in General Sessions Court, where the majority of medical debtors default due to a failure to appear. Default judgments result in additional cycles of negative credit reporting and further burden court resources.





CHALLENGE ODR SEEKS TO ADDRESS

93 of the 95 counties in Tennessee have medical debt above the national average.

-Sycamore Institute

Patients and families unable to pay are further damaged in terms of their credit ratings due to credit reporting practices of unsuccessful collection efforts, complaints filed in court, default judgments, garnishments and liens generated by judicial collection efforts. The process generates a vicious cycle of economic disaster that leaves few options for people who would like to address their debt, but have no means of successfully dealing with the judicial process

ORIGINAL PILOT GOAL



The goal of the Online Dispute Resolution ("ODR") medical debt pilot is to create an easy-to-understand application using technology, legal assistance, mediation and judicial resources to provide a model for pre-court filing resolution services. Such services would minimize burdens on the courts and enhance access to justice for the state's citizens in a manner that is asynchronous and available 24/7. If successful, the pilot can serve as a desirable tool for claim resolution across the state in many areas of legal claims in addition to medical debt.



PHASE I OUTCOME OVERVIEW

"In Phase I of this pilot, Erlanger sent 238 email ODR invites to individuals who had completed Erlanger's billing cycle (4 months of statements and phone calls) without responding and had received at least two letters from Erlanger's internal collections department, with at least one letter being directly from an attorney explicitly stating that the next action on the account would be either credit reporting and collections or the initiation of a lawsuit. Of those 238 people who had previously been unresponsive to Erlanger, 66 of them engaged Erlanger as a direct result of that ODR email invitation, resulting in an overall response rate of 28%.

. . .

Of all patients who engaged, **70% were able to resolve their outstanding debt** through lump-sum payments, payment plans or application of financial assistance."



FINDINGS



The Tennessee ODR Steering Committee deems these results to be encouraging and worth the significant effort and is grateful for the State Justice Institute's support and financial backing.

The following pages contain reflections from the main stakeholders, lessons learned, and statistics from the first three rounds of invited debtors that the ODR Steering Committee will use as it considers expanding to additional providers and/or new regions of Tennessee. Table 1 provides data collected during Phase 1 of the pilot project. Screen shots of the platform are also provided. To see the live ODR platform and the video created by Hamilton County, please visit these links:

- https://cii2.courtinnovations.com/TNMEDDEBT/
- https://youtu.be/_abvMsYO9uQ

STAKEHOLDER OVERVIEW













Hamilton County General Sessions Judge Alexander McVeagh serves as the Judicial Sponsor of the Pilot. Chattanooga-Hamilton County Hospital Authority

("Erlanger") serves as the Healthcare Provider and uses the platform to invite parties to participate. Matterhorn serves as Technical Assistant to create, modify and support the online platform. Legal Aid of East Tennessee provides input on both the platform and communications within and considers ways to facilitate and protect debtor rights in the process. Volunteer Rule 31 Mediators facilitate settlement discussions, as needed. These stakeholders are represented on the Tennessee ODR Steering Committee.

GENERAL SESSIONS COURT REPORT

JUDGE ALEXANDER MCVEAGH



The court plays a pivotal role in this ODR pilot project, even though the project is pre-suit. By publicly signaling its support of the ODR pilot, the court is able to add a layer of credibility and trust to the project. Debtors and the public can see that the court has approved of and invested time into the project and encourages those who are selected to opt into using the ODR pilot to resolve their medical debt issues. Buy-in from the local court is a key component to the success of the first phase of the pilot project and will be paramount to continued expansion and enhancement across Tennessee.

