



August 12, 2024

The Honorable Rohit Chopra
Director, Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

*RE: Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information
(Regulation V) (CFPB–2024– 0023)*

Dear Director Chopra:

I am writing on behalf of Susan G. Komen (Komen) to comment on the Consumer Financial Protection Bureau's (CFPB's) Proposed Rule on the Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Proposed Rule). We appreciate the opportunity to comment on behalf of the breast cancer community.

Komen is the world's leading nonprofit breast cancer organization representing the millions of people who have been diagnosed with breast cancer. Komen has an unmatched, comprehensive 360-degree approach to fighting this disease across all fronts—we advocate for patients, drive research breakthroughs, improve access to high quality care, offer direct patient support and empower people with trustworthy information. Komen is committed to supporting those affected by breast cancer today, while tirelessly searching for tomorrow's cures. We advocate on behalf of the estimated 313,500 people in the United States who will be diagnosed with breast cancer and the almost 43,000 who will die from the disease in 2024 alone.

Comments on Consumer Experiences with Medical Debt

The costs of cancer treatment in the U.S. are astronomically high and expected to rise, increasing patients' financial burden and risk of carrying medical debt simply for adhering to treatment as prescribed. More and more stakeholders in the cancer community recognize that the financial toxicity related to cancer care not only negatively affects patients' health, if they are forced to delay or stop treatment or make suboptimal treatment decisions due to cost, but also exposes them to financial ruin. Consumers need fair and equitable access to credit, including people facing chronic conditions. Komen applauds CFPB for prioritizing addressing medical debt on behalf of patients across the country.

Research shows that 41% of Americans have health care-related debt with more than half of U.S. adults reporting they had gone into debt due to medical or dental bills from 2017-2022.¹ Importantly, people in worse health and those living with a disability are more likely to report medical debt. This makes sense as people with medical complexity require ongoing care which can cause medical bills to pile up quickly.

¹ Lunna Lopes et al., Kaiser Fam. Found., *Health Care Debt In The U.S.: The Broad Consequences Of Medical And Dental Bills* (June 16, 2022), <https://www.kff.org/report-section/kff-health-care-debtsurvey-main-findings/> (KFF Survey 2022).

Other research confirms that medical debt rates increase as an individual's number of chronic conditions increase, demonstrating the unique financial burden of medical complexity for Americans.²

These trends hold true for people with cancer. One recent survey found that nearly half of cancer patients and survivors report carrying medical debt due to the costs of their cancer.³ In these circumstances, the debt often is substantial and long-term with nearly half carrying more than \$5,000 in debt, and a majority carrying this debt for more than a year.

People with complex medical conditions often must make tough choices on how to cut back on other expenses to afford their care. Among cancer patients and survivors, 71% report making significant changes to their finances in response to the costs of their care, such as cutting back on food, clothing, and basic household expenses (36%), using up all or most of their savings (28%), or increasing credit card debt (28%).⁴ As such, medical debt can have long-term financial and other down-stream consequences for the health and well-being of entire households.⁵ A breast cancer diagnosis can be devastating enough without the catastrophic impact it could have on a patient's finances.

Medical debt impacts populations differently. For example, Black Americans are much more likely than other groups to report medical debt, with analysis showing that 13% of Black Americans report having medical debt, compared to 8% of White and 3% of Asian Americans.⁶ These disparities persist among cancer patients with 62% of Black cancer patients reporting having medical debt compared to 52% of their White counterparts.⁷ Additionally, people living in rural areas and in the South and those with lower incomes are all more likely to have medical debt.⁸

We can and must do more for people struggling to afford their vital, ongoing health care needs.

Comments on the Proposed Rule

Komen strongly support the CFPB's proposed rule prohibiting creditors from obtaining and using information on an individual's medical debt when making credit determinations. This proposal protects consumers' sensitive medical information and stops people from being unfairly penalized in the credit market for having medical debt which can often be unavoidable for patients.

