

August 9, 2024

[Via regulations.gov](https://www.regulations.gov)

Comment Intake—2024 NPRM FCRA Medical Debt Information
c/o Legal Division Docket Manager
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V), Docket No. CFPB–2024–0023/RIN 3170–AA54.

The 107 undersigned consumer, health care, civil rights, faith-based, economic development, legal services, and advocacy organizations submit these comments in response to the Consumer Financial Protection Bureau’s [Notice of Proposed Rulemaking](#) (NPRM) addressing medical debt on credit reports. We strongly support the proposed rule, which will benefit the [15 million consumers](#) unfairly burdened by medical debt on their credit reports, and disproportionately affects Black and Latino communities.

We also urge the CFPB to go further to protect vulnerable patients from the harms of medical debt. The CFPB should:

- extend the credit reporting ban to negative information about lending products used to pay for medical debts, especially medical credit cards;
- address other common abuses with medical lending products, such as prohibiting deferred interest on credit cards, prohibiting issuance of medical credit cards or loans to consumers whose insurance covers a procedure or they qualify for financial assistance, and prohibiting services from being charged to a credit card before they are rendered; and
- extend the medical debt ban to credit reports used for employment and tenant screening.

1. We support the CFPB’s proposed rule, which will protect millions of vulnerable consumers

The undersigned groups strongly support the CFPB’s proposed rule to prohibit medical debts from appearing on credit reports used for credit underwriting. The appearance of medical debt on credit reports can be one of the worst financial consequences of getting sick in the US, especially with catastrophic or chronic conditions. Patients often mention credit reporting damage or fear of it as a major financial consequence of their illness and deterrent to seeking care in the first place.

Medical debt is also unique among consumer debts. As the CFPB itself has noted both in the proposal and its [numerous research reports](#), it is often incurred involuntarily, unexpected in

nature, and lacking in price transparency. Patients seeking vitally necessary, sometimes urgent, healthcare services have little or no ability to negotiate prices or shop around.

The CFPB's research in both the NPRM and [earlier reports](#) also demonstrates that medical debt on credit reports does not provide added predictiveness for credit underwriting. That is why one of the two major credit scoring providers (VantageScore) stopped [considering medical debt](#) in its latest model, citing "minimal effects on predictive performance."

The CFPB's proposed rule is necessary to protect consumers who still have medical debt on their credit reports after the voluntary changes by the credit bureaus removing medical debts that are paid or under \$500. These voluntary changes were positive, but still leave unpaid medical debts over \$500 on the credit reports of [15 million consumers](#). These consumers are likely to be the most vulnerable – those who had greater medical needs and thus higher healthcare costs, and could not afford to pay for bills out of pocket. Moreover, as the CFPB's [July 2022](#) and [April 2024](#) reports have found, Black and Latino consumers were more likely to have medical debts remaining after the voluntary changes. Finally, the voluntary changes by the credit bureaus are just that – they are voluntary, which means the credit bureaus could reverse them at any time with little or no notice.

2. Extend the credit reporting ban to medical debt incurred using medical lending products and general purpose credit cards

We urge the CFPB to include in the scope of the proposed rule negative information from: (1) debt on medical lending products, such as the CareCredit card, and (2) medical debt on general purpose credit cards. Negative information regarding those debts is just as harmful as medical debt collection items on credit reports. This information should not be reported for the same reasons that medical debt generally shouldn't be on credit reports – these debts are incurred for expenses that are involuntary and unexpected, and for which there is little ability for the consumer to negotiate prices or shop around.

The fact that a consumer was enticed to open or use a credit card or other lending account should not make the difference between significant damage to their credit history versus being protected from harmful medical debt. Indeed, with specialized medical payment products, [some providers' staff fail to properly explain to patients that](#) they are opening a credit account, as opposed to receiving a payment plan with the health care provider. These patients should not suffer credit damage because they did not realize they were signing up for a credit card.

As for general purpose credit cards, it is operationally possible to include them in a ban because medical debt can be identified on these accounts by using [Merchant Category Codes](#) (MCCs). The CFPB could easily implement such a ban by requiring issuers to exclude negative information about debts from merchants who are coded under MCCs as medical providers.

3. Address common abuses with medical payment products in addition to credit reporting

The problems with specialized medical payment products go way beyond negative reporting. NCLC's report [Health Care Plastic: The Risk of Medical Credit Cards](#) documented numerous harms to consumers from these products, such as being confused by deferred interest, not being screened for financial assistance before medical bills were charged to a card, charging procedures to a credit card that were covered by insurance, being sued or sustaining credit reporting damage, and having services pre-charged to the card that were ultimately never provided. The CFPB's [most recent Supervisory Highlights report](#) noted several problems with these products as well, including misrepresentations about deferred interest and that consumers "felt pressured by healthcare providers to open a credit card while receiving treatment."

We appreciate that the CFPB has opened [an inquiry](#) into medical payment products. Since these are clearly lending products, the CFPB has broad authority to regulate them, including under numerous federal statutes. We urge the CFPB to do so, including by banning deferred interest on credit cards, prohibiting issuance of medical credit cards or loans to consumers whose insurance covers a procedure or qualify for financial assistance, and prohibiting services from being charged to a credit card before they are rendered.

4. Extend the credit reporting ban to credit reports used for employment and tenant screening.

If medical debt is not a good predictor of creditworthiness, it is even less likely to be predictive of whether someone will be a good tenant or worker. As with credit, medical debt should simply not be used for either of these purposes. The fact that someone got sick should never be used to keep a consumer from getting a job or roof over their heads.

