MARYLAND LEGAL AID
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August 12, 2024

Consumer Financial Protection Bureau
Mortgage Servicing, c/o Legal Division Docket Manager
1700 G Street NW
Washington, DC 20552

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

Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to our State's low-income and vulnerable residents, including abused and neglected children, nursing home residents, and veterans. With 12 offices serving residents in each of Maryland's 24 jurisdictions, MLA handles civil legal cases involving a wide range of issues, including family law, housing, public benefits, and consumer law. We appreciate the opportunity to provide comment on the proposed rule entitled Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V). The proposed rule is a significant step towards addressing the challenges posed by medical debt in consumer credit reporting and aims to enhance financial fairness and stability for affected individuals. We support the rule as it protects consumers from negative financial impacts, which particularly benefits low-income individuals by improving their access to credit, reducing credit reporting errors, and protecting privacy. However, the rule also presents potential challenges and unintended consequences that need careful consideration.

MLA strongly supports the proposed rule to prohibit medical debt on credit reports as it provides several key benefits to low-income people in Maryland.

1. Increased Accuracy and Improved Credit Scores: Medical billing errors are common, and removing medical debt from credit reports will reduce inaccuracies that can unfairly penalize consumers. This change will benefit low-income individuals who often lack the resources and ability to dispute incorrect medical debt entries. An improved credit score is essential to obtaining access to credit and lower interest rates, which are crucial for financial stability.

For example, a low-income single mother living in substandard housing in a crime-riddled area was finally approved for subsidized housing after years on the State's waitlist. The home enabled her four children to share bedrooms, have a backyard, and attend a good school in a good neighborhood. At the same time, the mother had completed a certification course and received a job offer that provided career training and advancement. All she needed was a reliable car to get to her daily work assignments and take her children to school since the new area was rural and did not have much public transportation. When she went to the dealership, they discovered several medical bills on her credit report that prevented her from getting a car loan. The client told us that she never received any bills from the hospital and that the largest charge was for a medical procedure she never had. Although the individual took the proper procedures to dispute the errors through the credit reporting agencies, the errors went uncorrected, and she suffered a significant drop in her credit score. Because of this she was unable to qualify for a car loan at the dealership. While MLA worked to remove the credit reporting errors, the client felt she had no other choice but to purchase a much older car at an astronomical interest rate from a less-than-reputable car lot. According to the client, the process was already taking too long, and she didn't want to lose the job and the new subsidized home. The proposed regulation can help ensure consumers are not unfairly penalized for medical billing errors and that credit reporting inaccuracies are reduced.

2. Fairness in Credit Reporting: Medical debt often results from unexpected and involuntary medical expenses and is not indicative of an individual's creditworthiness. By removing such debt from credit reports, the rule aims to ensure that credit scores more accurately reflect a person's creditworthiness and not their health issues.

These unexpected and involuntary medical expenses affect MLA's clients. For example, one of MLA's clients, a low-income family, faced high medical bills after an unforeseen health calamity. The father suffered a diabetic stroke, passed out and fell head-first onto the concrete causing severe injuries to his face. He was unaware of his medical condition and although he often felt that something wasn't right, he didn't want to risk the medical bills or miss work because he was trying to move his family to a safer neighborhood. Unfortunately, he was hospitalized, missed a substantial amount of work, and incurred large medical debts. Despite this, he and his wife continued to pay their bills on time and had no other outstanding debt at that time of their mortgage application. Still, their credit score dropped due to the unpaid medical debt, making it impossible to obtain a mortgage loan and move to a safer neighborhood. Under the proposed rule, the young family's medical debt is excluded from their credit report, reflecting a fairer representation of their financial responsibility. The new rule would provide a better snapshot of their effort to maintain their financial responsibility and not penalize them for an unexpected health emergency.

3. Reduced Financial Stress: The low-income community is burdened with financial stress that results from living in poverty and constantly battling daily economic insecurity. Their ability to obtain affordable housing and obtain access to credit at reasonable rates are impacted by negative and inactive credit reporting. With medical debt no longer

impacting credit scores, individuals may experience reduced financial stress, which can lead to better overall health and economic stability.

4. Preventing Discriminatory Practices: Historically and up to the present day, discriminatory practices in the areas of housing, banking, access to credit and more continue to impact communities of color. Racial disparities are often at the root. The rule could help mitigate racial disparities in credit reporting, as Black and Latino communities are disproportionately affected by medical debt.

5. Enhanced Privacy and Reduced Discrimination: The rule aims to protect the privacy of medical information, ensuring that sensitive health data does not influence credit decisions. This is particularly important for low-income individuals who may face discrimination based on their medical history.

