



August 12, 2024

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

Via electronic submission:
www.regulations.gov

**Re: Docket No. CFPB–2024– 0023 or RIN 3170–AA54
Prohibition on Creditors and Consumer Reporting Agencies Concerning
Medical Information (Regulation V)**

Dear Director Chopra:

Thank you for the opportunity to submit comments regarding the proposed rule on medical debt and credit reports. We appreciate the Consumer Financial Protection Bureau (CFPB)’s focus on addressing our nation’s medical debt crisis.

Community Catalyst is a leading non-profit national health advocacy organization dedicated to advancing a movement for health equity and justice. We partner with local, state, and national advocates to leverage and build power so all people can influence decisions that affect their health. Health systems will not be accountable to people without a fully engaged and organized community voice. That’s why we work every day to ensure people’s interests are represented wherever important decisions about health and health care are made: in communities, state houses, and on Capitol Hill.

We applaud the removal of medical debt from credit eligibility determinations and the prohibition on repossessing medical devices. We write to explain the benefits of these changes and to discuss key areas where we urge the CFPB to go further. We recommend that the CFPB: (1) include medical debt on credit cards and medical payment products in this prohibition; (2) ban the offering and promotion of deferred interest credit cards in health care settings; (3) prohibit the inclusion of medical debt on credit reports used for employment and tenant screening; and (4) clarify that the definition of “medical debt information” includes dental debt.

In addition to these individual comments, we join the coalition comments led by the National Consumer Law Center.¹

¹ See “Comment from 107 consumer, health care, civil rights, faith-based, economic development, legal services, and advocacy organizations,” Document CFPB-2024-0023-0001, <https://www.regulations.gov/comment/CFPB-2024-0023-0895>.

I. Burden of Medical Debt

More than 100 million people in the United States – 41 percent of adults – have unpaid health care bills.² While medical debt is widespread, the burden falls disproportionately on some communities. Black and Hispanic adults are more likely to report medical debt than White adults.³ Women are more likely than men to have medical debt,⁴ and women who recently gave birth are more than twice as likely to have medical debt than women who did not recently give birth.⁵ In addition, individuals who have disabilities are more than twice as likely as those without disabilities to report medical debt.⁶

Medical debt is unlike other debts. First, as the CFPB has repeatedly acknowledged, medical debt is not predictive of creditworthiness.⁷ Instead, medical debt results from necessary and often lifesaving medical care. Allowing medical debt to ruin credit scores exacerbates existing inequalities in this country in health and economic well-being. For instance, racial and ethnic minority groups experience higher rates of many chronic health conditions, including diabetes, hypertension, asthma, and heart disease, as compared to White individuals.⁸ Black and Hispanic individuals are also more likely to have no credit or a poor to fair credit score.⁹ Poor credit can result in significant financial consequences, such as being denied a credit card or paying higher interest rates on loans.¹⁰

Second, medical debt is riddled with errors. The CFPB has found that nearly 70 percent of people with medical debt say they were asked to pay a bill that should have been covered by insurance, and over 40 percent say that they received an inaccurate bill.¹¹ After individuals submit complaints to the CFPB about medical debt, third-party collectors often cease collection efforts and update consumer reports without any follow-up questions – indicating that many medical debt collectors are “*contacting*

² KFF Health News, “100 Million People in America Are Saddled With Health Care Debt,” June 16, 2022, <https://kffhealthnews.org/news/article/diagnosis-debt-investigation-100-million-americans-hidden-medical-debt/>.

³ KFF, “Health Care Debt in the U.S.: The Broad Consequences Of Medical And Dental Bills,” June 16, 2022, <https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/#>

⁴ *Id.*

⁵ KFF, “Medical Debt Among New Mothers,” May 9, 2024, <https://www.kff.org/health-costs/issue-brief/medical-debt-among-new-mothers/#>.

⁶ Peterson-KFF Health System Tracker, “The burden of medical debt in the United States,” Feb. 12, 2024, <https://www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states/>.

⁷ *E.g.*, CFPB, “CFPB Proposed to Ban Medical Bills from Credit Reports,” June 11, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-to-ban-medical-bills-from-credit-reports/#>.

⁸ Centers for Disease Control and Prevention, “Racism and Health,” <https://www.cdc.gov/minorityhealth/racism-disparities/index.html>.

⁹ CNBC, “Black and Hispanic Americans often have lower credit scores – here’s why they’re hit harder,” Jan. 28, 2021, <https://www.cnbc.com/2021/01/28/black-and-hispanic-americans-often-have-lower-credit-scores.html>.

¹⁰ *Id.*

¹¹ CFPB, “Prepared Remarks of Director Rohit Chopra for the CFPB Hearing on Medical Billing and Collections,” July 11, 2023, <https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-of-director-rohit-chopra-for-the-cfpb-hearing-on-medical-billing-and-collections/#>.

