



October 30, 2023

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G St NW
Washington, D.C. 20552

Re: September 15, 2023, Small Business Advisory Review Panel for Consumer Reporting Rulemaking

Dear Director Chopra:

AARP, which advocates for the more than 100 million Americans age 50 and older, is pleased to submit comments concerning the impact of medical debt on older Americans as the Consumer Financial Protection Bureau (CFPB) considers rulemaking to address a number of consumer reporting topics under the Fair Credit Reporting Act, including 1) prohibiting creditors from obtaining or using medical debt collection information to make determinations about consumers' eligibility (or continued eligibility) for credit and 2) prohibiting consumer reporting agencies from including medical debt collection tradelines on consumer reports furnished to creditors for purposes of making credit eligibility determinations.

According to the most recent data from the Congressional Research Service, which studied the growth in debt of older Americans between 1989 and 2016, Americans age 50 and older carried almost three times more debt (inflation adjusted) in 2016 than in 1989.¹ This increase in debt jeopardizes the financial security of millions of older Americans and their families. This issue is particularly problematic for this population, given that when people retire and leave the workforce, their income generally decreases, while their medical expenses may increase as they age.

Given that studies show medical debt is an unreliable predictor of consumer credit performance, AARP believes it should be treated differently than other types of debt in determining consumers' eligibility for credit.

1. Medical debt is unique, not an appropriate predictor of someone's credit performance, and disproportionately affects certain populations.

Medical debt should be recognized for its unique nature. Unlike debt incurred because of planned spending, medical debt often arises because of unforeseen illness or injury. According to a KFF report, 72% of people with medical debt reported the debt resulted from a single hospital

¹ Li, Zhe, "Household Debt Among Older Americans, 1989-2016," Congressional Research Service, September 11, 2019, <https://crsreports.congress.gov/product/pdf/R/R45911>.

visit or treatment for an accident.² A 2014 CFPB study found that the existence of medical debt does not accurately reflect a person’s creditworthiness or ability to pay. Someone with medical debt may otherwise be a responsible borrower, but faced an unanticipated illness, a health emergency, or surprise medical bills from non-network providers who provided services without the consumer’s knowledge or consent in an otherwise in-network setting. Medical debt also often reflects challenges navigating complex billing systems, inaccurate billing, or difficulties receiving insurance reimbursement.

The same CFPB study found that people with medical debt collections were less likely to be delinquent on their payments than others with the same credit score, but without medical debt. In fact, consumers with medical debts on their credit debt repaid debts at the same rates as consumers whose credit scores were approximately 20 points higher.³ This highlights the problem with taking medical debt into consideration when making decisions about a consumer’s eligibility for credit.

Certain populations are disparately affected by medical debt, in part due to differing rates in employer-sponsored health insurance. According to an analysis done by KFF, 66% of white Americans had health insurance coverage through an employer, compared to 46% of Black, 41% of Latino, and 36% of American Indian/Alaskan Native Americans.⁴ Populations of color were also more likely to report medical debt than their white counterparts.⁵ For example, one study found older Black Americans were 2.6 times more likely to have medical debt, compared to their white counterparts.⁶

Debt *collection* also impacts people of color disproportionately. On average, 11% of white Americans have medical debt in collections, compared with 15% for people of color.⁷ Another found that older Black Americans were contacted by collection agencies due to their medical debt at higher rates than their white counterparts (56.7% vs. 32.3%).⁸ AARP encourages CFPB to consider the unique nature of medical debt, as well as its disparate impact on certain populations, as it engages in this rulemaking.

2. Older Americans report increasing amount of medical debt, despite high levels of health insurance among the population.

² Lopes, Lunna, et al., “Health Care Debt in the U.S.: The Broad Consequences of Medical and Dental Bills - Main Findings – 9957,” KFF, June 16, 2022, www.kff.org/report-section/kff-health-care-debt-survey-main-findings/.

³ “Data point: Medical debt and credit scores,” Consumer Financial Protection Bureau, May 2014, https://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf.

