

Monday, March 6, 2023

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

The Honorable Rohit Chopra:

The undersigned organizations share a dedication to eliminating the impacts of medical debt on people's health and financial well-being. We write to strongly encourage the Consumer Financial Protection Bureau (CFPB) to use its rulemaking and enforcement authority to address practices that unfairly take advantage of people who have medical needs and limited means to pay for care.

As CFPB has highlighted in its own reports, medical debt is the most common type of consumer debt in collection, accounting for over \$88 billion. One-third of all adults in the United States, disproportionately people with low incomes, have medical debt. As a result of discriminatory barriers to economic security, Black and Hispanic households are more likely than white households to hold medical debt. Medical debt brings all the financial strains of other types of consumer debt — damaged credit, barriers to employment and housing, and reduced capacity to save and to spend on other necessities. It also brings unique health effects, including stress-related illness and diminished access to health care.

Medical debt does not signal profligate spending habits or predict general creditworthiness. It is incurred to pay for needed, often life-saving services, and those who take on medical debt should not be further disadvantaged by misleading financial products, abusive practices, and downgraded credit. Recently, the CFPB has taken important steps to ensure that the incurring and collection of medical debt complies with applicable law. This includes guidance that the Fair Debt Collection Practices Act prohibits collection of debts incurred contrary to the No Surprises Act and that the reporting of such debt on consumer credit reports violates the Fair Credit Reporting Act (FCRA). In response, the three large national Credit Reporting Agencies (CRAs) voluntarily implemented changes that will result in the removal of nearly 70 percent of medical debt tradelines from consumer credit reports. We support and applaud the actions the CFPB has taken to date, and we are encouraged that the agency is rightly focused on this issue.

It's critical that the CFPB take additional action, consistent with its authority, to curtail the harm of medical debt. Specifically, we strongly urge the CFPB to take the following actions:

1. Undertake rulemaking to enhance protections of FCRA

While the CRAs' recent changes are laudable, they are not necessarily permanent, nor are they legally binding. They also leave some medical debt in consumer credit reports. A CFPB rule, under its FCRA authority, would spotlight the importance of medical debt and create uniform standards for all credit-reporting companies, including smaller and specialty companies not bound by the national CRAs' recent activity. We encourage the CFPB to codify and expand on the CRAs' policies in Regulation V. Specifically, the CFPB should prohibit reporting of all medical debt or all debt for medically necessary procedures.

2. Undertake rulemaking to eliminate deferred interest in medical credit cards

Many credit cards marketed to consumers seeking financing for medical procedures carry interest rates that often are almost double the rate for a mainstream, prime card. Consumers are enticed by promotions for some cards that promise no interest during an initial period. However, if the entire balance is not paid off in full by the end of the promotional period, these cards often charge interest retroactively to the date that the charge was incurred, including on the portion of balances that were paid off during the promotional period. Complex loan terms frustrate even good faith attempts at meaningful disclosure, so many consumers are unaware of the debt time bomb that awaits them. This deferred interest arrangement appears to violate the Credit CARD Act of 2009, but the Federal Reserve Board's original rulemaking interpreted the law differently. We ask that the CFPB, which has rulemaking authority under the Credit CARD Act, revisit the rules regarding deferred interest and take a stronger position against terms that may mislead consumers.

3. Undertake aggressive enforcement against unfair, deceptive, and abusive practices

The complexity of medical billing, coupled with the vulnerability of consumers seeking to obtain and finance medical services, creates opportunities for abusive practices by medical debt collectors. For example, a debt collector should be required to ensure that a patient has been fully informed about and screened for financial assistance before pursuing collection. Failure to do so should be considered an unfair and deceptive practice, and the CFPB should pursue enforcement cases against this and other types of egregious debt collection behavior. In addition, the CFPB should work with state attorneys general and other consumer financial regulators to bring actions against providers that violate state laws, such as its recent action against Bank of America for illegal garnishments.

Despite recent progress, medical debt remains an unfortunate reality for millions of families in the United States. The CFPB is in an ideal position to relieve both its magnitude and its impact through official actions.

Sincerely,

ABC for Health, Inc.
ACA Consumer Advocacy

African Services Committee
Americans for Financial Reform Education Fund
Arthritis Foundation
Asian & Pacific Islander American Health Forum (APIAHF)
Be A Hero
Catalyst Miami
Center for American Progress
Centro Sávila
Citizen Action of Wisconsin
Colorado Center on Law and Policy
Colorado Consumer Health Initiative
Community Catalyst
Community Service Society of New York
Consumers for Affordable Health Care
Debt Collective
Dollar For
Economic Action Maryland
Enlace Chicago
Families USA
Florida Health Justice Project
Georgia Watch
Georgians for a Healthy Future
Health Access California
Health Care for All Massachusetts
Health Care for All New York
Health Care for America Now (HCAN)
Health Equity Solutions
Health Law Advocates
Human Rights Watch
Illinois Coalition for Immigrant and Refugee Rights (ICIRR)
Innovation for Justice
Justice in Aging
Kairos Center for Religions, Rights, and Social Justice
Kentucky Equal Justice Center
Kentucky Voices for Health
Legal Council for Health Justice
Mano a Mano Family Resource Center
Metro New York Health Care for All Campaign
Minnesota Nurses Association
Mujeres Latinas en Acción
National Birth Equity Collaborative
National Consumer Law Center, on behalf of our low-income clients
National Disability Rights Network (NDRN)
National Health Law Program

National Immigration Law Center
National Partnership for Women & Families
New Jersey Appleseed Public Interest Law Center (PILC)
New Jersey Citizen Action
New Mexico Center on Law and Poverty
Northwest Health Law Advocates
Oasis Legal Services
Pennsylvania Health Access Network
Progressive Leadership Alliance of Nevada
Protect Our Care
SEIU Local 49
Southwest Suburban Immigrant Project
SOWEGA Rising
Tennessee Justice Center
The AIDS Institute
The Leukemia & Lymphoma Society
The Shriver Center on Poverty Law
Third Way
U.S. PIRG
UnidosUS
Universal Health Care Action Network of Ohio (UHCAN)
Virginia Organizing
Young Invincibles