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**Re: Proposed Rule RIN 3170-AA54;** “Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)” Docket No. CFPB-2024-0023

## **I. Introduction**

Thank you for the opportunity to provide comments on the Consumer Financial Protection Bureau’s (CFPB's) proposed rule to amend 12 CFR Part 1022- Fair Credit Reporting (Regulation V). These comments are offered on behalf of Maine Equal Justice (MEJ) and the Maine people with low incomes who we represent. MEJ is a nonprofit civil legal services organization whose mission is to increase economic security, opportunity, and equity for people in Maine.

Rising health care costs, lack of health insurance and high-deductible plans, and an increasing cost of living have all contributed to a high burden of medical debt in Maine. Low-income households are more likely to rely on credit to stretch their paychecks or benefits until the end of the month and are also more likely to have current health care debt that may negatively impact their credit score.<sup>1</sup> Through all our community outreach and legal services work, medical debt, and its impact on a family’s ability to meet their basic needs, is among the top concerns for our clients.

We strongly support the proposed rule to repeal the exception in Regulation V which allows creditors to obtain and use medical financial information under the Fair Credit Reporting Act (FCRA). This change would effectively remove medical bills from most credit reports, improving credit scores and further protecting private health information. However, this rule does not extend to credit reports used for employment, tenant screening or to lending products, including medical credit cards, often used to pay for medical debts. Based on our experience working directly with consumers, we implore the CFPB to take additional steps to protect the

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<sup>1</sup> <https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/>

financial wellbeing of those already disproportionately impacted by economic and racial injustice.

There are many complex challenges to address in our health and financial systems, but limiting the reporting of medical debt on credit reports is one significant step the CFPB can take now to protect the most vulnerable consumers, providing them with greater opportunities for full economic participation.

## **II. The Proposed Rule builds on and bolsters protections for consumers**

The landmark FCRA laid the foundation for greater consumer protections against the misuse of private medical and financial information and the improved accuracy of consumer reports. Subsequent amendments to the law, including the FACT Act, built upon this foundational right to privacy and the CFPB has made meaningful changes in recent years to limit surprise billing and the collection of invalid medical debt.<sup>2</sup> The impact of these new regulations has been substantial for many Americans, with some seeing their credit scores improve as many as 20 points.<sup>3</sup>

Despite these efforts, we know that 15 million<sup>4</sup> Americans still have medical debt on their credit reports, yet this figure underrepresents the reality as it does not reflect medical debt that consumers paid for with credit cards or medical credit cards such as Care Credit.<sup>5</sup> Medical debts often reflect inaccurate or unsubstantiated bills. Regardless of whether the error originated from a provider or insurer, the burden of proof falls on the consumer to prove otherwise. Meanwhile, unpaid medical debt has a detrimental impact on the consumer's credit score, which incentivises people to pay without challenging the validity of the charges.

Maine has been at the forefront in pursuing consumer protections against harmful medical debt collections. In 2019, Maine amended the Maine Fair Credit Reporting Act, requiring consumer reporting agencies to remove paid or settled medical debts from consumer reports upon receiving reasonable evidence of payment,<sup>6</sup> and most recently passed a law banning collection agencies from charging interest or fees on known medical debt.<sup>7</sup> In 2024 the Maine Legislature amended

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<sup>2</sup> CFPB. May 8, 2023

<https://www.consumerfinance.gov/about-us/blog/medical-debt-anything-already-paid-or-under-500-should-no-longer-be-on-your-credit-report/>

<sup>3</sup> White House Fact Sheet. June 11, 2024.

<https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/11/fact-sheet-vice-president-harris-announces-proposal-to-prohibit-medical-bills-from-being-included-on-credit-reports-and-calls-on-states-and-localities-to-take-further-actions-to-reduce-medical-debt/>

<sup>4</sup> CFPB. Apr 29, 2024.

