



August 12, 2024

VIA ELECTRONIC SUBMISSION

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

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

Dear Director Rohit Chopra:

The National Council on Aging (NCOA) is pleased to provide the Consumer Financial Protection Bureau (CFPB) comments on the proposed changes to the proposed rule regarding medical debt and credit scores. The following includes NCOA background, highlights, and detailed comments on specific provisions.

NCOA Background

NCOA is a respected national leader and trusted partner helping people aged 60+ meet the challenges of aging. Our mission is to improve the lives of millions of older adults, especially those who are struggling. NCOA’s advocacy is informed by its collaboration with diverse community-based organizations, senior centers, Medicare State Health Insurance Assistance Program (SHIP) counselors, Benefit Enrollment Centers (BEC) staff, as well as by its federal, state, and local advocacy partners.

NCOA’s comments focus on the below:

- The proposals to limit the medical debt exception except in certain circumstances so that medical debts cannot affect one’s credit and
- The proposal to bar medical expenses as inputs for credit reports.

Thank you for the opportunity to submit comments. We welcome further discussion. For additional information or questions, please contact Matthew Hubbard at Matthew.Hubbard@NCOA.org.

Sincerely,

Howard Bedlin

Howard Bedlin,
Government Relations and Advocacy Principal
National Council on Aging

Attachment: NCOA Recommendations - Detailed Comments

IV. Discussion of the Proposed Rule

A. Removal of the Financial Information Exception to the Creditor Prohibition on Obtaining or Using Medical Information

1. Medical Information Related to Debts

CFPB introduces new language saying that consumers' medical-debt-related information would no longer meet previously-established criterion established by federal agencies that has defined the types of medical information creditors can use when assessing "the consumer's eligibility, or continued eligibility, for credit."¹ The **CFPB proposes** to prohibit creditors from using medical debt-related information when making credit determinations and does so by limiting the types of medical information that could be used by creditors.²

NCOA supports the proposal to keep medical debt inputs from informing credit determinations. We agree with CFPB's language in the proposed rule arguing that medical debt is fundamentally different from other types of debt in that it almost always between a patient and a health care provider, unlike other types of debt in which there is a third-party lender.³ This raises valid questions about whether medical debt information should be treated differently since creditors are not involved with medical debt payments. Furthermore, CFPB is right to question whether medical debt information is useful information for a potential creditor aiming to make risk assessments. We appreciate CFPB's citing its May 2014 report highlighting that medical debts have little predictive value around whether a loan would be repaid.⁴

NCOA would also like to highlight that older adults are struggling with medical debt and its consequences and do not need the additional hinderance that comes with that debt such as barriers to accessing a loan for a car or home. In March 2024, NCOA and the Women's Institute for a Secure Retirement (WISER) surveyed over a thousand women ages 25 and older (with an oversampling of rural and low-income women) to learn about their financial and health concerns.⁵ We found that medical debt ranked as a top-three financial security concern for nine percent of respondents.⁶ In 2015, NCOA, surveyed 72 aging network professionals, such as those working for community-based organizations, on the causes of debt for the older adults they served. Around five percent of respondents highlighted that medical debt was a concern.⁷ Since the NCOA study was published, more evidence has shown that older adult medical debt can have deleterious effects on older adults' daily lives.⁸

¹ CFPB. "Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)", 89 FR 51682. Page 51687.

² Page 51689-90.

³ Page 51690.

⁴ Page 51682. Kenneth P. Brevoort and Michelle Kambara. "Data point: medical debt and credit scores." CFPB. May 2014. 15 July 2024. https://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf.

⁵ NCOA and WISER. "What Women Say: Insights and Policy Solutions for Lifelong Security." April 2024. 23 July 2024. https://assets-us-01.kc-usercontent.com/ffacf7d-10b6-0083-2632-604077fd4eca/8fc31838-f3ed-486b-b94c-aa2f83a7629a/2024_WWS_Results.pdf. Page 2.

⁶ NCOA and WISER. "What Women Say: Insights and Policy Solutions for Lifelong Security." Page 17.

⁷ NCOA. "Get the Facts on Senior Debt." 30 June 2023. 15 July 2024. <https://www.ncoa.org/article/get-the-facts-on-senior-debt>.

⁸ From 2019 to 2020, older adults reported a 20 percent increase in unpaid medical bills. Given this reality, older adults with medical debt are more likely than those without medical debt to skip filling a prescription and forgo medical care (34 percent vs. 5 percent and 34 percent vs. 6 percent respectively). CFPB. "Medical Billing and Collections Among Older

According to authors of series of KFF articles concerning medical debt, 12 percent of individuals reporting that they carry medical debt were carrying someone else's debt.⁹ We appreciate that the proposed rule allows caregivers to build credit without being burdened by the medical debt of individuals they care for. If finalized as proposed, the provisions would eliminate other barriers that exist because of medical debt. Both might, for instance, be more likely to seek health care services. According to the authors of the same KFF series of article, individuals with medical debt are twice as likely to forgo medical care.¹⁰

2. Medical Information Related to Expenses, Assets, and Collateral

The medical debt information exception also currently permits a creditor to consider medical information related to expenses, assets, and collateral "including the value, condition, and in lieu status of a medical device that may be collateral to secure a loan."¹¹ CFPB argues that medical expenses may easily turn into debt.¹² Given the similarities among expenses and debt, **CFPB proposes** to treat these two types of medical information the same.¹³ In making its argument, CFPB says that the consumer's medical expenses need not constitute a potential risk for a potential creditor.¹⁴

NCOA supports the proposal for the same reasons that we support the proposals to bar creditors from using medical debt information. If medical debt is not a predictor of one's ability to repay a loan, having medical expenses and having durable medical equipment would also not have predictive value. Moreover, it's possible that medical billing has errors. Also, older adults may not immediately open their medical bills or regularly read their emails.

B. Limits on Consumer Reporting Agency's Disclosure of Medical Debt Information

The CFPB sets out to limit the circumstances in which a credit reporting agency can obtain a consumer's medical information. The **CFPB proposes** to only permit a credit reporting agency to obtain this information (state law permitting) if the medical information relates to the consumer's loans, income, and benefits.¹⁵

NCOA supports the proposal. We feel the proposal is a necessary component of barring medical debt information (except information relating to loans, incomes, and benefits) from being used in credit determinations.

Americans." 30 May 2023. 15 July 2024. <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-medical-billing-and-collections-among-older-americans/>. 2018 FINRA Foundation National Financial Capability Study. Presented at Age + Action Virtual, June 21, 2023. CFPB.

⁹ Lunna Lopes, Audrey Kearney, Alex Montero, Liz Hamel, and Mollyann Brodie. "Health Care Debt In The U.S.: The Broad Consequences Of Medical And Dental Bills." KFF. 16 June 2022. 06 August 2024. <https://www.kff.org/health-costs/report/kff-health-care-debt-survey/>.

¹⁰ Ibid.

¹¹ Page 51693.

¹² Page 51693.

¹³ Page 51693.

¹⁴ Page 51693.

¹⁵ Page 51694.

