



August 12, 2024

Via Electronic Delivery to 2024-NPRM-MEDICAL-DEBT@cfpb.gov
Comment Intake – 2024 NPRM FCRA Medical Debt Information
c/o Legal Division Docket Manager
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 and CFPB Staff:

The American Association of Healthcare Administrative Management (AAHAM) is the premier professional organization in healthcare administrative management. AAHAM provides education, certification, networking, and advocacy for healthcare revenue cycle professionals. The organization represents a broad range of healthcare providers, including hospitals, physician practices, and billing companies, working to enhance the financial health of the healthcare industry.

On behalf of AAHAM, we are advising that we are opposed to the Proposed Rule on Credit Reporting and ask that it not be adopted. The proposal as stands, would have significant unintended consequences that the bureau has not provided evidence of understanding. Economist Dr. Andrew Nigrinis' CFPB Proposed Rule Analysis helps to highlight some of the potential unintended consequences if these proposed rules are adopted. The full report can be read here: [Dr. Andrew Rodrigo Nigrinis Analysis](#). These concerns were highlighted in the report, and are summarized for your consideration:

- Restricting the use of accurate information about valid debts would cause increased financing for unqualified borrowers.
- There would be decreased access to credit for credit-qualified borrowers.
- There would be an increase in difficulty in meaningfully repairing credit scores.
- The proposed rule would cause conflicting obligations on creditors under the Truth in Lending Act (TILA) and Regulation Z, particularly under the ability to repay provisions.
- There would be adverse effects if certain medical debts were excluded from underwriting decisions or consumer reports.
- Medical providers would suffer a loss of income from non-payment of services. The loss in the first year is estimated to be \$24 billion. The estimated range for the losses over time ranges from \$82 billion to \$655 billion.
- There is a likely increase in litigation costs for medical providers to collect debts, including increased costs to consumers facing that litigation.
- There would be increased uncertainty in consumer finance as predictive information is removed from credit reports.
- There is potential to harm consumers, including those without health insurance and many in protected classes.
- There is a strong possibility without a full understanding of a consumer's financial obligations, more improper lending will occur, possibly precipitating a financial crisis similar to the event that culminated in the formation of the CFPB.



- There is a risk of health insurance markets entering a death spiral if young and healthy consumers who infrequently use health care forgo insurance due to not needing to pay for medical treatment

Inevitably with no incentive to pay, consumer behavior will change. AAHAM believes implementation of this rule will lead to a significant decrease in payment of outstanding balances for services rendered. With a decrease in patient reimbursements, healthcare providers will be forced to implement policies requiring payment in advance for service, regardless of the patient's insured status. This will become a barrier to receiving quality healthcare timely for many Americans and could allow a patient's condition to worsen which ultimately could mean even more expense to the patient as treating a more complicated condition would require more care.

To this point, The CFPB discusses that a majority of healthcare already collects payment at the time of service and such, it should not be an issue that point of service collections increases and it points to a survey performed by HFMA indicating 96% of health care industry respondents reported having pre-payment or point-of-service collection policies and procedures. This survey can be found here: [HFMA Study](#)

The CFPB's assumption that the existence of point-of-service collection policies translates to 96% of patients making such payments is flawed. While the HFMA survey indicates that 96% of healthcare industry respondents have pre-payment or point-of-service collection policies, this does not directly correlate to the same percentage of patients actually making these payments. The existence of a policy does not guarantee application its application or effectiveness across all patient interactions. Various factors, such as the patient's financial situation, type of service the patient is present for, complexity of billing processes, and the timing and clarity of payment requests, can significantly influence the actual rate of point-of-service collections. Therefore, the CFPB's assumption oversimplifies the practical challenges and realities faced by healthcare providers in managing patient payments, leading to an inaccurate representation of the situation.

The CFPB expects that approximately 2.5 percent of medical collection accounts are recovered by debt collectors who furnish medical collections information to the NCRAs, as estimated using the share of medical collections marked as paid on consumer reports.

¹⁶⁹ It is possible for debt collectors to furnish to consumer reporting agencies and pursue debt litigation for the same account. As discussed in *Costs to Medical Debt Collectors*, only 2.5 percent of medical collections on consumer reports are ever reported as paid. See Consumer Fin. Prot. Bureau, *Paid and Low-Balance Medical Collections on Consumer Credit Reports* (July 27, 2022), <https://www.consumerfinance.gov/data-research/research-reports/paid-and-low-balance-medical-collections-on-consumer-credit-reports/>.

The potential decrease in recovery rates used by the CFPB is extremely low compared to the overall recovery results. Historically recovery rates for medical bad debts have been greater than 10%. The use of 2.5% drastically underestimated the number of individuals, who in an effort to ensure their credit remains unaffected, setup payment plans to ensure an account does not reach the credit bureaus. The CFPB has not considered these patients who create arrangements to pay their medical bills to avoid a negative credit mark in their analysis.



AAHAM also is concerned about long term access to care for consumers should this proposal be allowed to go through. In particular, we feel that rural and small to mid-sized providers are at the most risk to maintain the ability to provide quality care while covering expenses to be able to provide that care. Without being able to cover operating expenses to provide care, physicians and healthcare facilities may be faced to close their practice, thereby further restricting access to care, requiring patients to travel further in some situations, and overall decrease the quality and accessibility to healthcare services.

AAHAM also implores the bureau to complete additional research. We dispute that “medical debt is often plagued with inaccuracies and errors” as the CFPB mentioned on Page 4 of the proposed regulation. AAHAM asks the bureau to provide data on the number of disputed accounts as compared to the total population of accounts. The CFPB can only see a small sample size in regard to a complaint database, which is a one-sided communication with patients alone and does not consider the full picture of the healthcare billing accuracy process. To date, we do not believe the bureau can provide the percentage of disputed medical tradelines vs the total reported medical tradelines, and without this analysis, we feel the proposal is noticeably short sighted.

AAHAM would like the opportunity to work with the CFPB to better help the bureau understand the complexities of medical billing and subsequently realize the unintended consequences passing of these proposed rules would have for American consumers. We ask that these proposed rules be tabled until reasonable solutions can be developed together.

In conclusion, AAHAM opposes allowing the proposal to be adopted. Until further research and discussion is completed to truly analyze the consequences of adopting this proposal, we feel our nation’s ability to provide timely and access to quality care for Americans will be jeopardized. Ultimately, consumers may be faced with more harm as the unintended consequences of allowing this to be put into regulation are realized.

Respectfully Submitted,

Signed by:

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