*the wrong consumers, for the wrong amount, or for debts that the collector is not entitled to collect.”*¹² Indeed, one recent analysis found that North Carolina nonprofit hospitals billed almost \$150 million to poor patients who should have qualified for free or discounted care under the hospitals’ own policies.¹³

II. Benefits of the CFPB’s Proposed Rule

The CFPB’s proposed rule would have significant benefits. Prohibiting the inclusion of medical debt in credit eligibility determinations will ensure that medical debt does not impair people’s ability to obtain a car loan, mortgage, or a loan to start a new business. Community Catalyst petitioned the CFPB to open this rulemaking,¹⁴ and we strongly support the proposed rule.

Further, the proposed rule would prohibit collectors from repossessing medical devices for nonpayment. We support this important protection for wheelchairs, prosthetic limbs, and other essential health care items. Just as the United States has long banned debtors’ prisons, debt collectors should not be permitted to impair mobility and other essential life functions for people who depend on these medical devices.

III. Recommendation: Include Medical Debt on Credit Cards and Medical Payment Products

The CFPB should include medical debt on credit cards and other medical payment products in the prohibition on credit reporting for medical debt. First, many people charge medical bills to credit cards. Significantly, one recent survey found that a quarter of U.S. adults with outstanding medical bills had paid at least some of their bills with a credit card and were subsequently unable to make the minimum payment.¹⁵ To ensure that medical debt on credit cards is identifiable, the CFPB should ensure that credit card lenders are requiring health care providers to identify themselves using the Merchant Category Codes for the appropriate medical services and supplies.¹⁶

¹² CFPB, “Complaint Bulletin: Medical billing and collection issues described in consumer complaints,” at 19-20, April 2022, https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin-medical-billing_report_2022-04.pdf (emphasis added).

¹³ North Carolina State Treasurer, “Some North Carolina Nonprofit Hospitals Billing Poor Patients Amid Failures in Charity Care,” Jan. 26, 2022, <https://www.nctreasurer.com/news/press-releases/2022/01/26/some-north-carolina-nonprofit-hospitals-billing-poor-patients-amid-failures-charity-care>.

¹⁴ Community Catalyst, “Request for Rulemaking Pursuant to the Fair Credit Reporting Act (FCRA),” CFPB-2023-0027-0001, April 13, 2023, <https://www.regulations.gov/document/CFPB-2023-0027-0001>.

¹⁵ Urban Institute, “How Many Adults Have Past-Due Medical Bills on Credit Cards,” Sept. 2023, <https://www.urban.org/sites/default/files/2023-08/How%20Many%20Adults%20Have%20Past-Due%20Medical%20Bills%20on%20Credit%20Cards.pdf>.

¹⁶ See, e.g., Visa Merchant Data Standards Manual - Visa Supplemental Requirements, Apr. 2023, 102 (MCC 8011 - Doctors and Physicians (Not Elsewhere Classified)), available at <https://usa.visa.com/content/dam/VCOM/download/merchants/visa-merchant-data-standards-manual.pdf>.

Second, the CFPB should include medical debt on medical payment products in the prohibition on credit reporting for medical debt. As the CFPB has acknowledged, many patients struggle to afford essential medical treatments, and financial institutions are profiting from this trend by marketing high-cost specialty financial products, such as medical credit cards and installment loans.¹⁷ The CFPB has also noted that these products typically include interest rates over 25 percent, making them more expensive than other forms of payment.¹⁸ Patients who use medical payment products should not be further penalized by having such debt included on their credit reports when other medical debt is not.

IV. Recommendation: Prohibit the offering and promotion of deferred interest credit cards in health care settings.

The CFPB should prohibit the offering and promotion of deferred interest credit cards in health care settings. Many people do not understand the deferred interest terms of these cards, and they are often unduly pressured to sign up in their provider’s office. As the CFPB recently explained:

[C]omplaints received by the CFPB suggest that many consumers are unaware that they can be charged interest retroactively for the entire period if they do not pay off their full balance before the end of the promotional period. The CFPB has also heard from people who were offered medical payment products when incapacitated and unable to make informed decisions, when they should have been eligible for financial assistance, or without having been adequately explained the products’ features.¹⁹

We applaud the CFPB’s work to obtain further information about these issues, such as the July 2023 Request for Information on Medical Payment Products and the June 2024 inquiry into medical payment products. Respectfully, however, we believe that the CFPB has ample evidence of the harms of deferred interest credit cards in health care settings and should not wait longer to protect patients. As further explained in our April 2023 petition,²⁰ the CFPB should initiate a rulemaking to prohibit the offering and promotion of deferred interest medical credit cards in health care settings.

¹⁷ CFPB, “Ensuring consumers aren’t pushed into financial products,” June 18, 2024, <https://www.consumerfinance.gov/about-us/blog/ensuring-consumers-arent-pushed-into-medical-payment-products/#>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Community Catalyst, Open petition, April 13, 2023, <https://www.consumerfinance.gov/rules-policy/petitions-rulemaking/>.