<https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-15-million-americans-have-medical-bills-on-their-credit-reports/>

<sup>5</sup> 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/>

<sup>6</sup> 10 M.R.S. § 3110-H(4)

<sup>7</sup> 32 M.R.S. § 11013(3)(O)

the Maine Fair Debt Collection Practices Act, prohibiting litigation to compel payment of medical debt when the consumer’s household income is less than 300% of the Federal Poverty Level (FPL).<sup>8</sup> MEJ continues to support legislation to further these consumer protections including compelling providers to offer patients reasonable payment plans based on their income and to limit the marketing of predatory financial products in health care settings.

In recognition that medical debt is a poor predictor of willingness or ability to pay off other debts, the three largest credit reporting companies voluntarily removed all paid medical debts and medical collections under \$500 from consumer credit reports. Initial research shows significant reductions in the percentage of Americans with unpaid medical bills on their credit reports following these elective changes, yet higher balances and most medical collections remain on credit reports which can often be the most detrimental to long-term economic stability. The proposed rule expands upon these efforts, codifying broader protections for all consumers.

### **III. Maine has the highest share and median amount of medical debt in New England**

Mainers have the second highest share of medical debt in collections<sup>9</sup> in the Northeast and a higher share of medical debt in collections than neighboring New Hampshire, Vermont, and Massachusetts combined. In a statewide survey conducted in 2023, four in ten Mainers identified as having some form of medical debt<sup>10</sup> and 60%<sup>11</sup> of Mainers have experienced at least one financial hardship due to medical expenses. Individuals often turn to cutting back on daily essentials such as food, medication, heat, and even costs for housing<sup>12</sup> in order to make payments toward their unpaid medical bills.

A RAND study found that Maine’s health care prices were 20% higher<sup>13</sup> than the national average, with the cost of hospital care in Maine at nearly 2.5 times<sup>14</sup> what Medicare pays. This creates a significant burden on consumers with approximately half the population utilizing Medicare<sup>15</sup> as insurance. Those in the private market are also affected by paying higher insurance premiums and out-of-pocket costs. As illustrated below, the high cost of health care, coupled with unique demographics, create a “perfect storm” for medical debt to play an outsized role in the economic security of Maine people.

#### **A. Low-Income**

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<sup>8</sup> 32 M.R.S. § 11013(3)(Q)

<sup>9</sup> 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/>

<sup>10</sup> [https://mainecahc.org/file\\_download/inline/5b34cac0-758b-417c-a305-78280aab85f1](https://mainecahc.org/file_download/inline/5b34cac0-758b-417c-a305-78280aab85f1)

<sup>11</sup> <https://mainemorningstar.com/2024/01/25/lawmakers-unveil-proposals-to-rein-in-mainers-medical-debt-burden>

<sup>12</sup> Id(n6)

<sup>13</sup> <https://communitycatalyst.org/wp-content/uploads/2024/05/Maine-State-Spotlight-Final-Updated-May-2024.pdf>

<sup>14</sup> Id.

<sup>15</sup> Id.

Maine currently ranks 30th for per capita personal income nationally and last in New England despite some encouraging recent trends in economic and wage growth.<sup>16</sup> In 2022, 32.5% of the population fell below 400% FPL and 10.3% of Mainers had household incomes under 100% FPL.<sup>17</sup> However, there are wide variations from county to county with over 17% of people in Washington County living under the poverty line.<sup>18</sup>

While the Affordable Care Act, and Maine's eventual expansion of Medicaid in 2019, drastically reduced the number of uninsured Mainers, the Urban Institute estimates that approximately 5.8% of the state's nonelderly population will be uninsured in 2025 following the end of the Medicaid unwinding process. They project that on average people in Maine will spend 10% of their income on health care and those whose incomes are too high to qualify for MaineCare but below 400% FPL will pay an even higher share at an estimated 12-13% of their income going toward their health care costs. Amid a constrained housing market and rising costs of food and fuel, these costs are untenable for many low and middle income families' budgets.<sup>19</sup>

