



Missouri Foundation
for **Health**

a catalyst for change

August 9, 2024

Director Rohit Chopra
c/o Comment Intake
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552
2024-NPRM-MEDICAL-DEBT@cfpb.gov
<http://www.regulations.gov/>

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

Dear Director Chopra:

Thank you for the opportunity to comment on the Consumer Financial Protection Bureau's Notice of Proposed Rulemaking (NPRM) addressing medical debt on credit reports. Missouri Foundation for Health (hereafter referred to as "MFH") is an independent, philanthropic foundation, created in the year 2000, following Blue Cross Blue Shield of Missouri's conversion from nonprofit to for-profit status. It is the largest organization of its kind in the state and among the largest in the country. MFH is working to build a more equitable future through collaboration, convening, knowledge sharing, and strategic investment. Working in partnership with communities and nonprofits, MFH is transforming systems to eliminate inequities within all aspects of health and addressing the social and economic factors that shape health outcomes. The Foundation takes a multifaceted approach to health issues, understanding that strategic initiatives, policy, communications, and research all play a role in creating lasting impact. In line with our mission and core values, we support CFPB's proposed rule to remove medical debt from credit reports. We appreciate the opportunity to comment on these proposed changes.





Medical debt is, in many ways, uniquely American. It's a concept largely foreign to other countries.¹ Although there has been much discussion, particularly in recent years, about how to address issues in our health care system as a whole, we support the proposed change that medical debt does not belong on an individual's credit report. Our reasoning is outlined below.

1) Medical Debt Should Not Be Included on An Individual's Credit Report

According to a survey conducted by Kaiser Family Foundation in 2022, 79% of adults with health care debt who say they received a bill that contained an error took some action to dispute the error with their insurer or provider, and in many cases succeeded in resolving the issue.² This is merely one example of how often consumers are faced with erroneous medical bills, which places the burden on the consumer to then attempt to correct the error. Many consumers feel overwhelmed by this process, or may not know where to start or where to go for assistance with the process of appealing incorrect bills, leaving the erroneous debt on their credit report.

Medical debt remains a widespread problem nationwide; according to one survey, Kaiser Family Foundation found that 41% of U.S. adults have health care debt.³ That same study found that certain groups are disproportionately impacted by medical debt, as those with low incomes and Black Americans are more likely to hold medical debt. In Missouri, MFH has looked into this issue further on the state level. A recent survey we conducted found this same trend to be true here, with 50% of respondents statewide reporting having current medical debt or having had medical debt in the last five years.⁴ Additionally, our survey found that Black and Hispanic residents of Missouri, as well as those with low incomes or disabilities, report higher incidences of medical debt currently or within the last five years.⁵ Although healthcare is treated in many ways like a commodity in the United States, medical care is often a necessity. This was shown in our recent statewide survey results as well; among different types of bills, 58% of respondents said that lab or diagnostic tests

¹ Los Angeles Times, "Americans' Struggles with Medical Bills are a Foreign Concept in Other Countries". <https://www.latimes.com/politics/story/2019-09-11/american-struggle-insurance-deductibles-unique>. Accessed July 30, 2024

² Kaiser Family Foundation, "Could Consumer Assistance be Helpful to People Facing Medical Debt?". <https://www.kff.org/policy-watch/could-consumer-assistance-be-helpful-to-people-facing-medical-debt/>. Accessed July 30, 2024.

³ National Public Radio, "The Sunday Story: The Unbearable Weight of Medical Debt", <https://www.npr.org/transcripts/1198909604>. Accessed August 5, 2024.

⁴ Missouri Foundation for Health and Social Science Research Solutions, "Medical Debt in Missouri: Findings from the Statewide Survey of Missouri Adults Conducted on Behalf of Missouri Foundation for Health". Available upon request.

⁵ Id.



caused their medical debt, making it the leading cause among the survey options offered.⁶ These types of tests tend to be for investigative medical purposes, which are usually a necessity.

Given all of the above facts, removing medical debt from credit reports is the best course of action. In addition, medical debt is not predictive of creditworthiness. The CFPB's research in both the NPRM and earlier reports show that medical debt on credit reports does not provide added predictiveness for credit underwriting. That is why one of the two major credit scoring providers (VantageScore) stopped considering medical debt in its latest model, citing "minimal effects on predictive performance."⁷

2) Response to Industry Concerns

Upon review, there seems to be quite a bit of concern regarding this proposed rule from certain parties, including participants of the credit collection and banking industries and various specialties of medical practice in the healthcare industry. We also appreciate the opportunity to address some of these concerns, which we believe are unwarranted.

Although there are seemingly concerns that this rule will contradict the requirements of adherence to Regulation Z, or the Truth in Lending Act (TILA), why this concern is so persistent is unclear. For example, in the guidance under Comment 34(a)(4)-4 regarding practices connected to high-cost mortgages, "Section 1026.34(a)(4) prohibits a creditor from disregarding repayment ability based on the facts and circumstances known to the creditor as of account opening. **In general, a creditor does not violate this provision if a consumer defaults because of a significant reduction in income (for example, a job loss) or a significant obligation (for example, an obligation arising from a major medical expense) that occurs after account opening.**"⁸ Similarly, under Comment 36(f)(3)(ii)(B)-1 regarding credit secured by a dwelling, "A review and assessment of financial responsibility is not required to consider debts arising from medical expenses."⁹

⁶ Id.