We appreciate the change in the definition of medical information barred from use in credit determinations to include medical debt in any status (current, past due or fully paid) and information related to medical devices. As noted in the Proposed Rule, medical debt information on a consumer report can increase the cost and reduce the availability of credit, and limit access to employment and housing, even though medical debt has been shown to be a poor predictor of an individual's credit risk.⁹

² Becker NV, Scott JW, Moniz MH, Carlton EF, Ayanian JZ. Association of Chronic Disease With Patient Financial Outcomes Among Commercially Insured Adults. *JAMA Intern Med.* 2022;182(10):1044–1051. doi:10.1001/jamainternmed.2022.3687

³ American Cancer Society Cancer Action Network, *Survivor Views on Medical Debt* (April 2024), available at: https://www.fightcancer.org/sites/default/files/national_documents/sv_debt_summary_24.pdf

⁴ American Cancer Society Cancer Action Network, *Survivor Views: Cancer & Medical Debt February 2022 Survey Findings Summary* (2022), available at: https://www.fightcancer.org/sites/default/files/national_documents/survivor_views_cancer_debt_0.pdf

⁵ Sara R. Collins, Shreya Roy, and Relebohile Masitha, Paying for It: How Health Care Costs and Medical Debt Are Making Americans Sicker and Poorer — Findings from the Commonwealth Fund 2023 Health Care Affordability Survey (Commonwealth Fund, Oct. 2023). <https://doi.org/10.26099/bf08-3735>

⁶ KFF Survey 2022.

⁷ American Cancer Society Cancer Action Network Survey 2024.

⁸ KFF Survey 2022.

⁹ Kenneth Brevoort and Michelle Kambara, Data point: Medical debt and credit scores (CFPB 2014). Available at: https://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf

Millions of Americans, including many breast cancer patients and survivors, will benefit from this proposal.

We offer the following comments on the Proposed Rule to enhance its positive impact.

Expand the Definition of Medical Information

Komen recommends that CFPB broaden the definition of medical information to include debt accrued on medical financing instruments such as medical credit cards. Last year, Komen joined other patient organizations in responding to the CFPB's Request for Information Regarding Medical Payment Products,¹⁰ highlighting the multiple harms of these forms of financing medical care, including high interest rates and significant transaction fees. We look forward to future rulemaking on medical financing instruments and recommend that, at a minimum, the medical information definition be expanded to include debts carried on these cards.

Komen urges CFPB to also further expand the definition to include general-use credit card debt related to medical expenses. Medical debt is often hidden by other forms of consumer debt as patients often pay for medical care using credit cards or may go into credit card debt on other essentials in order to afford their medical bills, so to omit this debt from the definition would limit the scope of the Proposed Rule's protections. We believe identifying medical debt on credit cards to be operationally feasible as it can be identified by using Merchant Category Codes (MCCs). As such, the CFPB could implement this prohibition by requiring issuers to exclude negative information about debts from merchants who are coded under MCCs as medical providers.

Extend Prohibition to Housing and Employment

We urge CFPB to widen the prohibition on the use of medical debt information, including for housing and employment. Breast cancer patients and survivors cannot forgo medical costs to avoid going into debt. Just as medical debt information is not predictive of an individual's ability to repay credit, it is not at all relevant to tenant screening and employment. In fact, given medical debt's disproportionate impact on people of color, those with chronic conditions, and people living with a disability, using that information to determine eligibility for rental housing or employment raises the potential for discrimination. We urge CFPB to use its authority to ban unfair, deceptive, or abusive acts and practices.

Require Disclosure of Consumer Rights

Komen asks CFPB to ensure consumers know their rights and facilitate greater compliance with the prohibition. For example, CFPB could require health care providers, debt collectors, creditors and consumer reporting agencies to provide clear disclosure, at an appropriate reading level and in culturally and linguistically appropriate form, to consumers of the prohibition on including medical debt in determinations for credit eligibility.

We also strongly encourage you to require credit applications to include a disclosure that medical information, including medical debt, is not required for credit considerations. We are concerned that patients with medical debt may disclose this information on credit applications that ask general questions about consumer debts and obligations, without realizing that this information cannot be shared on their consumer credit report and cannot be used to determine eligibility for credit. We urge CFPB to exercise its authority to assist patients in this process.

¹⁰ Partnership to Protect Coverage response to RFI Regarding Medical Payment Products. Available at: <https://www.protectcoverage.org/siteFiles/45071/09%2011%2023%20PPC-Medical-Debt-RFI.pdf>

Conclusion

Komen is grateful for this opportunity to highlight the experiences of the breast cancer community and provide feedback on the Proposed Rule. We look forward to working with you as these policies are finalized and implemented.

If you have any questions, please do not hesitate to reach out to Valerie Nelson, Susan G. Komen's Manager of Federal Policy & Advocacy, at vnelson@komen.org.

Sincerely,



Molly Guthrie
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Susan G. Komen