Community members with low or no income, many of whom are ineligible for MaineCare (Medicaid) and lack employer sponsored health insurance, frequently bring their unpaid medical bills to our legal services team. Many low-income Mainers rely upon a patchwork of hospital free care and state or municipal welfare programs to meet their most basic medical needs. These programs are inconsistently administered throughout the state, and across different health care systems, so a consumer's access to necessary health services and financial assistance is often dependent on where they live. This results in consumers being billed for medical services that should be covered by government assistance programs. Since low-income consumers cannot afford to pay costly medical bills, their outstanding debts are passed to credit reporting agencies which in turn hinders these consumers' ability to access credit, and in some cases employment and scarce housing.

While the median amount of medical debt in Maine is \$857, for others, their medical debt leads to catastrophic consequences. Nationally, the rate of bankruptcy cases related to medical debt is 62%. However in Maine, nearly every bankruptcy case handled by Pine Tree Legal Assistance

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<sup>16</sup><https://www.google.com/url?q=https://www.maine.gov/dafs/economist/sites/maine.gov.dafs.economist/files/release/s/2023%2520Year%2520in%2520Review.pdf&sa=D&source=docs&ust=1723375760574140&usg=AOvVaw1uHZ-0TEAF4B8LcAA1aS7y>

<sup>17</sup><https://www.google.com/url?q=https://www.kff.org/other/state-indicator/distribution-by-fpl/?currentTimeframe%3D0%26selectedRows%3D%257B%2522states%2522:%257B%2522maine%2522:%257B%257D%257D%257D%26sortModel%3D%257B%2522colId%2522:%2522Location%2522,%2522sort%2522:%2522asc%2522%257D&sa=D&source=docs&ust=1723375760573595&usg=AOvVaw1S5FRsaEpyTR3H3xalSRbu>

<sup>18</sup><https://www.google.com/url?q=https://www.maine.gov/labor/cwri/county-economic-profiles/countyProfiles.html&sa=D&source=docs&ust=1723375760572857&usg=AOvVaw1hfhadFLa6xN6OK0xLUjGF>

<sup>19</sup> Urban Institute.

<https://www.urban.org/research/publication/overview-health-coverage-and-costs-maine-2025#:~:text=WHAT%20WE%20FOUND,Marketplace%20PTCs%20but%20not%20enrolled.>

(Maine's LSC funded legal service program) was the direct result of a medical event which led to loss of income and a prolonged and ongoing attempt to access SSDI. Of the 13 bankruptcy cases Pine Tree Legal Assistance is currently preparing or filing, 10 involve a medical event that led to the eventual bankruptcy.

## **B. Older Residents**

Maine has the highest median age in the nation and second largest percent of residents age 65 and above.<sup>20</sup> Older adults often have more complex health needs, and therefore more complex billing for care, which leaves them more susceptible to billing errors<sup>21</sup> and impacts their ability to read and understand bills and denials and subsequently appeal those denials. Medicare is intended to reduce the share of medical debt an individual carries as they age. However, coverage for common healthcare needs for older adults, such as dentures and hearing aids, are not covered by Medicare.

In the last five years, four in ten Mainers have accumulated medical debt and three of four are still carrying that debt, so even as individuals reach Medicare age, many are still carrying medical debt from costs incurred prior to being enrolled. One rural Mainer we spoke to is still paying on the medical debt accumulated from his wife's cancer treatment in 2014, when he was 58 years old. He is now 68 years old, receives SSDI, and is on Medicare. While he has needed hearing aids for years, he continues to delay his own medical care to focus on paying down his wife's and his own current medical debts.

The research conducted following the reporting changes made by Equifax, Experian, and Transunion in 2023 showed that older Americans saw the biggest improvement in the percentage of people with unpaid medical bills on their credit report, to below 3% in June 2023 down from 8.4% of older Americans in 2022.<sup>22</sup> This demonstrates the effectiveness of the implemented changes and the need to go further to protect Maine's aging population.