6. Improved Consumer Confidence in the Health Care System: Many low-income clients make the difficult choice of putting off needed medical care for fear of the cost of treatment and other out-of-pocket expenses. The larger issue is the high cost of medical care. By eliminating the fear of medical debt affecting credit scores, consumers may feel more confident in seeking necessary medical care, which can lead to better overall health outcomes. This improvement in public health is a crucial benefit of the proposed rule.

Despite the good intentions of the proposed rule, there are potential unintended consequences that could adversely affect consumers.

1. Potential Increase in Medical Debt Collections Pressure: Without the threat of reporting to credit bureaus, medical debt collectors might intensify their direct collection efforts, potentially leading to more aggressive tactics that could disproportionately affect low-income individuals. To this end, we would urge the CFPB to remind third-party debt collectors of their responsibility to adhere to the Fair Debt Collections Practices Act and other state debt collection laws that protect consumers against harassment and misrepresentation. Even further, future rulemaking could seek to prevent medical debt from being sold to third parties altogether. We would also suggest that medical providers provide more affordable payment options to consumers based on ability to pay and longer terms for repayment.

2. Increased Healthcare Costs: Medical providers might raise costs or change billing practices to compensate for perceived losses from uncollectible debt, which could indirectly affect low-income patients by making healthcare less affordable. We propose an end to the complexity of medical billing and health insurance programs by

eliminating administrative expenses which can lower healthcare costs without affecting patient care. We also encourage providers to use telehealth options whenever possible to allow patients to get help without needing to visit a doctor in person, and we urge consumers and insurance companies to put a greater focus on, and incentivize, preventative care which can help reduce the risk of getting sick and the financial burden of medical care.

3. Creditworthiness Assessment Challenges: Creditors might find it harder to assess the overall credit risk of individuals, potentially leading to stricter credit approval processes. This could make it more difficult for low-income individuals to obtain credit, as creditors might adopt more conservative lending criteria to mitigate risk.

The proposed rule addresses several key issues but also has some gaps that should be addressed.

1. One of the significant gaps in the proposed rule is its limited scope. The rule only bans medical debt from credit reports used for credit underwriting. This limitation means that medical debt can still appear on credit reports used for other purposes, such as employment and tenant screening. This gap leaves low-income individuals vulnerable to negative impacts on their job prospects and housing opportunities, as employers and landlords often use credit reports to make decisions.

2. The proposed rule does not fully address medical debt incurred through medical lending products or general-purpose credit cards. Negative information from these debts can still appear on credit reports, harming consumers who use these products to pay for medical expenses. This oversight fails to protect consumers who are burdened by medical debt through these channels, which can be significant.

3. While some credit bureaus have voluntarily removed certain types of medical debt from credit reports, these changes are not permanent and could be reversed. This reliance on voluntary measures highlights the need for a comprehensive and enforceable rule to ensure that consumers are protected in the long term. Without a permanent rule, consumers remain at risk of having medical debt reappear on their credit reports, which can have lasting negative effects.

4. The implementation timeline of the new rule is a concern. The transition to newer credit score models that exclude medical debt is not expected until the fourth quarter of 2025, leaving a gap where outdated models will still affect consumers.

5. There is concern that consumers might face new challenges if debt collectors become more aggressive in the tactics. Although the rule aims to reduce coercive practices, some debt collectors may continue to engage in harmful practices such as "debt parking" or disputing unresolved debts, which the CFPB has previously identified. Additionally, the rule may prompt changes in healthcare billing practices that could increase out-of-pocket expenses, posing a new financial burden on consumers.

Addressing these gaps will strengthen the proposed rule and provide more comprehensive protection for consumers affected by medical debt. In addition, making these protections permanent is a crucial step toward reducing the financial burden on vulnerable populations.

Further considerations to strengthen the rule and amplify the positive impacts.

- Immediate Transition to New Models: Accelerate the adoption of updated credit scoring models that exclude medical debt across all financial institutions, not just credit reporting agencies.

- Enhanced Enforcement: Increase monitoring and enforcement of harassing, misleading and abusive debt collection practices to ensure compliance with the new rule and address ongoing coercive practices.

- Consumer Education: Implement robust consumer education programs to help individuals understand their rights and the changes brought by the new rule.

- Medical Billing Reforms: Encourage or mandate clearer and more accurate medical billing practices to reduce the incidence of disputed debts.

This rule will likely reinforce the trend towards excluding medical debt in credit assessments and encourage a more holistic approach to evaluating creditworthiness based on non-medical debts and payment histories. Enactment of the rule may also encourage states to adopt similar rules or advocate for further reforms to protect consumers from the financial impacts of medical debt. The proposed rule has many important protections; however, we urge the CFPB to ensure that medical debt does not impact credit reports used for employment and housing decisions, including medical lending products.

Respectfully submitted,

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