



August 12, 2024

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

**Re: Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V), Docket No. CFPB-2024-0023**

Dear Director Chopra,

The Leukemia & Lymphoma Society (LLS) appreciates the opportunity to provide comment on this proposed rule by the Consumer Financial Protection Bureau (CFPB) amending Regulation V under the Fair Credit Reporting Act (FCRA), concerning medical information – including medical debt – being used for credit eligibility determinations. LLS’s mission is to cure leukemia, lymphoma, Hodgkin's disease, and myeloma, and to improve the quality of life of patients and their families. We advance that mission by advocating that blood cancer patients have sustainable access to quality, affordable, coordinated health care, regardless of the source of their coverage.

**LLS supports the proposed rule and generally supports limiting the harm from medical debt**

Cancer patients experience extraordinary financial pressure resulting from their diagnosis and treatment. The costs of diagnosing, treating, and managing cancer can be enormous, even when patients have insurance coverage. Research performed for LLS by Milliman Inc. found that patients’ cumulative out-of-pocket spending in the three years following a blood cancer diagnosis ranged from \$7800 to \$9127, depending on subtype.<sup>1</sup>

Those costs are not sustainable or affordable for many patients. Research by the American Cancer Society Cancer Action Network had some alarming findings specific to cancer patients:

- 51% of cancer patients and survivors reported that they incurred medical debt resulting from their cancer care;
- 53% of those debt-holders faced collections action, and 46% reported negative credit score impacts from that debt;
- Patients with medical debt alter their behavior regarding treatment, with 45% of debt-holders delaying or avoiding care for serious issues, 62% delaying or avoiding care for minor issues, and half seeking lower-cost treatment options;
- African-American patients were found to be more likely to have medical debt, and more likely to have that debt placed in collections.<sup>2</sup>

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<sup>1</sup> Dieguez G, Ferro C, Rotter D. The cost burden of blood cancer care.

<https://www.lls.org/sites/default/files/Milliman%20study%20cost%20burden%20of%20blood%20cancer%20care.pdf>

<sup>2</sup> Survivor Views: Cancer & Medical Debt. American Cancer Society Cancer Action Network. Published March 17, 2022. Accessed July 16, 2024. <https://www.fightcancer.org/policy-resources/survivor-views-cancer-medical-debt>

These compounding adverse impacts, including ballooning medical debt, impact consumer credit bureau reports and scores—making it harder for patients and their families to secure employment, be eligible to live in rented housing, or access affordable loans for a home or a vehicle. Meanwhile, research has indicated that medical debt is less predictive of future repayment than reporting on traditional consumer credit obligations.<sup>3</sup>

The general population similarly reflects attitudes and experiences with medical debt. An October 2023 national poll reveals that nearly 7 in 10 US adults say they receive medical bills they cannot afford.<sup>4</sup> Respondents said that to manage high healthcare costs, most patients (63%) are making sacrifices: some say they are forced to delay payment, put bills on a credit card, or challenge the bill. Others are left with an impossible choice: pay their medical bills or go without basic needs, even changing the foods they eat to cut costs.

LLS believes that patients should be shielded from the harmful effects of medical debt, including its impact on credit determinations. In the case of a cancer diagnosis and treatment, any medical debt incurred is not voluntary and, therefore, does not reflect a patient's likelihood to pay back a loan or mortgage, satisfy rent for an apartment, or be a productive employee. Accordingly, LLS supports the model developed by the National Consumer Law Center and adopted by many states that would prohibit medical creditors from reporting any debt information to any consumer reporting agencies.<sup>5</sup>

The proposal put forth by the CFPB will help patients like Amanda Schlesier, LLS advocate from New Jersey.<sup>6</sup> Six years after her diagnosis, Amanda has no evidence left of her blood cancer except for the medical debt she incurred fighting it:

"As the years passed, the debt has never left. My credit has been a rollercoaster ride trying to balance the tens of thousands of dollars I owed to the hospital and other healthcare providers. I have delayed doctor's appointments to avoid co-pays. I stopped seeing a primary care physician and have relied on a local urgent care provider. Financially, I feel hopeless and ashamed because six years ago, my body betrayed me, and now, I cannot afford to keep up."

