



August 12, 2024

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

RE: Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)

Dear Director Chopra:

Thank you for the opportunity to submit comments on the above-titled proposed rule, issued by the Consumer Financial Protection Bureau (the Bureau). The undersigned organizations represent millions of patients and consumers facing serious, acute and chronic health conditions across the country. Together and separately, our non-profit, non-partisan organizations are dedicated to working with the administration, members of Congress and state governments on a bipartisan basis to protect the health and wellbeing of the patients and consumers we represent. Our organizations have a unique perspective on what patients need to prevent disease, cure illness, and manage chronic health conditions. Our breadth enables us to draw upon a wealth of knowledge and expertise that can be an invaluable resource in this discussion.

In March of 2017, our organizations agreed upon three overarching principles¹ to guide any work to reform and improve the nation’s healthcare system. These principles state that: (1) healthcare should be accessible, meaning that coverage should be easy to understand and not pose a barrier to care; (2) healthcare should be affordable, enabling patients to access the treatments they need to live healthy and productive lives; and (3) healthcare must be adequate, meaning healthcare coverage should cover treatments patients need, including all the services in the essential health benefit (EHB) package.

A comprehensive survey found an estimated 100 million people in the United States are currently in debt because of medical and dental bills.² Although the Affordable Care Act (ACA) gave consumers critical protection against catastrophic costs, including by capping out-of-pocket costs for those who obtain coverage under an employer-sponsored plan or an ACA plan in the individual and small group markets, the consumers and patients we represent are still experiencing medical debt, across all ages, income, ethnicities and insurance status. Still, research based on Census data shows some patients are at greater risk for medical debt; individuals in worse health, those living with a disability, middle-aged adults and Black people are more likely to report medical debt.³

The consequences of this debt are overwhelming, particularly for patients with chronic and acute conditions.⁴ In a recent survey conducted by the American Cancer Society Cancer Action Network, nearly half of those surveyed said their credit score was impacted by medical debt and about 46% felt harassed by creditors and debt collectors.⁵ Furthermore, too often patients and their families must make difficult tradeoffs to manage their debt, including by juggling payments for basic household needs, such as utilities, rent or mortgage, and food, with those required to get care and manage their health conditions.⁶ The stress involved in facing this debt

¹ American Heart Association website, “Healthcare reform principles.” Available at:

http://www.heart.org/idc/groups/heart-public/@wcm/@adv/documents/downloadable/ucm_495416.pdf.

² Lunna Lopes et al., “Health Care Debt In The U.S.: The Broad Consequences Of Medical And Dental Bills,” *Kaiser Family Foundation* (June 2022), <https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/>; and Noam N. Levey, “100 Million People in America Are Saddled With Health Care Debt,” *Kaiser Family Foundation Health News* (June 2022), <https://kffhealthnews.org/news/article/diagnosis-debt-investigation-100-million-americans-hidden-medical-debt/>

³ Shameek Rakshit, et al., “The burden of medical debt in the United States.” KFF.org, February 2024, <https://www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states/>

⁴ See, for example, Nora V. Becker, et al., [Association of chronic disease with patient financial outcomes among commercially insured adults](#), *JAMA Med Int.* August 22, 2022; Patrick Richard, et al., [The Financial Burden of Cancer on Families in the United States](#), *Int J Environ Res Public Health*, April 2021; and Patrick Richard, Regine Walker, and Pierre Alexandre, [The burden of out of pocket costs and medical debt faced by households with chronic health conditions in the United States](#),” *PLoS One*, June 25, 2018.

⁵ American Cancer Society Cancer Action Network, *Survivor Views on Medical Debt*. April 2024. Available at: https://www.fightcancer.org/sites/default/files/national_documents/sv_debt_summary_24.pdf

⁶ See, for example, Semret Seyoum et al, *Cost Burden Among CF Population in the United States: A Focus on Debt, Food Insecurity, Housing and Health Services*,” *Journal of Cystic Fibrosis*, Vol. 22, Issue 3, May 2023, <https://www.sciencedirect.com/science/article/abs/pii/S1569199323000036> ; and National Multiple Sclerosis Society, “Qualifying the Effect of the High Cost of DMTs,” August 2019, <https://cdn.sanity.io/files/y936aps5/production/63486ae4bec6d8e3a7d15dbd1b04b6e3a12434e4.pdf>

can worsen their health condition, as can hardships such as not being able to afford nutritious food due to their medical debt.