GENERAL SESSIONS COURT REPORT

JUDGE ALEXANDER MCVEAGH

Medical debt is an unwelcome burden with lasting repercussions for millions of Americans each year. Hamilton County General Sessions Court is excited to be at the forefront of the ODR medical debt pilot program that gives medical providers as well as those with unpaid medical bills the opportunity to negotiate a better outcome for themselves without ever having to enter a courtroom. The hope is that a just outcome can be reached, potentially in the form of a settlement (with or without the assistance of a third party mediator), that will put those in debt on a path to a more secure financial future, while causing the least amount of disruption to their lives

Many of those who fall into debt find themselves trapped in an increasingly dire sequence of events. First, they may have a complaint filed against them in court for nonpayment of a debt, which hurts their credit rating. Next, they may default on that debt, which can be followed by a garnishment or a lien. It can be difficult if not impossible for many to recover financially.



Hamilton County General Sessions Court has seen garnishments of wages, evictions, credit card debt suits, credit bureau disputes and even criminal cases flowing from underlying medical and other consumer debt—all negatively affecting creditors, debtors, and a clogged court system. Indeed, the problem is a big one in Hamilton County General Sessions Court. There were around 15,000 civil cases filed in the court in 2019 alone, many of them centered on medical or other consumer debt. That large volume is partially due to the fact that the General Sessions Court handles civil cases for up to \$25,0000, which is the highest 'small claims' jurisdictional limit in the country.

While ODR technology has been utilized by other states, this ODR pilot program is unique, as other programs are not committed to finding solutions in the "pre-suit" early stages of a dispute, before anything has been filed in court. By addressing the problem at this stage, those in debt can avoid damage to their credit rating and avoid the disruption that a lawsuit can potentially have in their lives. It also provides them the opportunity to challenge or dispute a debt with the assistance of legal and other resources without the additional time and expense that a traditional lawsuit would bring.

LEGAL AID OF EAST TENNESSEE REPORT

CATHY ALLSHOUSE AND SHAHEN SALILI

Several stakeholders worked together to develop a platform on which those with outstanding medical bills could settle those debt-related issues with their provider without court intervention. Legal Aid of East Tennessee (LAET) was one such stakeholder. LAET is the only civil legal services provider in East Tennessee, covering a 26-county service area. LAET's mission is strengthening communities and changing lives through high-quality legal services. Our vision is an East Tennessee where justice is a community value, and no one faces a legal problem alone. This ODR project serves that vision.

During conceptual development, LAET acted as a voice for those with medical debt and helped design the process to work for them as much as for the provider. LAET also helped generate a frequently asked questions list that would address likely concerns of those who were asked to engage in this dispute resolution process. LAET focused on maintaining plain language in the public-facing parts of the platform as much as possible. At the start of the project's public rollout, LAET arranged and assisted with two in-person clinics. As it was discovered that there was a lack of interest on the part of participants in this form of technical outreach, we shifted our focus to solely online communications development.

As development moved toward the creation of form settlement contracts, LAET worked with the stakeholders to craft language that did not waive the rights of the medically indebted while again trying to incorporate plain language. LAET focused on clarity in the amount and records of the dispute, as well as in the Agreed Payments option provisions.

LAET also helped test the interface as it came online, giving feedback with a critical eye toward making the process as transparent as possible for those seeking to resolve their debt issues. Our experience working with lowincome clients pointed out several issues that the technical team was able to resolve to make a cleaner and more efficient process.

Finally, LAET was involved in troubleshooting issues as the system came online. LAET worked closely with the other stakeholders to ensure that the system was working as intended.LAET provided templates for other volunteers that may eventually be added to the project (e.g. technical navigators).

MEDIATOR'S REPORT

STEPHEN L. SHIELDS, STEERING COMMITTEE MEDIATOR

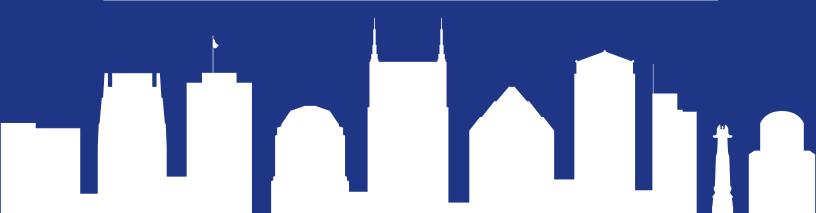
I. Volunteer Mediators

As the program platform was being developed, the Steering Committee sent requests for volunteers to the Tennessee community mediation centers. As a result, we had over one hundred experienced mediators confirm that they would perform the services on a pro bono basis. We prepared a list of those volunteers, and then, because we believed fewer would be sufficient to handle the initial round of invitations to debtors, we selected seventeen to initiate the program. Subsequently, the platform randomly assigned mediators to individual cases.