⁴ Bittker, Bobbi M., “Racial and Ethnic Disparities in Employer-Sponsored Health Coverage,” American Bar Association, September 7, 2020, https://www.americanbar.org/groups/ersj/publications/human_rights_magazine_home/health-matters-in-elections/racial-and-ethnic-disparities-in-employer-sponsored-health-coverage/.

⁵ Karpman M, “Most Adults With Past-Due Medical Debt Owe Money to Hospitals,” Robert Wood Johnson Foundation, March 13, 2023, <https://www.rwjf.org/en/insights/our-research/2023/03/most-adults-with-past-due-medical-debt-owe-money-to-hospitals.html>.

⁶ Wiltshire, Jacqueline, et al., “Medical Debt and Related Financial Consequences Among Older African American and White Adults,” American Journal of Public Health, April 14, 2016, <https://pubmed.ncbi.nlm.nih.gov/27077346/>.

⁷ Santillo, Miranda, et al., “Communities of Color Disproportionally Suffer from Medical Debt,” Urban Institute, October 14, 2022, <https://www.urban.org/urban-wire/communities-color-disproportionally-suffer-medical-debt>.

⁸ Wiltshire et al., “Medical Debt.”

AARP estimates that among families that have debt, about one in ten families with a head of household age 50 and older faced a debt burden greater than 40% in 2019. This means these families must devote over 40% of their gross income to debt payments. After paying for other essential expenses -- like taxes, food, medical care, and utility costs -- these families have little, if any, income left for other purposes.

There is often an assumption that because Americans age 65 and older are eligible for Medicare, they do not face the same medical debt problems as other age demographics. While Medicare mitigates *some* of the impacts of medical debt on older Americans, this population is not immune to the serious problem of medical debt. Medicare is very important in providing coverage to seniors, but gaps remain that can result in substantial unforeseen out-of-pocket costs. A KFF Health Care Debt Survey conducted in June 2022 found that 22% of American adults 65 and over had medical debt.⁹ A May 2023 CFPB report found that while 98% of adults over 65 had health insurance coverage in 2020, nearly four million reported having unpaid medical bills. Seventy percent of these respondents had coverage from two or more health insurance sources.¹⁰ Services that are not automatically covered by Medicare, including prescription drugs, long-term care, dental, and hearing care contribute to unforeseen medical costs and result in medical debt for older Americans. Also, unlike private-payer insurance or Medicare Advantage, traditional Medicare does not have a cap on out-of-pocket expenses.

3. Older Americans are targeted by deceptive debt collectors and their credit is affected by billing accuracies.

When medical bills remain overdue for an extended period, health care providers typically refer them to third-party collection agencies, which may in turn furnish information on these debts to credit reporting agencies. Debt collection, and the often-deceptive practices that go along with it, is a serious issue for older Americans with medical debt.

According to a 2022 CFPB report, medical debt is one of the most common collection types on consumer credit reports and 58% of all collections tradelines in CFPB's Consumer Credit Panel in Q2 2021 were medical debt tradelines.¹¹ According to the 2022 Commonwealth Fund Biennial Health Insurance Survey, 30% of adults 50-64 with employer coverage reported medical debt or bill problems in the past year. Twenty-one percent reported they had problems or were unable to pay their medical bills, 14% were contacted by collection agencies for unpaid medical bills, and 10% had to change their way of life to pay their medical bills.¹²

⁹ Lopes, et al. "Health Care."

¹⁰ "Medical Billing and Collections Among Older Americans," CFPB Office for Older Americans, May 30, 2023, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-medical-billing-and-collections-among-older-americans/full-report/>.

¹¹ "Medical Debt Burden in the United States," Consumer Financial Protection Bureau, February 2022, https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

¹² Haynes, Lauren A. et al., "Can Older Adults with Employer Coverage Afford Their Health Care?," The Commonwealth Fund, August 10, 2023, <https://www.commonwealthfund.org/publications/issue-briefs/2023/aug/can-older-adults-employer-coverage-afford-health-care-biennial>.

Debt among older Americans has made them a prime target for unscrupulous collectors. As debt collection activities have increased, so have complaints about debt collection practices. This can be tied to the growth of the debt-buying industry. Debt buyers purchase large portfolios of questionable, stale, or discharged debt for pennies on the dollar, which they then attempt to collect on.