V. Recommendation: Prohibit Medical Debt from Credit Reports Used for Tenant and Employment Screening

The CFPB should also prohibit the inclusion of medical debt in credit reports used for tenant and employment screening. The vast majority of landlords use credit history,²¹ and about half of employers consider credit history.²² Prohibiting the use of credit reports in tenant and employment screening is warranted for the same reasons that medical debt should not be included in credit eligibility determinations. Further, given the disproportionate burden of medical debt on certain racial minorities, women, and people with disabilities, the inclusion of medical debt on credit reports for tenant and employment screening raises significant concerns under federal anti-discrimination laws.

Congress has long recognized that no one should be denied a job or housing because of their sex, race, ethnicity, or disability.²³ In addition to prohibiting disparate treatment, federal law also prohibits actions or practices that have a disparate impact on protected groups.²⁴ As described more fully in Section I, medical debt disproportionately burdens Black and Latino individuals, women, and people with disabilities. Therefore, the inclusion of medical debt in credit reports used for employment and tenant screening raises significant concerns under Title VII of the Civil Rights Act, the Fair Housing Act, and the Americans with Disabilities Act.

VI. Recommendation: Clarify that Medical Debt Includes Dental Debt

We appreciate that the definition of medical debt information is intended to include all health care debt, including dental debt. We also appreciate the CFPB's statements confirming that dental debt is included in the prohibition on medical debt in credit eligibility determinations. That said, we urge the CFPB to clarify that dental debt is included in this prohibition, either in the final rule or through staff interpretations.

Under the proposed rule, medical debt information would be defined as follows:

²¹ TransUnion, "TransUnion Independent Landlord Survey Insights," August 7, 2017,

<https://www.mysmartmove.com/blog/landlord-rental-market-survey-insights-infographic>.

²² National Consumer Law Center, "Mission Creep: A primer of the Use of Credit Reports & Scores for Non-Credit Purposes," at 6, August 2022, https://www.nclc.org/wp-content/uploads/2022/08/Mission_Creep_rpt-1.pdf.

²³ *E.g.*, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*; Fair Housing Act, 42 U.S.C. § 3601 *et seq.*; Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*

²⁴ 42 U.S.C. § 2000e-2(k)(1) (for purposes of Title VII, it is an unlawful employment practice to use a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin, without a business necessity); *Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, 576 U.S. 519, 545 (2015) ("The Court holds that disparate-impact claims are cognizable under the Fair Housing Act..."); 42 U.S.C. § 12112(b)(6) (prohibiting the use of qualification standards or other selection criteria that "screen out or tend to screen out an individual with a disability or a class of individuals with disabilities" unless there is a business necessity).

Medical debt information means **medical information** that pertains to a debt owed by a consumer to **a person whose primary business is providing medical services, products, or devices**, or to such person’s agent or assignee, for the provision of such medical services, products, or devices. Medical debt information includes but is not limited to medical bills that are not past due or that have been paid.²⁵

We believe that the proposed rule already includes dental debt. In the commentary, the CFPB explained that a “person whose primary business is providing medical services, products, or devices” includes “a medical **or health care provider**.”²⁶ This is consistent with the broader statutory and regulatory definitions of “medical information,” which includes information from a “health care provider” that relates to, *inter alia*, “the provision of health care.”²⁷ The CFPB also confirmed in its commentary: “Generally, much of what Americans consider to be medical debt is owed directly to health care providers such as hospitals or doctors’ **or dentists’ offices**...”²⁸

That said, we urge the CFPB to broaden the regulatory definition of “medical debt information.” Suggested language is below, with additions in bold.

Medical debt information means medical information **as defined in this section** that pertains to a debt owed by a consumer to a person whose primary business is providing ~~medical~~ **health care** services, products, or devices, or to such person’s agent or assignee, for the provision of such ~~medical~~ **health care** services, products, or devices. Medical debt information includes but is not limited to ~~medical~~ **health care** bills that are not past due or that have been paid.

In addition, we urge the CFPB to clarify through staff interpretations that dental debt is included in the definition of “medical debt information.”

²⁵ Proposed 12 CFR 1022.3(k)(1) (emphasis added).

²⁶ 89 Fed. Reg. 118 at 51691 (“Medical debt information would be defined as medical information that pertains to a debt owed by a consumer to a person whose primary business is providing medical serves, products, or devices (e.g., a medical or health care provider)...”).

²⁷ 15 U.S.C. § 1681a(i); 12 C.F.R. § 1022.3(k).

²⁸ 89 Fed. Reg. 118 at 51690 (emphasis added).



VII. Conclusion

Thank you for the opportunity to submit comments. We appreciate the CFPB's continued focus on the issue of medical debt, and we strongly support this proposed rule prohibiting the inclusion of medical debt in credit eligibility determinations. If you have any questions, please feel contact Mona Shah at mshah@communitycatalyst.org.

Sincerely,

A handwritten signature in cursive script that reads "Mona Shah".

Mona Shah
Senior Director of Policy and Strategy
Community Catalyst