

August 12, 2024

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
Attention: CFPB-2024-0023
1700 G Street NW
Washington, DC 20552

RE: File Code CFPB-2024-0023; Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)

Dear Director Chopra:

The New York Health Foundation (NYHealth) appreciates the opportunity to provide comments to the Consumer Financial Protection Bureau (CFPB) in support of the Notice of Proposed Rulemaking regarding the prohibition on consumer reporting agencies from including medical debt on consumers' credit reports, "for use by creditors, insurance companies, employers, landlords, and other entities in making eligibility decisions affecting consumers."¹

NYHealth is a private, independent, statewide foundation dedicated to improving the health of all New Yorkers, especially people of color and others who have been historically marginalized. Protecting New Yorkers from medical debt has been a signature area of attention for NYHealth. Medical debt has been described as a "uniquely American injustice."² CFPB's own analyses have exposed medical debt as the most common form of consumer debt, with Americans having \$88 billion in medical debt in collections.^{3,4} Motivated by the belief that no one should go into debt or financial ruin because of illness, injury, or disease, NYHealth has supported grantees and partners to advance consumer protections that prevent the harms of medical debt.

Many of NYHealth's grantees and partners have been effective forces for progress: [Health Care for All New York](#)'s advocacy for consumer protections; the End Medical Debt in New York organizing campaign spearheaded by the [Public Policy and Education Fund of New York](#); the Community Service Society of New York's [We the Patients](#) storytelling initiative and [Discharged into Debt](#) medical debt lawsuit research; the [Volunteer Lawyers Project of Central New York](#)'s direct legal assistance and education; and the [Urban Institute](#)'s seminal analyses of medical debt in New York State.

New York State's Leadership on Medical Debt

New York State has led the nation in implementing policies to protect consumers from unfair medical debt practices, in part as a result of this advocacy by the Foundation's grantees and partners. Consumer protections secured in recent years include prohibiting hospitals from suing patients with incomes below 400% of the federal poverty level for medical debt; reducing the statute of limitations for medical debt lawsuits; banning liens and wage garnishment as means of medical debt collection; lowering maximum interest rates on consumer debt; expanding hospital financial assistance programs; requiring hospitals to use a uniform application to make it easier for patients to apply for financial assistance for

medical bills; limiting the size of monthly payments for medical debt; banning hospital facility fees for preventive care and requiring advance notice for fees; and closing a loophole in the State’s surprise billing law to cover emergency services.

In 2023, New York became only the second state, after Colorado, to prohibit agencies from including medical debt of any amount on credit reports. This law prohibits consumer reporting agencies from collecting information on medical debt and including it in consumers’ credit reports. It also prohibits health care providers from reporting medical debt—directly or indirectly through collection agencies—to consumer reporting agencies.

Before this policy, hundreds of thousands of New Yorkers—particularly New Yorkers of color and low-income New Yorkers—were left behind. An analysis conducted by the Urban Institute, using a representative sample of credit reports, found that nearly half of the estimated 740,000 New Yorkers with medical debt in collections owed more than \$500.⁵ What’s more, communities of color and low-income communities in New York often owed medical debt in greater amounts. In the greater Albany region, for example, communities of color had a median medical debt of \$899—two times the median amount in predominantly white communities in the region (\$448). As a result, many New Yorkers did not benefit from the voluntary actions by credit reporting agencies to remove medical debt collections under \$500 from credit reports. This trend holds true across the country; the CFPB’s recent analysis found that 15 million Americans still have \$49 billion in medical debt on their credit reports, disproportionately affecting individuals in Black and Hispanic communities, low-income communities, and communities in the South.⁶ **These disparities underscore the need for the CFPB to adopt New York’s policy nationwide, banning medical debt of any amount from appearing on credit reports.**

Support for the CFPB’s Proposal

We commend the CFPB for its proposal to this end. The current proposal underscores the CFPB’s commitment to protecting consumers from the adverse impact of medical debt on their financial and overall wellbeing; it also continues the CFPB’s progress in researching, conducting oversight of, and advancing consumer protections against medical debt collection practices.