II. Conducting Mediations Via Chat

Several mediators inquired whether they could also engage the parties via Zoom or by telephone conference. The committee decided that all communications would be conducted through the platform.

- A. Writing. The initial challenge for mediators was engaging the participants by "writing" as opposed to "talking." We developed a mediator's notebook of best practices, specifically, sample "writings," for using that mode of communication. Additionally, the mediators conferenced by phone numerous times to discuss best "writing" practices and other techniques for using the platform.
- B. Asynchronous. Another challenge for mediators was managing the asynchronous nature of the electronic communications. During our telephone conferences, we addressed the issue of delayed responses by debtors and when and how to close a file because of those delays.



MEDIATOR'S REPORT

STEPHEN L. SHIELDS, STEERING COMMITTEE MEDIATOR



III. Debtor Engagement

We inquired about the debtors' responsiveness to providers' invitations to participate via the platform. The providers' feedback suggests the platform was instrumental in obtaining a better response rate than the normal channels of mail and phone calls.

IV. Conclusions - Going Forward

- Sufficient volunteers are available to provide services free of charge.
- The committee maintains a list of mediators who are familiar with the platform and stand ready to rapidly train others in the event more mediator services are needed.

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PROVIDER'S REPORT

Cherie Knotts,
Associate General Counsel, Revenue Cycle
Chattanooga-Hamilton County Hospital Authority



The Chattanooga-Hamilton County Hospital Authority ("Erlanger") is a safety-net, essential hospital that provides necessary medical care to all individuals, regardless of ability to pay or insurance status. Erlanger serves a disproportionate number of uninsured individuals and those covered by Medicare and Medicaid. Erlanger is also the region's only Level I trauma center and the area's tertiary care center, which means it provides the highest level of care for critically ill and traumatically injured patients. Given this patient make-up, acuity mix and Erlanger's status as both a governmental entity and charitable organization, it considers its patients' financial needs from the moment of registration.

MARKETING PROPOSAL

PROVIDER'S REPORT

Cherie Knotts,
Associate General Counsel, Revenue Cycle
Chattanooga-Hamilton County Hospital Authority

Billing and Collections Process Overview

Beginning at registration, Erlanger attempts to identify individuals for whom charitable care (financial assistance) would be most appropriate. Erlanger has presumptive charity for the uninsured whose household income is 200% or less of the Federal Poverty Guidelines, as determined by independent reporting agencies. Insured patients, and those whose household income appears to be greater than 200% as reported by those independent agencies, must apply for charitable care and provide supporting documentation; however, the same household guidelines apply.

For patients that Erlanger is able to identify as the neediest while in hospital care, Financial Advocates work with those patients to help navigate the financial assistance process. Additionally, those patients are also screened for eligibility for other governmental programs. After discharge, Erlanger engages a vendor to contact and assist uninsured patients with applying for Medicaid.

Once discharge from the hospital has occurred, and any applicable insurance has been processed, Erlanger sends four monthly statements for any given account. Those statements contain information about payment plans and the availability of financial assistance.

During that four-month billing process, Erlanger, or its vendors, will contact patients about outstanding balances by phone and text, answer any questions about a bill, inquire about any applicable insurance, offer a prompt-pay discount, and verbally inform patients of payment plan options.

After that 120-day billing period, if an account remains unpaid or without payment arrangements, the account is referred to a collections vendor, which includes Erlanger's internal legal collections department. When accounts are referred to the legal collections department, efforts are made to confirm contact information for patients. That department also sends correspondence that details outstanding accounts which may be escalated and provides information about financial assistance and payment plans.