The CFPB is authorized to prescribe rules that are necessary or appropriate to enable the agency to administer and carry out the purposes and objectives of the Federal consumer financial laws, including the FCRA. LLS supports the proposed revisions to Regulation V as a necessary and appropriate policy to carry out the objectives of the FCRA, which include promoting the accuracy, fairness, and privacy of consumer information. The CFPB has correctly found that medical debt is often inaccurately or inconsistently reported, has limited predictive value for credit underwriting purposes, and leads to the denial of credit or unfavorable credit terms for consumers who are not less likely to repay their loans,

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<sup>3</sup> <https://www.consumerfinance.gov/about-us/newsroom/cfpb-study-finds-medical-debt-overly-penalizes-consumer-credit-scores/>

<sup>4</sup> Nearly 1 in 2 Patients with Medical Debt Feel "Trapped", New Poll from Leading Healthcare Orgs Finds | Leukemia and Lymphoma Society. Accessed July 16, 2024. <https://www.lls.org/news/nearly-1-2-patients-medical-debt-feel-trapped-new-poll-leading-healthcare-orgs-finds>

<sup>5</sup> Bosco J, Haynes B, Kuehnhoff A, Wu CC. Model Medical Debt Protection Act. National Consumer Law Center. Accessed July 16, 2024. <https://www.nclc.org/resources/model-medical-debt-protection-act/>

<sup>6</sup> LLS teams up with advocates to advance policies that protect patients from medical debt. <https://www.lls.org/blog/lls-teams-advocates-advance-policies-protect-patients-medical-debt>

among other findings. Therefore, restricting the use of financial information associated with medical debt is an appropriate policy that furthers the objectives of the FCRA.

LLS suggests the following improvements to better protect patients from the harms associated with medical debt:

- Broaden the definition of medical debt to include medical credit cards and other medical debt financing instruments,
- Extend the ban on considering medical debt to include credit reports used for the purposes of prospective employment and/or rental properties,
- Require disclaimers that medical debt is not required to be disclosed on credit applications,
- Ban predatory lending instruments for necessary medical services.

### **Broaden the definition of Medical Debt to include medical credit cards and other medical debt financing instruments**

LLS urges the CFPB to broaden the scope of the definition of “medical debt information” to include debt from medical lending products such as medical credit cards. Additionally, the CFPB should consider extending this definition to include medical debt placed on general-purpose credit cards.

There is little distinction for the consumer in terms of healthcare debt placed on medical or general-purpose credit cards and medical debt as defined under the CFPB’s proposal, and information about them on consumer credit reports is just as harmful. Medical payment products, particularly credit cards and deferred interest credit cards, are known to carry high interest rates – often higher than the interest rates available for general consumer credit cards.<sup>7</sup> These financing products also carry risks such as adverse credit reporting impacts, and ballooning payments because of deferred interest charges.

Cancer patients – and patients with serious, chronic illnesses more generally – already struggle to afford the cost of their treatments. Studies into the cost burden of cancer care show that many patients are forced to exhaust the *entirety* of their life savings within a few years of their diagnosis.<sup>8</sup> It is clear to LLS that the healthcare costs that many patients already find unaffordable become even more so as a result of the higher interest, fees, and costs associated with financing their care using these products.