## **C. People with Disabilities and Chronic Health Conditions**

Maine has the tenth highest percentage of non-institutionalized people reporting a disability.<sup>23</sup> Individuals with disabilities often carry more medical debt than the average population due to

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<sup>20</sup> <https://www.kff.org/other/state-indicator/distribution-by-age>

<sup>21</sup> CFPB. May 30, 2023.

<https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-medical-billing-and-collections-among-older-americans/full-report/>;

<https://www.aarp.org/money/credit-loans-debt/info-2023/unpaid-medical-bills-for-older-adults-grow.html>

<sup>22</sup> Id(n3)

<sup>23</sup> Kaiser Family Fund State Health Facts; Percentage of Non-Institutionalized Population Who Reported a Disability. 2022. <https://www.kff.org/other/state-indicator/disability-prevalence/>

more complex medical needs.<sup>24</sup> This is further compounded by the 24 month Medicare waiting period that accompanies an individual's receipt of SSDI benefits.<sup>25</sup> Consumers often go without any medical insurance at all during this period.

The experience of unaffordable medical debt is also true for people who suffer from chronic medical conditions, even if they are not disabled. This was the case for one small business owner and current Maine legislator who was a long-time advocate with MEJ and chose to run for office based on their personal experience with medical debt. This individual suffered from a long-term, chronic illness that resulted in thousands of dollars of unpaid medical bills even though she had private health insurance at the time. Despite her best efforts to keep up with payments, the resulting unpaid medical debt negatively impacted her credit score which in turn prevented her from obtaining credit or even purchasing property.<sup>26</sup>

#### **D. People of Color**

Racial disparities in the share and impacts of medical debt are well-documented. Across the country, in communities where the majority of the population are people of color, residents are more likely to have medical debt in collections on their credit reports.<sup>27</sup> Given the legacy of systemic racism in our financial systems and the persistent racial wealth gap, it comes as no surprise that Black adults overall experience greater difficulty paying off their medical expenses. Black Americans also have higher rates of many chronic diseases and adverse health outcomes when compared to their white counterparts putting them at higher risk to incur medical expenses. Maine's population is no different. At the height of the COVID-19 pandemic, Maine held the nation's greatest racial disparity in case counts with our relatively small Black community contracting the virus at a rate more than 20 times that of white residents.<sup>28</sup>

Maine's population continues to grow more diverse, particularly among children, with children of color making up 20% of the total child population in two of the largest counties<sup>29</sup> in Maine; Cumberland and Androscoggin. This is due in part to an increasing in-migration from other states and countries, including many Black Africans fleeing persecution and economic instability in their home countries in recent years. Many immigrants, including those with lawful presence, are left out of government-run health insurance at both the federal and state level. They are also less likely to have health insurance through an employer, due to lower wage jobs and certain waiting periods for work authorization. Despite their countless contributions to our communities,

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<sup>24</sup> KFF. The Burden of Medical Debt in the United States. Feb 12, 2024.

<https://www.kff.org/health-costs/issue-brief/the-burden-of-medical-debt-in-the-united-states/>

<sup>25</sup> 42 C.F.R. 406.12

<sup>26</sup> Matthew Desmond. Poverty., By America. P.32.

<sup>27</sup> <https://www.urban.org/urban-wire/communities-color-disproportionally-suffer-medical-debt>

<sup>28</sup> <https://www.pressherald.com/2020/06/21/maine-has-nations-worst-covid-19-racial-disparity/>

<sup>29</sup> Maine Children's Alliance; The Latest Demographic Trends Continue to Hold Promise for Maine. April 2024. [https://mainechildrealliance.org/site/assets/files/2494/mca\\_demographic\\_brief\\_4\\_8\\_2024.pdf](https://mainechildrealliance.org/site/assets/files/2494/mca_demographic_brief_4_8_2024.pdf)

immigrants in Maine, many of whom are people of color, still lack access to basic health care. This often leads to waiting or delaying necessary care and to greater utilization of emergency services<sup>30</sup> instead of preventative care, which is significantly more expensive to both the consumer and to our health system.