After a period of no less than 45 days, if referred accounts are still outstanding, the legal department sends additional correspondence which indicates that the account will be referred for a lawsuit or sent to a collections agency for reporting and further collection attempts. This correspondence encourages patients to contact Erlanger to discuss potential resolutions.

PROVIDER'S REPORT

Cherie Knotts,
Associate General Counsel, Revenue Cycle
Chattanooga-Hamilton County Hospital Authority

Online Dispute Resolution Participant Selection and Response

It is from these referred accounts that Erlanger invited individuals to participate in the Online Dispute Resolution program ("ODR"). Patients on referred accounts varied in race, age, socioeconomic, and insured status. From May 1, 2021 to October 15, 2021, Erlanger sent letters to 483 individuals providing information about the ODR process and how to request inclusion in this pilot. Many of the letters also included information about the availability of clinics, should those individuals need technical assistance in registering and using ODR. No individuals responded to the letter invites by requesting an invitation to ODR. Although that language continues to be in legal collections correspondence, to date no one has emailed to request access in response to those letters.

In late April and early May, Erlanger also sent a total of 27 email ODR invites. After those email invitations were sent, two individuals registered for ODR to resolve their outstanding accounts. Seven other individuals contacted Erlanger via phone or email to resolve the accounts for which the email invite was sent. Given the comparative response rate, the ODR steering committee focused on developing the platform to enable file-uploads, rather than the more labor intensive, single-account invitation process that previously existed.

In Phase I of this pilot, Erlanger sent 238 email ODR invites to individuals who had completed Erlanger's billing cycle (four months of statements and phone calls) and had received at least two letters from Erlanger's internal collections department, with at least one letter being directly from an attorney explicitly stating that the next action on the account would be either credit reporting and collections or the initiation of a lawsuit. Of those 238 people, all of whom had previously failed to respond to Erlanger, 66 of them engaged Erlanger as a direct result of that ODR email invitation, resulting in an overall response rate of 28%.

RESPONSE DATA

Out of 238 email invitations, 66 individuals (28%) engaged with Erlanger.

61% of these respondents engaged through the the ODR Pilot Program.



Based on this data, it is clear that **electronic communication is a necessary component of a successful ODR program**. The success of electronic invites is most likely due to a variety of factors, including ease of access, fidelity of email checking versus that of physical mail,* and the transient lifestyle of some individuals, including those who may be housing insecure.

^{*}Several respondents admitted to either never opening mail or opening it extremely late.

ACCOUNT RESOLUTIONS

Table 1, appended to the end of this report, summarizes ODR email invites and patient engagement as a result of those invites. Although not every outstanding account was successfully resolved, the data suggests that **the ODR program was successful in allowing Erlanger to engage with patients who were previously non-responsive.** Further conclusions can be drawn from various data points, as discussed below.



PROVIDER'S REPORT

Cherie Knotts,
Associate General Counsel, Revenue Cycle
Chattanooga-Hamilton County Hospital Authority

Insured Status

Of those who responded to the emailed ODR invite, 88% had insurance, which indicates that those patients are employed. Generally speaking, those with stable incomes are more likely to be pursued in litigation for debt collection because of the ease of collection through garnishment. This suggests that the ODR program was successful in preventing legal action against those who otherwise would have been subject to the most severe form of collection activities. It also allowed those individuals to develop voluntary payment terms that may work best with their budget and other obligations, versus a wage garnishment which can take up to 25% of a person's wage income.

Additionally, the insured status of the respondents indicates that this process was used to resolve outstanding co-pays and deductibles, an area that will remain a point of concern for Tennesseans, despite recent federal regulation, as discussed infra. Deductibles and co-pays are also obligations that patients should be aware of prior to seeking medical attention—yet Erlanger found that many individuals did not understand the terms of their own insurance contracts. This program may have assisted those individuals in understanding their insurance obligations, so they can choose more appropriate levels of insurance in the future or budget accordingly.

