

# The High Cost of Failing Artificial Hips



Kristen Schmid for The New York Times

Tom Dougherty of Groveland, Ill., before he received a new hip implant this month. His first replacement failed prematurely.

By **BARRY MEIER**  
Published: December 27, 2011

The most widespread medical implant failure in decades — involving thousands of all-metal artificial hips that need to be replaced prematurely — has entered the money phase.

### Ask About Hip Replacements

The Times's Barry Meier, who has written a series of articles about hip replacements, will answer selected questions from readers.



Medical and legal experts estimate the hip failures may cost taxpayers, insurers, employers and others billions of dollars in coming years, contributing to the soaring cost of health care. The financial fallout is expected to be unusually large and complex because the episode involves a class of products, not a single device or just one company.

The case of Thomas Dougherty represents one particularly costly example. He spent five months this year without a

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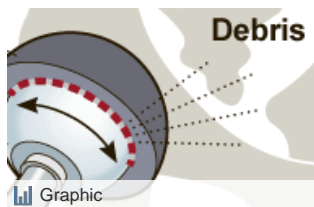
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Sources of Debris in Artificial Hips

left hip, largely stuck on a recliner watching his medical bills soar.

In August, Mr. Dougherty underwent an operation to replace a failed artificial hip, but his pelvis fractured soon afterward. The replacement hip was abandoned and then a serious infection set in. Some of the bills: \$400,776 in charges related to hospitalizations, and \$28,081 in doctors' bills.

"I'm sitting here on a La-Z-Boy meant for someone who is 80 and I'm 55," said Mr. Dougherty, who lives in Groveland, Ill., and works at Caterpillar, the heavy equipment manufacturer. His bills are "five times as much" as he paid for his home.

The so-called metal-on-metal hips like Mr. Dougherty's, ones in which a device's ball and joint are made of metal, are failing at high rates within a few years instead of lasting 15 years or more, as artificial joints normally do. The wear of metal parts against each other is generating debris that is damaging tissue and, in some cases, crippling patients.

The incidents have set off a financial scramble. Recently, lawsuits and complaints against makers of all-metal replacement hips passed the 5,000 mark. Insurers are alerting patients that they plan to recover their expenses from any settlement money that patients receive. Medicare is also expected to try to recover its costs.

While his insurer has covered his bills so far, Mr. Dougherty said he was preparing to sue his surgeon, who may have implanted the device incorrectly, and Johnson & Johnson, which produced his artificial hip, to help recoup some of the insurer's money.

"All these payers want to be paid back," said Matt Garretson, the founding partner of the Garretson Resolution Group, a firm in Cincinnati that manages product liability cases.

Until a recent sharp decline, all-metal implants accounted for nearly one-third of the estimated 250,000 hip replacements performed each year in the United States. Some 500,000 patients have received an all-metal replacement hip, according to one estimate. A new study found that no new artificial hip or knee introduced during a recent five-year period — implants that included some of the all-metal hips — were more durable than older devices, and 30 percent were worse.

One troubled all-metal model, implanted in 40,000 patients in the United States, was recalled last year by the DePuy division of Johnson & Johnson. As of October, some 3,500 patients had filed a lawsuit involving that device.

There is no data on the number of all-metal hips that have failed prematurely in this country because the outcomes of orthopedic procedures are not formally tracked by the government or private companies.

But extrapolating from overseas data and the estimate of metal hip use here, tens of thousands of patients in the United States may have to undergo operations over the next decade to replace the implants, said Dr. Art Sedrakyan, a researcher at Weill Cornell

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Medical College of Cornell University, who is studying the hip problem.

A decade ago, Sulzer Orthopedics paid a record \$1 billion to settle claims by 6,800 patients who received artificial hips and knees that were contaminated with industrial oil during the manufacturing process. "We have been dwarfed by this," said Teresa Ford, a lawyer who worked at Sulzer at the time and is now in private practice.

Device producers have taken differing stances to covering patient expenses. Zimmer Holdings, which says its all-metal implants are safe, has settled hundreds of patient claims, lawyers involved in those cases say. Also, DePuy is covering costs related to the device it recalled last year, the A.S.R., or Articular Surface Replacement.

DePuy would not comment on how much it had paid in recall-related costs. But a spokeswoman, Mindy Tinsley, said in a statement that DePuy was working with patients and insurers.

Things have not gone smoothly for everyone who has taken DePuy's payment offer. One patient, Paula Laverty, received a hospital bill for \$41,578 and a call from the facility warning her that the bill would be turned over soon to a collection agency.

Ms. Laverty, of Cape Elizabeth, Me., said she spent weeks calling the firm handling claims related to DePuy's A.S.R. She said she eventually learned that the implant maker had paid the hospital \$18,000 for her replacement procedure and that the \$41,578 represented the remaining charges.

This month, DePuy made an additional payment to the hospital, according to Ms. Tinsley, the company spokeswoman.

Along with A.S.R.-related cases, DePuy also faces over 560 lawsuits in connection with the all-metal version of another hip model, called the Pinnacle, the device that Mr. Dougherty received. Because the company says that the model is performing well, costs for its replacement are being borne by Medicare, insurers or patients themselves.

To recoup their expenses, insurers typically notify patients through lawyers that they expect to be reimbursed from any settlement money that patients receive, rather than pursue their own lawsuits with the device makers. Also, Medicare is expected to enforce new laws next year that will make it easier for the agency to recover taxpayer dollars spent treating patients injured by problem drugs and medical devices, legal experts said.

Still, some patients are weathering some of the financial impacts on their own. While Charmin McCune, a teacher in Wylie, Tex., is recuperating well from a recent replacement operation, she said that she and her husband, also a teacher, have had more than \$12,000 in expenses that have not been covered by insurance.

Mr. Dougherty, the Illinois patient, underwent a procedure this month to get a new hip implant. All went well, he said, so he hopes to spend next year back on his feet and at work.

"You can't do anything," he said of his current situation. "You see your wife doing everything for you. It is just not right."

A version of this article appeared in print on December 28, 2011, on page A1 of the New York edition with the headline: Common Failure Of Hip Implants Brings Big Costs.

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Jack - Illinois

How else can the health care industry pay their CEOs tens of millions of dollars? And the COOs, CFOs, presidents, vice presidents, etc., etc. Wake up, it's only a money making machine disguised as health care.

Dec. 28, 2011 at 8:45 a.m.



Oldfart - Kansas City, KS

An acquaintance of mine just had all ceramic hip replacements done on both hips. But I have no idea how well ceramic implants do vs. metal implants because none of that is tracked in America. Why not?

Dec. 28, 2011 at 8:44 a.m. - RECOMMENDED 1



rangercaptain - San Diego, CA

My doctor and I spent a lot of time discussing whether I should have my hip replaced. He wasn't interested in anything except a good outcome for me. Before I had my knee replaced, he had me wear a brace for a year, for me to decide if I could go without the knee replacement. For my other hip, we both skipped the preliminaries and just decided on a date, because he knew I would have a good outcome.



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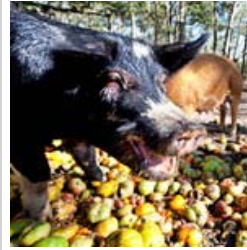
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