A lack of equitable language access for those who are not proficient in English creates additional barriers to the already complicated and confusing health care system and contributes to the piling up of insurmountable medical debt, despite many people qualifying for financial assistance.<sup>31</sup> New Mainers may find their lives derailed by medical debt before they even have the opportunity to get their footing in their new home. For those without access to Maine's Medicaid program or our health insurance marketplace due to their immigration status, a patchwork of emergency and charitable care is often their only avenue to afford care. However, our legal services team sees many instances of individuals who should qualify for hospital free care or financial assistance, but are not proactively offered the information or who continue to receive bills until an attorney intervenes. As one example, during a recent clinic intended to support tenants facing evictions from a local hotel, community members brought stacks of medical bills with them asking for assistance to both understand and discharge their debts while they faced the threat of homelessness.

### **E. Rurality**

With 40% of Maine's population living in a rural county, we are considered the most rural state in the country.<sup>32</sup> Of Maine's sixteen counties, fifteen of them have partial health professional shortages in primary care, mental health, and dental health<sup>33</sup>, and five of those counties report higher rates of physical and/or mental distress among their residents.<sup>34</sup> This issue has been exacerbated by the closing of numerous rural health care facilities in recent years which has forced residents to travel further for medical care and choose between seeking care and debt.<sup>35</sup> Closures of healthcare facilities lead to longer travel distances for those in rural areas who spend at least 30 minutes traveling one-way. For some, long travel times can mean more unpaid time off from work and paying for childcare, in addition to the cost of the appointment. This is

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<sup>30</sup> Community Catalyst Case Study: Taking Action in Illinois to Address Medical Debt Disparities in Immigrant Communities. January 2022. [https://communitycatalyst.org/wp-content/uploads/2022/11/Case-Study-IL\\_1-6.pdf](https://communitycatalyst.org/wp-content/uploads/2022/11/Case-Study-IL_1-6.pdf), KFF, Health System tracker

<sup>31</sup> Community Catalyst Case Study: Taking Action in Illinois to Address Medical Debt Disparities in Immigrant Communities. January 2022. [https://communitycatalyst.org/wp-content/uploads/2022/11/Case-Study-IL\\_1-6.pdf](https://communitycatalyst.org/wp-content/uploads/2022/11/Case-Study-IL_1-6.pdf)

<sup>32</sup> Maine CDC. Rural Health and Primary Care. July 27, 2024.

<https://www.maine.gov/dhhs/mecdc/public-health-systems/rhpc/rural-health.shtml>

<sup>33</sup>[https://digitalcommons.usm.maine.edu/cgi/viewcontent.cgi?article=1025&context=population\\_health](https://digitalcommons.usm.maine.edu/cgi/viewcontent.cgi?article=1025&context=population_health)

<sup>34</sup> Id.

<sup>35</sup> Challenges in delivering critical care services in rural Maine. Bangor Daily News, March 26, 2012. <https://bangordailynews.com/2012/03/26/business/census-maine-most-rural-state-in-2010-as-urban-centers-grow-nationwide/>; Corporate Green in Health Care. June 2024. <https://communitycatalyst.org/resource/corporate-greed-in-health-care/>

particularly burdensome on households with low-incomes who have identified gas and travel as a financial burden on their household budget.<sup>36</sup>

People who live in rural areas are more likely to be without health insurance for longer periods of time than people who live in urban areas<sup>37</sup> making it more likely that they will have unpaid medical bills that if reported to credit reporting agencies may limit their access to credit, housing and employment.

#### **IV. Why this must go further**

If adopted, the proposed rule will have wide-reaching benefits for individuals across the country and throughout the state of Maine. Yet, it falls short of protecting some of our most vulnerable consumers who are struggling to secure housing and employment and for whom a poor credit score can be the difference between being approved for an apartment or a new job.