Implications of Removing Medical Debt

A national ban on consumer reporting agencies from including and creditors from accessing medical debt information on credit reports would help combat the serious harms of medical debt. This form of debt is different from others, in that medical debt is often incurred involuntarily, arising from unforeseen medical events, and it does a poor job predicting creditworthiness.^{7,8} And yet, by remaining on credit reports, medical debt threatens the financial security of millions of Americans and prevents them from building credit, securing housing and employment, and affording food and medical care. The removal of medical debt from credit reports would enhance consumers’ access to credit, in part by improving credit scores. The Urban Institute’s analysis of the voluntary credit reporting changes to date has shown a positive impact; from August 2022 to August 2023, individuals with medical debt removed from their credit report saw their average credit score increase from 585 to 615 points, moving these consumers from a subprime level (below 600) to near prime level (between 601 and 660).⁹

Other Considerations for the CFPB

These regulations, if finalized, would have largely positive effects for consumers, as the Notice of Proposed Rulemaking describes. We encourage the CFPB to monitor any unintended consequences of this policy, many of which the CFPB has anticipated. For instance, the Urban Institute cautions that health care providers may adopt more aggressive collections practices (e.g., lawsuits) or require patients

to pay at the point of service, if providers are not able to furnish information about medical debt in collections to consumer reporting agencies.

We also encourage the CFPB to consult consumer advocates as it finalizes these regulations. For instance, leading national advocates like the National Consumer Law Center and state advocates like the Health Care for All New York coalition have called attention to consumers incurring debt on medical lending products, namely medical credit cards.^{10,11,12} We encourage the CFPB to adopt a more proactive and inclusive approach to regulating medical credit cards and implement additional consumer protections to prevent predatory practices.

Finally, while these regulations would help prevent individuals from going into financial ruin over medical debt, they do not prevent medical debt outright. We encourage the CFPB and its partner agencies in the Administration to consider all policy mechanisms at their disposal to curb aggressive medical debt collection practices and strengthen consumer protections.

We commend the CFPB for its leadership in protecting consumers from the harms of medical debt.

We thank you for the opportunity to provide comments on these proposed regulations. If you have additional questions, please reach out to Ali Foti, Program Officer, at foti@nyhealthfoundation.org or (212) 584-5659.

Sincerely,



David Sandman, Ph.D.
President & CEO
New York Health Foundation

¹ Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V), 81 Federal Register 51682, (proposed June 18, 2024) (to be codified as 12 CFR Part 1022).

² “Undue Medical Debt,” Undue Medical Debt, <https://unduemedicaldebt.org/mission-and-history/>, accessed August 2024.

³ Consumer Financial Protection Bureau. (2022). “Medical Debt Burden in the United States.” https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

⁴ Consumer Financial Protection Bureau. (2022). “Medical Debt Burden in the United States.” https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

⁵ “Medical Debt in New York State and Its Unequal Burden across Communities,” Urban Institute, <https://nyhealthfoundation.org/resource/medical-debt-in-nys-and-unequal-burden-across-communities-report/>, accessed August 2024.

⁶ “CFPB Finds 15 Million Americans Have Medical Bills on Their Credit Reports,” Newsroom, Consumer Financial Protection Bureau, accessed August 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-finds-15-million-americans-have-medical-bills-on-their-credit-reports/>.

⁷ “The Impact of Medical Debt Collections on FICO® Scores”, FICO Blog, FICO, accessed August 2024, <https://www.fico.com/blogs/impact-medical-debt-collections-ficor-scores>.

⁸ “How will changes in how medical collection accounts get reported impact credit scores?,” VantageScore, accessed August 2024, <https://www.vantagescore.com/how-will-changes-in-how-medical-collection-accounts-get-reported-impact-credit-scores/>.

⁹ “Medical Debt Was Erased from Credit Records for Most Consumers, Potentially Improving Many Americans' Lives,” Urban Wire, The Urban Institute, accessed August 2024, <https://www.urban.org/urban-wire/medical-debt-was-erased-credit-records-most-consumers-potentially-improving-many>.

¹⁰ “Ensuring consumers aren’t pushed into medical payment products,” Blog, Consumer Financial Protection Bureau, accessed August 2024, <https://www.consumerfinance.gov/about-us/blog/ensuring-consumers-arent-pushed-into-medical-payment-products/>.

¹¹ Consumer Financial Protection Bureau. 2024. “Supervisory Highlights: Servicing and Collection of Consumer Debt.” https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-34_2024-07.pdf.

¹² National Consumer Law Center. 2023. “HEALTH CARE PLASTIC The Risks of Medical Credit Cards.” https://www.nclc.org/wp-content/uploads/2023/04/Report_Health-Care-Plastic.pdf.