⁷ VantageScore, Mortgage FAQ, "What was the rationale for removing Medical Debt from VantageScore 4.0?" <https://www.vantagescore.com/faq/what-was-the-rationale-for-removing-medical-debt-from-vantagescore-4-0/>. Accessed August 6, 2024.

⁸ Consumer Financial Protection Bureau (CFPB), 12 CFR Part 1026 (Regulation Z), *Comment for 1026.34 - Prohibited Acts or Practices in Connection With High-Cost Mortgages*, <https://www.consumerfinance.gov/rules-policy/regulations/1026/interp-34/>. Accessed August 7, 2024.

⁹ Consumer Financial Protection Bureau (CFPB), 12 CFR Part 1026 (Regulation Z), *Comment for 1026.36 - Prohibited Acts or Practices and Certain Requirements for Credit Secured by a Dwelling*, <https://www.consumerfinance.gov/rules-policy/regulations/1026/interp-36/>. Accessed August 7, 2024.



There also seems to be concern from some who fear that this rule will deter those otherwise able to pay their bills and respond to collection actions. Debt collectors, including “receivables management companies” and “healthcare recovery servicers seem particularly concerned about this issue. To that concern, we cite one of many studies showing that aggressive collection practices by these very agencies cause overwhelming feelings of shame, fear and anxiety and the ability to gather resources to face such dire situations is already limited, prohibiting many people from responding. As the Innovation for Justice project “Medical Debt Policy Scorecard” properly highlights:

“Debt collection lawsuits are the most common type of civil litigation and medical debt comprises the majority of debt collection lawsuits in many jurisdictions. The majority of medical debt collection lawsuits end in **default judgments** against people experiencing medical debt. Medical debt and medical debt judgments wreak havoc across all aspects of life, including employment, physical health, mental wellbeing, housing, and economic stability.”¹⁰

Many of these commenters also seem concerned about the proposed rule’s prohibition on lenders taking medical devices as collateral for a loan, and the ban it would place on lenders repossessing medical devices, like wheelchairs or prosthetic limbs, if people are unable to repay the loan. We think one would be extremely hard-pressed to find a person who chooses to use a wheelchair or prosthetic limb without medical necessity; although these are often seen as elective devices, they are in fact needed, and although some may find it shocking to hear that financiers will actually repossess these devices, I have seen it myself. In earlier years, as both an uninsured person living in poverty, surrounded by others in the same position, as well as my experience as a former Legal Services attorney of nearly six years, I have seen this practice numerous times. I have seen oxygen tanks repossessed at 5 p.m. on a Friday when someone couldn’t pay, not because they did not want to, but because not breathing was simply, understandably, not an option, whether they could pay or not. I have witnessed families wait months to save up the funds for an electric wheelchair for their disabled child, because their insurance deemed the wheelchair “medically unnecessary” and the medical device company refused to deliver it until payment could be made. We support this ban proposed by the CFPB to prevent further unfortunate situations such as these.

To that effect, those who are concerned that the enactment of this proposed rule would cause hospitals and other providers to demand up-front payment or otherwise be unable to provide

¹⁰ I4j [Innovation for Justice], “Medical Debt Policy Scorecard” *Highlights*, <https://medicaldebtpolicyscorecard.org/>. Accessed August 7, 2024.



medical services are not completely unwarranted; however, to those concerns, I would highlight the fact that this practice of “pay to play” is already in effect for many patients, particularly the uninsured population. In my personal and professional experience, I have witnessed several times where a patient could not afford a co-pay or the individual out-of-pocket cost for a procedure and were turned away from care from specialty providers.

On a personal note, in college, I broke my leg while uninsured. It was recommended after my cast was off to do a certain amount of physical therapy to recover range of movement, especially as I was young. When trying to make the PT appointment and asked about my insurance, I was told by the scheduler that she could not set a first appointment without a credit card hold of \$100 per appointment; otherwise, they would not schedule me without payment in advance and would not bill uninsured patients for fear of non-payment. Life looks very different now, but I remember how difficult \$100 was in my situation then, as someone working three jobs to put themselves through college on low wages. So, when some claim concern for the populations most in need about the impact of this possibility, I can’t help but wonder how much it will actually change practices many of us know are already well in place.

Finally, some commenters seem concerned with the fact that this proposed rule treats the symptoms of medical debt rather than the root causes, including but not limited to holding insurance companies more responsible for quicker payment and streamlining payment practices to providers and patients, and requiring them to cover more services for patients. We agree with this concern that the regulation does not treat the root causes of medical debt; however, we note that it is not the job of the CFPB to do so. CFPB is a regulatory agency, not a legislative body. Overhauling the U.S. health care system could be a process that involves CFPB input, but its job simply doesn’t include making those changes, but rather enforcing the law and using its regulatory authority to protect consumers. To quote you, “the CFPB can’t do much about the price of a prescription or a bill... what the federal agency can do is protect patients if they can’t pay their bills.”¹¹

Thank you for the opportunity to comment. If you have any questions, please contact Samantha Schrage Bunk at sbunk@mffh.org.

¹¹ Levey, Noam. National Public Radio (NPR), “Why a Financial Regulation Is Going after Health Care Debt”, <https://www.npr.org/sections/health-shots/2024/03/01/1234998635/why-a-financial-regulator-is-going-after-health-care-debt>. Accessed August 8, 2024.



Respectfully submitted,

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