



April 5, 2023

Submitted via petitions@cfpb.gov

Hon. Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Request for Rulemakings Pursuant to the Credit Card Accountability and Disclosure Act of 2009 (the CARD Act) and the Dodd Frank Act

Dear Director Chopra:

We are writing to urge you to begin a rulemaking under the CARD Act and the Dodd Frank Act to better protect consumers from the effects of deferred credit card interest, particularly for the more than one-third of all American adults who have medical debt. This petition is submitted under Section 553(e) of the Administrative Procedure Act.

Medical credit cards, credit cards marketed toward medical providers and consumers with a medical use in mind, are increasingly being used to finance the payment of medical coinsurance and copayments.¹ And many of these credit cards contain introductory or deferred-interest features. These deferred-interest credit cards promise consumers “no” or “0%” interest during a promotional period. However, if the entire balance is not paid off in full by the end of the promotional period, these cards typically charge interest retroactively back to the date that the charge was incurred, including on balances that were paid off during the promotional period. These features are often a trap for unwary consumers and become a debt time bomb when consumers are unable to pay the full amount due and are subjected to significant and unexpected interest expenses calculated at the high rates typical for such cards.

Moreover, because of the complexity of the program terms for deferred-interest cards, many consumers do not understand their obligations in the event they are unable to pay off their balances in full during the applicable promotion periods. In fact, many patients are eligible for free care or discounted care and are entitled to work directly with their doctors to develop a reasonable repayment plan, but instead they are lured to sign up for medical credit cards.

¹ <https://www.cnn.com/select/medical-credit-cards/>

Indeed, the complexity of these programs makes it almost impossible to formulate short and understandable disclosure necessary to prevent consumers from being deceived. This difficulty is enhanced for patients attempting to evaluate financing options while simultaneously navigating the medical system and complex insurance rules. The CFPB's complaint database is replete with examples of consumers confused by the misleading nature of deferred-interest card promotions.

From its earliest days, the CFPB has taken steps to protect consumer patients from deceptive marketing of deferred interest medical credit cards.² And we applaud the CFPB's recent efforts to prevent and ameliorate financial practices that adversely impact consumers confronting significant medical expenses. And yet still the complaints and confusion continue. We urge the CFPB to build on this momentum to eliminate and restrict deferred-interest medical card products.

The CARD Act amended the Truth in Lending Act (TILA), instituting new substantive and disclosure practices for open-end consumer credit plans. Initially, rulemaking authority for TILA and the CARD Act was vested with the Federal Reserve Board of Governors but Sections 1061 and 1100A of the Dodd Frank Act transferred that authority to the CFPB.

Deferred-interest credit cards are governed by Regulation Z, which implements TILA including the CARD Act. Specifically, 12 C.F.R. Section 1026.16(h) defines the special disclosure requirements that are required for deferred-interest credit cards. However, the confusion inherent in the marketing of these products, as evidenced by the persistently high level of complaints, demonstrates that these disclosures are not adequate to protect consumers, especially those attempting to understand them while making important medical decisions. Accordingly, we urge the CFPB to take more definitive action against deferred-interest credit cards.

The CARD Act gives the CFPB clear authority to prohibit deferred-interest credit cards. Section 102(a) of the CARD Act prohibits double-cycle billing, which is inherent in deferred-interest credit cards when consumers are subjected to a finance charge based on balances from prior billing periods if they do not pay their balance in full during the promotional period. In addition, Section 101(b) of the CARD Act prohibits the retroactive application of interest rate increases, which is also an inherent feature of deferred-interest credit cards.³ We urge, therefore, the CFPB to undertake a rulemaking

² <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-ge-carecredit-to-refund-34-1-million-for-deceptive-health-care-credit-card-enrollment/>

³ Deferred-interest credit cards as they are pervasively marketed are not saved by Section 104 of the CARD Act. That section merely sets the terms for allocating payments for certain deferred-interest arrangements. It does not permit the retroactive imposition of interest for amounts that have been paid off nor the retroactive increase of interest rates, both of which are explicitly prohibited by the CARD Act.

that prohibits deferred-interest credit cards that permit double-cycle billing and/or the retroactive application of interest rate increases.

In addition, in light of the much higher likelihood of confusion concerning the evaluation of financial products in the context of a medical encounter, the CFPB should exercise its Section 1061 Dodd Frank rulemaking authority to proscribe the marketing of all deferred-interest credit cards to or through health care providers, and the payment of rebates or other incentives to health care providers on account of patients steered to deferred-interest credit cards, as unfair and abusive practices.

Section 1036 of the Dodd Frank proscribes unfair and abusive practices. Practices are unfair when:

1. they cause or are likely to cause substantial injury to consumers,
2. the injury is not reasonably avoidable by consumers, and
3. the injury is not outweighed by countervailing benefits to consumers or competition.

And abusive practices are those that:

1. materially interfere with the ability of a consumer to understand terms or conditions of a consumer financial product or service, and
2. take unreasonable advantage of:
 - a. a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the products or services,
 - b. the inability of the consumers to protect their interests in selecting or using a consumer financial product or service, or
 - c. the reasonable reliance by consumers on a covered person to act in the interests of a consumer.

Deferred-interest credit cards cause disproportionate harm to low-income consumers, who are less likely to pay off the balance before the end of the promotional period.⁴ And the marketing of complex financial products such as deferred-interest credit cards in a medical setting, as patients are attempting to navigate complex treatment options and insurance requirements, clearly takes advantage of the patients' diminished ability to rationally consider the benefits, costs, and

⁴ CFPB, "The Consumer Credit Card Market," p. 97, September 2021.



consequences of various financial products. We urge the CFPB to develop a rule that clearly prohibits the marketing of such products through health care providers or in health care settings.

Thank you, in advance, for your consideration of this request. If you have any questions, please feel free to email estewart@communitycatalyst.org.

Sincerely,

Emily Stewart

Executive Director
Community Catalyst