For example, a patient who is diagnosed with blood cancer does not experience a singular medical event: rather, that diagnosis initiates a complex regimen of care, including multiple services and potentially numerous sites of service over a period of months, if not years. Each of those visits with a healthcare provider is likely to come with some form of cost-sharing obligation. As medical payment products proliferate, the risk increases that they may be offered to patients juggling multiple appointments and cascading out-of-pocket costs. Cancer patients already face an enormous risk of

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<sup>7</sup> “Medical Credit Cards and Financing Plans.” Consumer Financial Protection Bureau: May 2023. Available at: [https://files.consumerfinance.gov/f/documents/cfpb\\_medical-credit-cards-and-financing-plans\\_2023-05.pdf](https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf)

<sup>8</sup> R.D. Tucker-Seeley, G. Abel, H. Uno, and H. Prigerson. “Financial hardship and the intensity of medical care received near death.” *Psychooncology*: May 2015. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4305037/>

financial harm and bankruptcy following their diagnosis<sup>9</sup>: that harm should not be compounded by exorbitant interest rates or mushrooming fees or charges.

The fact that a patient was enticed to open or use a credit card or other lending account should not make the difference between significant damage to their credit history versus being protected from harmful medical debt. Indeed, with specialized medical payment products, some providers' staff fail to properly explain to patients that they are opening a credit account, as opposed to receiving a payment plan from the healthcare provider. These patients should not suffer credit damage because they did not realize they were signing up for a credit card. As for general-purpose credit cards, it is operationally possible to include them in a ban because medical debt can be identified on these accounts by using Merchant Category Codes (MCCs). The CFPB could easily implement such a ban by requiring issuers to exclude negative information about debts from merchants who are coded under MCCs as medical providers.

**Extend the ban on considering medical debt to include credit reports used for the purposes of prospective employment and/or rental properties**

LLS urges the CFPB to prohibit the inclusion of medical debts on credit reports used for *any purpose*, including for tenant and employment screening. We agree with the CFPB that medical debt is not a good predictor of creditworthiness. By the same logic, medical debt is not a good predictor of whether someone will be a trustworthy employee or a good tenant. A cancer diagnosis that leads to medical debt should not be the basis for denying someone a job or place to live.

Medical debt, including debt related to cancer care, disproportionately impacts historically marginalized communities, both in terms of who is more likely to incur debt and who is more likely to be subject to harmful or aggressive collections or enforcement actions.<sup>10,11,12,13,14</sup> Members of historically marginalized communities are also more likely to be uninsured or underinsured than their white peers<sup>15</sup>, which is likely a contributing factor to their higher rates of medical debt. Additionally, people with disabilities are more than twice as likely as those without disabilities to have medical debt.<sup>16</sup> As such, allowing medical debt as a basis for housing and employment unfairly disadvantages these communities, perpetuating existing disparities beyond the healthcare space.

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<sup>9</sup> "Financial Toxicity and Cancer Treatment." National Cancer Institute. Available at: <https://www.cancer.gov/about-cancer/managing-care/track-care-costs/financial-toxicity-hp-pdq>

<sup>10</sup> M. Karpman, K. Martinchek, and B. Braga. "Medical Debt Fell during the Pandemic. How Can the Decline Be Sustained?" Urban Institute: May 2022. Available at: <https://www.urban.org/sites/default/files/2022-05/Medical%20Debt%20Fell%20during%20the%20Pandemic%20How%20Can%20the%20Decline%20Be%20Sustained.pdf>

<sup>11</sup> "Debt in America: An Interactive Map." Urban Institute: June 2022. Available at: [https://apps.urban.org/features/debt-interactive-map/?type=medical&variable=perc\\_debt\\_med](https://apps.urban.org/features/debt-interactive-map/?type=medical&variable=perc_debt_med)

<sup>12</sup> "Survivor Views: Cancer and Medical Debt." American Cancer Society Cancer Action Network: March 2022. Available at: <https://www.fightcancer.org/policy-resources/survivor-views-cancer-medical-debt>

<sup>13</sup> B. Haynes. "The Racial Health and Wealth Gap: Impact of Medical Debt on Black Families." National Consumer Law Center: March 2022. Available at: <https://www.nclc.org/wp-content/uploads/2022/09/RacialHealth-Rpt-2022.pdf>