We therefore strongly support the Bureau's proposed rule prohibiting creditors from obtaining and using information on an individual's medical debt when making credit determinations. We are particularly pleased that the definition of medical information barred from use in credit determinations includes medical debt in any status (current, past due or fully paid) and information related to medical devices. As noted in the proposed rule, research has found that medical debt on credit reports does not help predict an individual's likelihood of repaying credit. At the same time, abundant research has demonstrated the harm caused by using medical debt information to deny individuals loans.

We offer the following recommendations to strengthen the prohibition and extend these critical protections to other uses of information regarding medical debt.

Expand the Definition

We urge the Bureau to expand the definition of medical information to include debt accrued on medical financing instruments such as medical credit cards. A number of our organizations have previously written in response to the Request for Information Regarding Medical Payment Products⁷ issued last year, noting the multiple harms of these forms of financing medical care, including high interest rates and significant transaction fees. We look forward to future rulemaking on medical financing instruments and recommend that, at a minimum, the medical information definition be expanded to include debts carried on these cards.

We also recommend the definition be broadened to include general-use credit card debt related to medical expenses. Patients often pay for medical care using credit cards, so to omit this debt from the definition would limit the protection the Bureau seeks to provide with this proposed rule. We understand it is operationally possible to include them because medical debt can be identified on these accounts by using Merchant Category Codes (MCCs). The CFPB could implement this prohibition by requiring issuers to exclude negative information about debts from merchants who are coded under MCCs as medical providers.

Extend Prohibition to Housing and Employment

We encourage the Bureau to prohibit the use of medical debt information for any reason, including for housing and employment. The consumers and patients we represent cannot choose to forgo medical costs in order to avoid going into debt. Just as medical debt information is not predictive of an individual's ability to repay credit, it is not at all relevant to tenant screening and employment. In fact, given medical debt's disproportionate impact on some populations, including those with chronic conditions and people living with a disability, using

⁷ Partnership to Protect Coverage response to RFI Regarding Medical Payment Products. Available at: <https://www.protectcoverage.org/siteFiles/45071/09%2011%2023%20PPC-Medical-Debt-RFI.pdf>

that information to determine eligibility for rental housing or employment raises the potential for discrimination. We urge the Bureau to use its authority under either the FCRA or its general authority to ban unfair, deceptive, or abusive acts and practices.

Require Disclosure of Consumer Rights

To ensure greater compliance with the prohibition, we urge the Bureau to require health care providers, debt collectors, creditors and consumer reporting agencies to provide clear disclosure to consumers of the prohibition on including medical debt in determinations for credit eligibility.

We also strongly encourage the departments to require credit applications to include a disclosure that medical information, including medical debt, is not required for credit considerations. We are concerned that patients with medical debt may disclose this information on credit applications that ask general questions about consumer debts and obligations, without realizing that this information cannot be shared on their consumer credit report and cannot be used to determine eligibility for credit.

Thank you for the opportunity to provide these comments. Should you have any questions, please contact Theresa Alban at the Cystic Fibrosis Foundation at talban@cff.org.

Sincerely,

ALS Association
American Cancer Society Cancer Action
Network
American Kidney Fund
American Lung Association
Cancer Support Community
CancerCare
Child Neurology Foundation
Crohn's & Colitis Foundation
Cystic Fibrosis Foundation
Epilepsy Foundation
Hemophilia Federation of America
Lupus Foundation of America
Muscular Dystrophy Association
National Alliance on Mental Illness
National Bleeding Disorders Foundation
National Coalition for Cancer Survivorship
National Health Council
National Multiple Sclerosis Society

National Organization for Rare Disorders
National Patient Advocate Foundation
NMDP (formerly National Marrow Donor
Program)
Susan G. Komen
The AIDS Institute
The Leukemia & Lymphoma Society
WomenHeart