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New Bankruptcy Law Ignores Underlying Causes Of Debt

If we closed half of the hospitals in this country — would we say that there are less sick people — or that less people who are sick are being treated?

The new Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) is creating a similar effect, according to Jeffrey Freedman, senior partner, Jeffrey Freedman Attorneys at Law. The threshold of the bankruptcy court has been raised significantly and many debtors will be left standing outside without the ability to go through the doors.

“Low to middle-income families are already struggling to meet daily living expenses,” said Freedman. “And now, with the projected increases in such basics as heat, gas and medical bills, the people who are already sick financially are going to get sicker.”

In addition, the minimum monthly payment on most credit card balances is being increased to 4 percent of the outstanding balance.

Congress passed BAPCPA to reduce the number of consumer bankruptcy cases (which increased to 1.6 million last year). Although consumers will still be able to seek protection under the bankruptcy act, it will be more difficult and more costly due to increased requirements for documentation and credit counseling services.

“BAPCPA is stricter than the prior law, so fewer debtors will be helped, but the underlying issues that send people to the bankruptcy courts are still there,” Freedman noted. “We’ll have just as many people with debt problems, but fewer will be able to get a fresh start and return to being productive members of society.”

According to the survey *The Plastic Safety Net: The Reality Behind Credit Card Debt in America*, released by Demos and the Center for Responsible Lending, in recent years “wages have stagnated while medical and housing costs have skyrocketed.” The result is that if one income earner in the family is laid off or if someone becomes seriously ill, the family turns to credit to cover basic needs.

The research shows that since the 1990s credit card debt in America has tripled and since 2000, it has increased 31 percent. Additionally, due to job instability and medical costs, bankruptcies increased from 616,000 in 1989 to more than 1.6 million in 2004.

“The average credit card debt of a low to middle income household in this country is \$8,650 and one out of three households use credit for the basics such as food and heat,” Freedman said. “People who have lost their jobs or who don’t have health insurance are twice as likely to use credit for living expenses.”

When financially strapped consumers are late paying their credit card bills and their finances quickly spiral out of control. Creditors can charge \$30 to \$39 in late fees, and can increase interest rates by two or three times in response to a late payment. Mark Pearce, president of the Center for Responsible Lending says, “American families are losing the fight against an economy and lending practices that are working against them.”

“So BAPCPA isn’t going to solve the problem,” Freedman added. “What we need is to reform our economy and reform credit practices.”

Recommendations in *The Plastic Safety Net* include:

- ♦ Promote increased savings for unexpected financial emergencies;
- ♦ Improve wages;
- ♦ Provide affordable access to health insurance;
- ♦ Strengthen unemployment benefits;
- ♦ Reform the credit industry’s “penalty pricing” practices;
- ♦ Require credit card companies to relate interest changes and fees to the original contract and to apply those increases only to future activity, not past balances;
- ♦ Require credit card issuers to provide clearer disclosures of the long-term costs of making only minimum payments;
- ♦ Allow consumers to pursue complaints against credit card companies in court; and
- ♦ Ensure credit limits do not exceed a consumer’s ability to repay their debt;

“If you are really serious about fixing the system and keeping people out of the bankruptcy courts, you have to create conditions that allow them to be financially healthy,” Freedman said. “You can’t just ignore the fact they are sick and close the doors. The only choice they have then is bad medicine — credit card debt which can only make them sicker.”