<sup>14</sup> N. Bennett, J. Eggleston, L. Mykyta, and B. Sullivan. "19% of U.S. Households Could Not Afford to Pay for Medical Care Right Away." United States Census Bureau: April 2021. Available at: <https://www.census.gov/library/stories/2021/04/who-had-medical-debt-in-united-states.html>

<sup>15</sup> S. Artiga, L. Hill, and A. Damico. "Health Coverage by Race and Ethnicity, 2010-2021." KFF: December 2022. Available at: <https://www.kff.org/racial-equity-and-health-policy/issue-brief/health-coverage-by-race-and-ethnicity/>

<sup>16</sup> The burden of medical debt in the United States. Peterson-KFF Health System Tracker. Accessed July 25, 2024. <https://www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states/>



We urge the CFPB to prohibit credit reporting agencies from including medical debts on credit reports used for tenant screening or employment using its authority under either the FCRA or its general authority to ban unfair, deceptive, or abusive acts and practices.

**Require disclaimers to consumers that medical information, including medical debt, is not required to be disclosed in credit applications**

LLS urges the CFPB to require disclaimers on credit applications that medical information, including medical debt, is not required to be disclosed. Further, this disclaimer should explain that should the consumer decide to voluntarily disclose medical debt information, this can be used in deciding creditworthiness by the lender. The CFPB should ensure that this disclaimer is displayed on credit applications in at least a bold, minimum 10-point font as is required by other regulatory disclaimers in other consumer finance transactions.<sup>17</sup>

We are concerned that patients with existing medical debt are likely to disclose this information on credit applications that ask general questions about consumer debts and obligations, without realizing that this information would not be present on their consumer credit report. As such, without this disclaimer present, the prohibition on creditors from using medical debt information in credit determinations is essentially worthless, as the CFPB notes that, under the proposed regulations, “[a] creditor does not obtain medical information in violation of the prohibition if, for example: (i) In response to a general question regarding a consumer's debts or expenses, the creditor receives information that the consumer owes a debt to a hospital.”<sup>18</sup>

While we recognize the existing requirements some prospective lenders have under the ability-to-repay and ability-to-pay rules<sup>19</sup>, we additionally urge the CFPB to consider requiring lenders to *disregard* any medical debt information received, even if voluntarily.

**Address predatory lending instruments for necessary medical services**

As mentioned above, the problems with specialized medical payment products extend beyond negative credit reporting. We appreciate that the CFPB has opened an inquiry into medical payment products along with the Department of the Treasury and the Department of Health and Human Services and look forward to the CFPB’s future rulemaking on this issue.

It is clear that medical payment products are being utilized by creditors as lending products, and as such, the CFPB has broad authority to regulate them, including under numerous federal statutes.<sup>20</sup> We urge the CFPB to do so, including by banning deferred interest on credit cards, prohibiting issuance of medical credit cards or loans to consumers whose insurance covers a procedure or qualify for financial assistance, and prohibiting services from being charged to a credit card before they are rendered.

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<sup>17</sup> E.g., 12 CFR §1011.50

<sup>18</sup> Proposed rule at 51736, <https://www.federalregister.gov/d/2024-13208/p-619>

<sup>19</sup> 12 CFR § 1026 Et. seq.

<sup>20</sup> 12 USC § 5481 Et seq.



**Conclusion**

LLS thanks the CFPB again for its leadership in this important area and this opportunity to provide comment on this proposed rule. As stated above, we hope the CFPB will do all it can within its authority to ensure that patients are guarded from the harmful effects of medical debt. If you have any questions or would like to discuss our comments further, please contact Phil Waters, Director, Federal Public Policy at The Leukemia & Lymphoma Society at [phil.waters@lls.org](mailto:phil.waters@lls.org).

Sincerely,

A handwritten signature in black ink, appearing to read "B. L.", with a horizontal line extending to the right.

Bethany Lilly  
Executive Director, Public Policy