

June 2024

On June 11, 2024, the Consumer Financial Protection Bureau (CFPB) issued its [landmark proposal](#) to prohibit medical debt on credit reports. It's a terrific development worth taking a moment to celebrate. But the CFPB needs our support for the proposed rule to get it over the finish line. At the same time, state legislation is still critically important to protect workers and renters from medical debt on credit reports.

KEY POINTS ABOUT THE PROPOSED MEDICAL DEBT CREDIT REPORTING RULE

The CFPB's proposed rule starts off by stopping **creditors** from considering medical debt. This is because in 2003, Congress added a prohibition against creditors using medical information in the Fair Credit Reporting Act (FCRA). See 15 U.S.C. § 1681b(g). In the mid-2000s, the bank regulators created an exception allowing consideration of medical financial information, *i.e.*, medical debt. See current 12 C.F.R. § 1022.30. The CFPB is now repealing that exception.

Since creditors cannot consider medical debt, the CFPB is banning credit bureaus from including it in credit reports used by creditors. This gives CFPB a strong legal foundation for getting medical debt off credit reports.

However, it means the proposed ban on medical debt will not apply to credit reports used for other purposes, such as employment and tenant screening – except in states that have banned medical debt from **all** credit reports.

ACTION ITEM 1: HELP GET THOSE COMMENTS IN!

The first and most obvious action item is to get in comments to support the CFPB's proposal. Of course, we want lots of comments. But while numbers are important, quality also matters. Personalized comments from individual consumers are much more valuable to the CFPB, especially if they tell the consumer's story about how medical debt on their credit reports has impacted them. With medical debt, so many people have their own personal stories. Urge your members, networks, and allies to help in this effort and get those stories in!

Comments are due **Monday, August 12**. They can be submitted through this [link](#).

ACTION ITEM 2: URGE THE CFPB TO DO MORE

Comments from advocacy groups should [urge the CFPB](#) to go further than its current proposal. We want the CFPB to:

- Extend the credit reporting ban to negative information about lending products used to pay for medical debts, especially medical credit cards. A lot of medical debt ends up on regular credit cards. Negative information from those debts (which can be identified as medical) shouldn't hurt consumers credit scores for the same reasons that medical debt generally shouldn't be on credit reports. At a minimum, the CFPB should include specialized medical payment products, such as CareCredit medical credit cards, in the medical debt credit reporting ban. NCLC's report [Health Care Plastic](#) documented numerous problems with medical payment products, and the CFPB has opened an [inquiry](#) into them. Since these are clearly lending products, the CFPB has broad authority over them.

- Extend the credit reporting ban to credit reports used for employment and tenant screening, using its authority under either the FCRA or its general authority to ban unfair, deceptive or abusive acts and practices. The CFPB could also extend the ban to tenant screening by defining rental housing leases as “credit” under the Equal Credit Opportunity Act.

ACTION ITEM 3 : ADVOCATE FOR STATE LEGISLATION

The CFPB’s rule, when finalized, will apply nationally. But it’s still critical for states to pass legislation banning medical debt from credit reports for two reasons:

- As mentioned above, the proposed ban on medical debt will not apply to credit reports used for purposes other than credit underwriting. So medical debts could still show up on credit reports used for employment and tenant screening. States have the authority to ban medical debt from all credit reports, not just credit reports used for credit. It’s bad enough that employers and landlords use credit reports; allowing medical debts to harm workers and tenants is even worse.
- The proposed rule is just that – a proposal. There are still several steps before it becomes final and, more importantly, becomes effective. This includes:
 - The proposal still needs to be finalized by the CFPB.
 - The final rule may be challenged in court. The financial services industry has been on a lawsuit-filing spree in the Fifth Circuit, and unfortunately having some success there.
 - The final rule could be overturned using the Congressional Review Act.
 - The rule, whether final or otherwise, could be withdrawn or reversed by a future CFPB Administration.

State laws will be the safety net in case anything bad happens at these stages.

NCLC is happy to help with technical assistance for state advocates and policymakers interested in legislation to ban medical debt from credit reports. Please contact Michael Best (mbest@nclc.org) or Chi Chi Wu (cwu@nclc.org).