Maine has seen a 245% increase in individuals who are unhoused since 2021 and Black and African American people make up 42% of Maine's homeless population<sup>38</sup> even though they make up less than 2% of Maine's overall population.<sup>39</sup> People experiencing homelessness face frequent and insurmountable barriers to accessing the health and social services they're eligible for, including a convoluted application process for available financial services, being improperly denied financial services, or lacking awareness that such services exist.

While there are many factors that influence health, stable housing is a key social determinant of health that directly impacts health outcomes.<sup>40</sup> People who are homeless have higher rates of illness and die on average 12 years sooner than the general U.S. population. Likewise, according to the National Institute for Occupational Safety and Health:

“Employment is a social determinant of health and a health equity issue, particularly given the link between employment and healthcare access. Our research shows that unemployed individuals and those unable to work face increased challenges when it comes to healthcare access and health outcomes,” said Silver. “Addressing access to affordable healthcare and other resources is key to preventing health declines that may hinder re-employment, particularly among the short-term unemployed.”<sup>41</sup>

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<sup>36</sup>Rural Health Research. Travel Burden to Receive Health Care. October 2022.

<https://www.ruralhealthresearch.org/assets/4993-22421/travel-burden-recap.pdf>

<sup>37</sup>[https://hpi.georgetown.edu/rural/#:~:text=Median%20total%20health%20care%20expenditures,percent%20\(see%20Figure%206\).](https://hpi.georgetown.edu/rural/#:~:text=Median%20total%20health%20care%20expenditures,percent%20(see%20Figure%206).)

<sup>38</sup><https://mainehousing.org/docs/default-source/housing-reports/2024-point-in-time-report.pdf>

<sup>39</sup><https://www.censusdots.com/race/maine-demographics>

<sup>40</sup><https://nhchc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf>

<sup>41</sup><https://www.cdc.gov/niosh/updates/upd-11-18-21.html>

A poor credit score inhibits people’s access to credit to purchase a home and can also influence a denial for rental housing. Increasingly, landlords utilize credit checks for rental applications to determine how likely a prospective tenant is to pay their rent. The connection between unpaid medical debt and access to employment and housing creates a negative feedback loop whereby unpaid medical debt raises the risk of unemployment and lack of access to housing which in turn negatively impacts health outcomes. Housing and health care work best together and are essential to preventing and ending homelessness. Health care services are more effective when a patient is stably housed, and in turn, maintaining housing is more likely if proper health care services are delivered. While there are many factors that influence health, stable housing is a key “social determinant of health” that directly impacts health outcomes.<sup>42</sup>

This highlights the need to extend the proposed rule to prohibit the use of medical financial information on credit reports for the purposes of employment and housing screening. At a minimum, low-income consumers’ risks of homelessness and unemployment should not be increased due to their inability to afford medically necessary healthcare services.

## **V. Conclusion**

We applaud the significant steps that the CFPB has already taken to mitigate harm caused by predatory debt collection and to limit access to medical financial information for the purposes of consumer reports. However, the national and state evidence is clear that more guardrails are needed to protect consumers who, through no fault of their own, had the misfortune of getting sick and now struggle to pay their costly medical bills and to meet their other basic needs.

The average Mainer cannot possibly budget for all the unpredictable or emergent medical expenditures in their lifetime or account for the rising costs of healthcare. Our current medical system is bankrupting families and causing unimaginable harm with consequences that extend beyond the individual consumer. While we cannot fix our healthcare system overnight, the CFPB can provide immediate relief and increased privacy to families, in Maine and beyond, by adopting the proposed rule and amending it to also prohibit the use of medical financial information for tenant and employment screenings. Thank you for your time and consideration.

Respectfully submitted,  
Maine Equal Justice and the Maine people with low incomes who we represent

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<sup>42</sup> <https://nhchc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf>