Erlanger does not find the higher percentage of respondents being insured remarkable because of the terms of the presumptive charity program, which allows the uninsured to be approved for financial assistance without an application or supporting documentation.

88%

Of respondents carried insurance

PROVIDER'S REPORT

Cherie Knotts,
Associate General Counsel, Revenue Cycle
Chattanooga-Hamilton County Hospital Authority



Only 61% of respondents utilized the ODR online platform to communicate about their outstanding medical debt. However, that percentage is not an accurate representation of the success, effectiveness, or efficacy of this pilot. For every three people who utilized the platform, two contacted Erlanger via phone or through email.

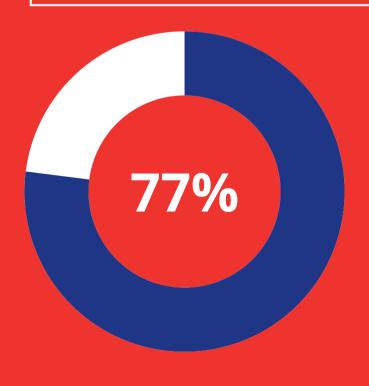
As previously discussed, Erlanger makes multiple points of contact with patients during the billing cycle and afterwards through collections, yet these individuals were unresponsive to all of those contact attempts. Only when these individuals were included in an electronic ODR invite did they take active steps to engage with Erlanger to make payment, discuss payment plans or financial assistance. Potential reasons for that engagement include the ease of access of electronic communication, the propensity of individuals to maintain a specific email address longer than a physical mailing address, and the gravitas of receiving the email invite request as an indicator of account escalation.

If a percentage of the population will only seek to engage with a provider when account escalation appears imminent—from the provider perspective and the patient perspective—ODR is a better alternative to filing of a lawsuit. ODR saves providers and their collection agents the cost of filing, conserves judicial resources and saves the patient the time, inconvenience, and negative credit consequences of having to appear in court simply to reach a settlement.

Engagement as Direct Result: # Count / %	66	28%
On Platform	40	61%
Other Methods	26	39%

ACCOUNT RESOLUTIONS: THE NUMBERS

Resolutions	
Amount of Debt Resolved	\$79,775.26
Charity Care Approved	\$20,201.42
Amount of Settlement	\$ 53, 7 59.63
Percentage Savings to Patients (by Dollar Value)	33%



Percentage Recovery by Dollar Value after Charity*

*85% of resolutions (by dollar value) include payment plans which have not yet been completed. This percentage assumes 85% compliance (by dollar value) with those voluntary, negotiated plans.

ACCOUNT RESOLUTIONS: THE NUMBERS EXPLAINED

Matter Resolved	46 (76%)
Platform - No Mediator	13
Platform - Mediator	13
Other Methods	20

The table above identifies the total debt outstanding for accounts that were resolved, the amount of debt that was resolved through financial assistance and the overall savings to patients as well as the percentage of anticipated recovery to Erlanger for non-financial assistance accounts.* Of all patients who engaged, 70%** were able to resolve their outstanding debt through lump-sum payments, payment plans or application of financial assistance.

*Once a patient has been approved for financial assistance, the patient does not have any liability fo accounts approved. If prior patient payments have been received on the account, once approved, those funds are returned to the patient.

**There are several accounts that are still actively engaged in settlement discussions --8% of respondents are still classified in the "Pending" category as of the drafting date of this report.

ACCOUNT RESOLUTIONS: THE NUMBERS EXPLAINED

Of particular note is the amount of financial assistance Erlanger was able to provide during this process. The ODR program enabled those who had previously been unable or unwilling to complete the financial assistance application to successfully do so. Although many families face financial pressure due to medical debt, the financial assistance identified is a direct benefit to the working poor. Further, those approved for financial assistance are approved for a period of time, so any medically necessary care provided during the approval time period will not result in any patient liability.

