

August 12, 2024

SUBMITTED ELECTRONICALLY VIA WWW.REGULATIONS.GOV

Rohit Chopra
Director
Consumer Financial Protection Bureau
Attention: CFPB-2024-0023/RIN 3170-AA54
1700 G Street NW
Washington, DC 20552

Re: O&P Alliance Comments on Proposed Rule Entitled, “Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V)”

Dear Director Chopra:

On behalf of the Orthotic and Prosthetic Alliance (the “O&P Alliance”), a coalition of five major national orthotic and prosthetic (“O&P”) organizations representing over 13,000 O&P professionals and 4,500 accredited O&P facilities, we appreciate the opportunity to offer comments in response to the Consumer Financial Protection Bureau’s (“CFPB’s”) proposed rule (“Proposed Rule”) establishing protections against predatory practices to collect medical debt.

O&P clinicians are health care practitioners who provide prosthetic limbs and orthopedic braces to individuals with limb loss and other orthopedic conditions that cause musculoskeletal and neuromuscular functional deficits impacting the legs, arms, neck and spine. Other than off-the-shelf (“OTS”) orthotics (i.e., orthoses that are often available in pharmacies and durable medical equipment supply stores), custom fit and custom fabricated prostheses and orthoses are designed, fabricated, and fit to meet the medical and functional needs of specific individuals and cannot be reused by others. Some orthoses and many prostheses can present financial challenges to some consumers, particularly those with little or no insurance coverage.

The O&P Alliance supports the Proposed Rule’s provisions that would prohibit lenders from taking medical devices—such as a wheelchair, orthosis, or prosthesis—as collateral for a loan, or repossessing medical devices when an individual is unable to repay a loan. According to our experience, this is a very rare occurrence with respect to orthotics and prosthetics. There is little intrinsic value to a custom fit or fabricated orthosis or prosthesis that is worn daily by the person it was designed for, and cannot be reused by another person. In our view, repossession of an orthosis or prosthesis or holding the device as collateral for a loan is punitive and exacts unreasonable retribution on an individual who is financially unable to pay.

Depriving individuals of medically necessary prostheses, orthoses, or mobility devices should never be an appropriate solution to satisfy a medical debt. For many individuals with injuries, illnesses, or disabling conditions, prostheses, orthoses and mobility devices are essential to perform activities of daily living and contribute to increased functionality and quality of life. Moreover, repossession of medical devices can interrupt an individual's plan of care and compromise progress in recovering from or adapting to serious disabling conditions. This, in turn, can lead to additional and unnecessary costs and could risk the health and wellbeing of these individuals.

The O&P Alliance recommends that CRPB clarify whether health care providers and suppliers are considered "lenders" or "creditors" under this important regulation. The Proposed Rule uses the term "creditor" as the actor that is prohibited from repossessing a medical device. Under the relevant regulations, "creditor" is defined as "any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit." 12 C.F.R. § 1022.30; 15 U.S.C. § 1691a. "Credit" is defined as "the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor." 12 C.F.R. § 1022.30; 15 U.S.C. § 1691a.

The O&P Alliance believes the regulation is unclear as to whether a provider or supplier would fall under this definition of creditor. In fact, the use of the word "regularly" in this part of the regulation cited above suggests that providers may not fall under this category, as the loaning of medical devices is largely incidental to their role as a medical provider. We seek clarification on this issue in the final rule and encourage CRPB to extend these consumer protections to health care providers and suppliers, including orthotic and prosthetic clinics, durable medical equipment suppliers, physician practices, rehabilitation therapy companies, pharmacies, and other providers and suppliers of prosthetics, orthotics and durable medical equipment.

In sum, we strongly support the CRPB's proposal to protect individuals against this type of predatory practice and thank you for your consideration of our comments. To contact the O&P Alliance directly, please contact Peter Thomas or Leela Baggett, O&P Alliance Counsel, at Peter.Thomas@PowersLaw.com or Leela.Baggett@PowersLaw.com.

Sincerely,



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