Some debt buyers use practices and procedures that lead to abusive debt collection. These include filing false and fraudulent affidavits in court, knowingly suing the wrong consumer (or for the wrong amount), filing lawsuits despite the expiration of the statute of limitations, and selling or reselling disputed debt. Debt buyers also pursue debts that were discharged in bankruptcy, resulted from identity theft, or belonged to a decedent.

Billing inaccuracies can exacerbate this issue, as providers and billers sometimes refer inaccurate medical bills to collectors and credit reporting companies. This can have significant consequences for the health and financial security of older adults. Older adults often describe how inaccurate medical tradelines on their credit reports have affected their access to affordable credit. Older adults also report that trying to address inaccurate bills that are now in collection and appearing in their credit reports takes a significant emotional and physical toll.

Medical debt can also lead older adults to take on other types of debt, such as high-interest loans with deceptive terms, or to rack up credit card debt in order to pay their medical debt.¹³ Even with recent reforms in credit reporting, because medical bills often end up in collection and reported to credit bureaus, older adults with medical debt may find it challenging to find housing, employment or obtain credit.

Another sign of debt stress among older Americans is the rise in bankruptcies among this group. Bankruptcy filers aged 65 and older increased from 2.1% in 1991 to 12.2% in 2013-2016.¹⁴ A key reason for the increase among older adults is the shift away from defined-benefit pensions and reductions in social safety-net programs. Bankruptcy may also be more challenging for older Americans than younger Americans to face, as debtors are less likely to be able to find a means to earn new income after they have filed for bankruptcy -- such as through well-paying jobs -- because of inaccurate perceptions that they are less productive or capable. As a result, they often continue to struggle financially in the wake of bankruptcy filings with sometimes devastating results.

4. The threat of medical debt can lead older Americans to defer or skip medical care, negatively impacting their physical health.

Given the threat of medical debt and the accompanying fear of being subjected to debt collection, it is no wonder that the potential for medical debt deters people from seeking medical treatment. A 2022 KFF survey on Health Care Debt in the U.S. showed that older Americans are putting off – or not getting at all – medical tests and treatments recommended by their doctors. The survey found that 36% of adults 50-64 and 17% of adults over 65 had not received a medical test or

¹³ Rae, Matthew, et al. "The burden of medical debt in the United States," Healthy System Tracker, March 10, 2022, <https://www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states>.

¹⁴ Li, "Household Debt."

treatment recommended by a doctor because of the cost, and 43% of all adults put off or postponed getting health care they needed because of the cost.¹⁵

Findings from the 2022 Commonwealth Fund Biennial Health Insurance Survey corroborate this data, finding that 32% of adults 50-64 years old with employer coverage skipped or delayed medical care due to costs, including not filling a prescription (17%), skipping a recommended test or treatment (20%), not visiting a doctor for a medical problem (19%), not getting needed specialist care (17%), or delaying dental care (30%).¹⁶

Conclusion

Medical debt is unique due to its unpredictable nature, which is exacerbated by medical billing errors and the complexities of insurance coverage and reimbursement. Older Americans frequently find themselves subject to aggressive and deceptive collection strategies that take an emotional toll. Studies have found medical debt is also not a good predictor of someone's creditworthiness, and yet it impacts their ability to access housing, employment, and credit. All of this leads to medical debt negatively affecting vulnerable populations and older Americans who have difficulty recovering financially. Worse yet, even the threat of medical debt and its subsequent impacts causes older adults not to seek medical care, negatively impacting their physical health.

We appreciate the CFPB's commitment to ensuring that older Americans can focus on recovering from illness and injury rather than worrying about threats from debt collectors that a delinquent medical debt will negatively affect their credit score and impact their financial security. We welcome the opportunity to discuss these issues further. If you have any questions, please feel free to contact Clark Flynt-Barr of our Government Affairs office at (202) 434-3756.

Sincerely,



David Certner
Legislative Counsel and Legislative Policy Director
Government Affairs

¹⁵ Lopes, et al. "Health Care."

¹⁶ Haynes, et al., "Can Older Adults."