By total dollar value, the **ODR program** saved patients, on average, 33%, and Erlanger was able to collect on aged accounts, excluding charitable care, an estimated 77% of outstanding charges. Through direct communication with patients, Erlanger was able to reduce the cost to collect on applicable accounts and pass that cost-savings down to patients, all while reducing strain on the judiciary.

\$16,127.70

Erlanger Estimated Cost to Collect Settlement Amount if ODR not utilized

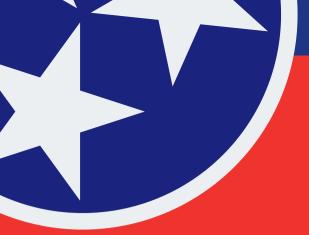


PROVIDER CONCLUSIONS



The ODR program enabled Erlanger to connect with patients who had previously declined to engage, despite multiple attempts and forms of contact. Once patients were engaged, Erlanger and the patient were usually able to come to a mutually agreeable resolution for outstanding accounts. This positive direct contact reduces Erlanger's reliance on its collection vendors—providing greater control and communication in the collections process—and reduces costs to collect while improving customer satisfaction.

Because medical debt is recurring, Erlanger is hopeful that the ODR experience will alleviate patient anxiety about engagement while simultaneously increasing patient knowledge of insurance principles and available resolution options. Long-term, Erlanger hopes to see resolutions of outstanding accounts earlier in the billing and collection cycle.



PROVIDER CONCLUSIONS:

Role of the ODR Program in Light of Recent Regulation

In 2020, the federal government passed legislation to reduce patient medical debt. Specifically, it sought to reduce the instances where patients can receive "surprise bills," which occur when an insured patient unknowingly receives treatment from an out-of-network provider. To reduce unexpected bills for the uninsured, the government has also promulgated regulations that require hospitals to provide uninsured patients with a good faith estimate of the cost of care when services are scheduled at least three days in advance.

In connection with that goal of reducing surprise bills, federal regulations have mandated dispute resolution in certain circumstances. When an insurer and out-of-network provider cannot agree on an appropriate reimbursement rate, they must resolve that dispute through the Federal Independent Dispute Resolution process ("IDR").

In that instance, patient liability is not implicated, as the cost to the patient is the same regardless of how the dispute is resolved. In either instance, the most the patient will pay is the amount of the patient's in-network cost-sharing under his or her insurance plan. When an uninsured person receives a bill from a provider that is \$400 or more in excess of the good faith estimate, that patient may also seek dispute resolution through a Selected Dispute Resolution process ("SDR") to determine the appropriate billable amount. In both IDR and SDR, the patient's ability to pay is not a consideration.

Although federal regulation seeks to remove unexpected medical bills from patients, none of the federal regulations or dispute resolution processes provide a mechanism by which patients can mediate or negotiate how (or whether) they can pay any amounts owed. The ODR program fills the gap left by this federal regulation—it allows patients to directly engage providers about how to resolve amounts for which the patient might be liable.

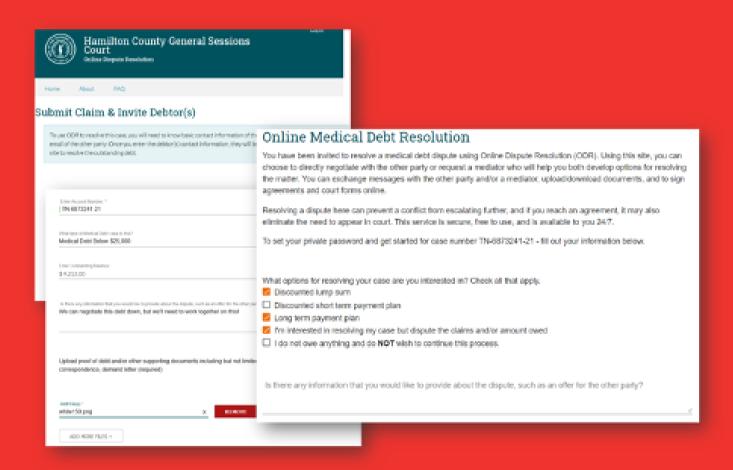
PILOT PLATFORM CONFIGURATION

The following screenshots are from the current state of the application created by Matterhorn. The platform is sponsored by the Hamilton County General Sessions Court and the landing page indicates the court's approval. Eligibility for its use is provided as well as additional instructions and information about the medical debt collection process.



