

New York State comments on CFPB’s proposed rule amending Regulation V, implementing the Fair Credit Reporting Act (FCRA) concerning medical information.

Medical debt remains a problem for many despite over 90% of the United States population having some form of health insurance. For individuals with significant medical needs, this debt may build over time. For example, individuals living with cancer have higher levels of debt than those who have never had cancer.¹

According to the Urban Institute, approximately six percent of New Yorkers have medical debt in collections on their credit reports.² This report found that communities with a majority of residents who are people of color had higher rates of medical debt than communities who are predominantly white, and communities with lower median household incomes had higher rates of medical debt than those with higher household incomes.

New York State has taken a number of measures to reduce the burden of medical debt on New Yorkers:

- In November 2022, Governor Hochul signed legislation (S.6522-A/A.7363-A) to protect patients facing steep medical bills by prohibiting health care providers from placing home liens on an individual's primary residence or garnishing wages to collect on medical debt.
- In December 2023, Governor Hochul signed the Fair Medical Debt Reporting Act (S.4907/A.6275), which prohibits hospitals, health care professionals and ambulances from reporting medical debt to credit agencies.
- Effective October 20, 2024, Hospitals will be required to use a State-approved uniform financial assistance form, making it easier for patients to apply for assistance.
- As part of the State’s health and mental hygiene budget for the 2024-2025 fiscal year, new requirements were enacted to expand financial assistance eligibility and provide greater protections for consumers against medical debt collection practices:
 - Expansion of Hospital Financial Assistance Obligations to apply to all hospitals, not just those participating in the distribution of the Indigent Care Pool, and to apply to underinsured individuals in addition to uninsured individuals. Installment plan payments will be limited to no more than 5% of a patient’s monthly income and interest rates will be limited to no more than 2%.
 - Revised Financial Thresholds will raise the income eligibility for patients to receive financial assistance up to 400% of the federal poverty level (FPL) and reduce the charges hospitals are able to collect based on FPL.

¹ <https://www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states/#Share%20of%20adults%20who%20have%20medical%20debt,%20by%20health%20status%20and%20disability%20status,%202021> Accessed 7/13/2024

² <https://www.urban.org/research/publication/medical-debt-new-york-state-and-its-unequal-burden-across-communities> Accessed 7/13/2024

- Debt Collection Practices will permit patients to apply for financial assistance at any time during the collection process, prohibit the sale of medical debt to a third party, and prohibit legal action against patients below 400% of the federal poverty level.
- New Restrictions for patient consent, credit cards, and Medical financial products including a new section in the Public Health Law requiring hospitals and health care providers to separate informed consent for treatment from financial consent forms and prohibiting providers from requiring credit card pre-authorization or keeping a card on file prior to receiving emergency or medically necessary medical services.

New York State commends the CFPB for moving to eliminate the medical debt exception that allows lenders to obtain and use information about medical debt for credit eligibility determinations and prohibit credit reporting companies from including medical debt on credit reports sent to creditors when creditors are barred from considering that debt. The proposed rule will help strengthen consumer protections and, for New Yorkers, strengthen existing New York State legislation that prohibits hospitals, health care professionals and ambulances from reporting medical debt to credit agencies. New York State urges the CFPB to also consider removing medical billing information on credit reports altogether.

In addition, New York State supports the prohibition of repossession of medical devices from individuals who are unable to pay their loans. Reclaiming someone's wheelchair or prosthetic limb as collateral for a loan is an egregious practice that may severely impact their quality of life.