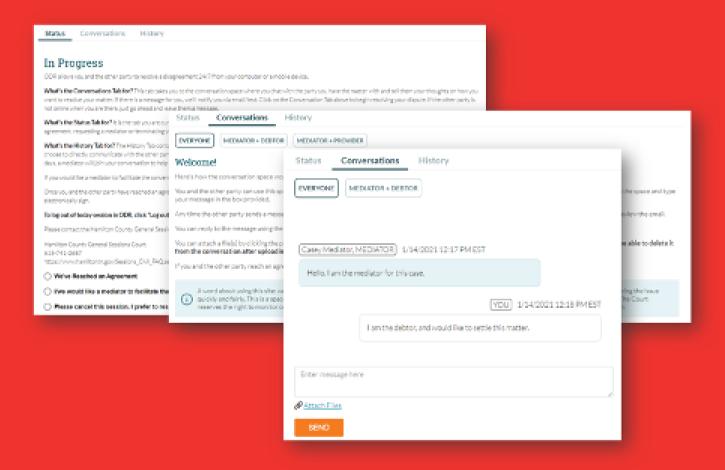


PILOT PLATFORM CONFIGURATION





PILOT PLATFORM CONFIGURATION





PILOT PLATFORM CONFIGURATION

Provider View





PILOT PLATFORM ON CONFIGURATION

Provider View



Hamilton County General Sessions Court

Online Dispute Resolution

Home

Medical Debt Cases



Case Details

Mediation Type

Medical Debt

Case Number

ILC101

Debt Amount:

\$202.22

Mediation Date

7 days from 01/31/2022

Parties

PROVIDER

Cherie Knotts 🗹

DEBTOR

Allentest Abby &

MEDIATOR

John JeffersonMediator

Status

Conversations

History

Agreement(s) Sent to Parties

The agreement is now ready for the parties to review and electronically sign.

If the agreement does not reflect what the parties have agreed to, either party can rejute revised agreement will be returned to the parties to review again.

□ By checking this box, I (Provider) am closing the EVERYONE channel.

SUBMIT

0

View the rejected form - 2

For comments on why the agreement was rejected, visit the history section.

PROVIDER: Cherie Knotts

DEBTOR: Allentest Abby

VIEW REJECTED SETTLEMENT

TABLE 1: ACCOUNT RESOLUTIONS SUMMARY

Number Of Email Invitations	238	
Engagement as Direct Result: # Count / %	66	28%
On Platform	40	61%
Other Methods	26	39%
Matter Resolved	46	70%
Platform - No Mediator	13	
Platform - Mediator	13	
Other Methods	20	
Pending / Ongoing as of Jan 18, 2021	5	7 %
Platform - No Mediator	1	
Platform - Mediator	2	
Other Methods	2	
Matter Closed / Engaged but Not Resolved	15	23%
Platform - No Mediator	1	
Platform - Mediator	10	
Other Methods	4	
Engaged Persons		
Percent Insured	88%	
Percent Uninsured	12%	

Amount of Debt Resolved	\$ 79,775.26	
Charity Care Approved	\$ 20,201.42	
Amount of Settlement	\$ 53,759.63	
Percentage Savings to Patients (by Dollar Value)	33%	
Erlanger Estimated Cost to Collect Settlement if ODR not utilized	\$ 16,127.70	
Percentage Recovery by Dollar Value after Charity*	77 %	
Erlanger Man- hours in Negotiations	87	

^{* 85%} of resolutions (by dollar value) include payment plans which have not yet been completed. This percentage assumes 85% compliance (by dollar value) with those voluntary, negotiated plans.