Yet as we know, credit history is [too often used](#) inappropriately by landlords and employers. The vast majority of landlords – about 90% [according to TransUnion](#) – use credit history, while about [half of employers](#) do as well. NCLC's report [Digital Denials](#) discusses a survey of tenant advocates [finding that 84 percent](#) had a client who was denied rental housing due to their credit history.

One reason, among many, to prohibit the use of medical debt in credit reports used for tenant screening and employment are the racial disparities in who is burdened by such debt, as discussed in the [CFPB's own research](#) and [an NCLC report](#). Another reason is that people with disabilities are [more than twice as likely](#) as those without disabilities to have medical debt. This implicates the Fair Housing Act, Title VII of the Civil Rights Act, and the Americans with Disabilities Act (ADA). Indeed, the U.S. Dept. of Housing and Urban Development recently released [guidance](#) noting the "significant and recognized limitations of credit scores as a predictor of likelihood to pay rent" and that given the disparities in credit scores for protected classes such as race and disability "overreliance on credit history poses a significant risk of having an unjustified discriminatory effect based on race or other protected characteristics."

We urge the CFPB to prohibit the inclusion of medical debts on credit reports used for tenant screening or employment using its authority under either the FCRA or its general authority to ban unfair, deceptive or abusive acts and practices. Another option for tenant screening is that the CFPB could address tenant screening by defining rental housing leases as “credit” under the Equal Credit Opportunity Act, at least for this limited purpose. At a minimum for employment uses, the CFPB should urge the Equal Employment Opportunity Commission to state that use of medical debt in employment decisions violates Title VII and the ADA.

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Thank you for your efforts to protect consumers from the harmful impacts of medical debt on credit reports. We strongly support the CFPB’s proposal. We urge you to go further, and protect consumers from harmful credit reporting and other practices by lending products used to pay medical debt. We also urge you to ban medical debt in reports used for tenant screening and employment.

If you have any questions about these comments, please contact Chi Chi Wu at cwu@nclc.org.

Respectfully submitted,

National Organizations

- National Consumer Law Center (on behalf of its low-income clients)
- Americans for Financial Reform Education Fund
- ACA Consumer Advocacy
- Appleseed Foundation
- Better Markets
- Center for Economic Justice
- Center for Medicare Advocacy
- Coalition on Human Needs
- Community Catalyst
- Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces
- Consumer Action
- Consumer Federation of America
- Consumer Reports
- Consumer Watchdog
- Debt Collective
- Faith in Action National Network
- HEAL (Health, Environment, Agriculture, Labor) Food Alliance
- Health Care for America Now (HCAN)
- Health Care Voices
- Hip Hop Caucus
- Jewish Women International
- Justice in Aging
- National Advocacy Center of the Sisters of the Good Shepherd

National Association for Latino Community Asset Builders (NALCAB)
National Community Reinvestment Coalition
National Consumers League
National Disability Rights Network (NDRN)
National Fair Housing Alliance
National Health Law Program
National MS Society
NETWORK Lobby for Catholic Social Justice
Public Citizen
Revolving Door Project
Third Way
U.S. PIRG
Unitarian Universalists for Social Justice
Woodstock Institute

State, Regional, and Local Organizations

AKPIRG
William E. Morris Institute for Justice (AZ)
Center for Economic Integrity (AZ)
Arkansas Community Organizations
Rise Economy (CA)
Public Counsel (CA)
California Low-Income Consumer Coalition
Housing and Economic Rights Advocates (CA)
CAMEO Network (CA)
Katharine & George Alexander Community Law Center (CA)
Center for Health Progress (CO)
Colorado Consumer Health Initiative
Colorado Center on Law and Policy
Tzedek DC
Jacksonville Area Legal Aid (FL)
Florida Health Justice Project
Georgia Watch
Georgia Advancing Communities Together, Inc.
Alliance 85 (GA)
Citizen Action/Illinois
Illinois Coalition for Immigrant and Refugee Rights
Shriver Center on Poverty Law (IL)
Indiana Legal Services, Inc.
Prosperity Indiana
Indiana Community Action Poverty Institute
Fair Housing Center of Central Indiana
Alliance for a Healthy Kansas
Kentucky Equal Justice Center

Kentucky Voices for Health
Maine People's Alliance
Maine Equal Justice
Consumers for Affordable Health Care (ME)
Public Justice Center (MD)
Massachusetts Debt Relief Foundation, Inc.
Health Care for All Massachusetts
Nebraska Appleseed
Economic Empowerment Center DBA Lending Link (NE)
NV Coalition of Legal Service Providers
Legal Aid Center of Southern Nevada
New Jersey Appleseed Public Interest Law Center
Latino Action Network Foundation (NJ)
New Jersey Citizen Action
Legal Services of New Jersey
New Jersey Working Families Alliance
Prosperity Works (NM)
New York Legal Assistance Group (NYLAG)
Community Service Society of NY
Fifth Avenue Committee (NY)
WESPAC Foundation, Inc. (NY)
Center for Elder Law and Justice (NY)
Housing and Family Services of Greater New York
New Yorkers for Responsible Lending
New Economy Project
North Carolina Council of Churches
Oregon Consumer Justice
CASA of Oregon
South Carolina Appleseed Legal Justice Center
RAISE Texas
Texas Appleseed
Habitat for Humanity of Camp County, TX Inc.
African American Clergy Collective of TN
Black Clergy Collaborative of Memphis (TN)
Virginia Organizing
Legal Aid Justice Center (VA)
Virginia Citizens Consumer Council
Blue Ridge Legal Services, Inc. (VA)
Economic Opportunity Institute (WA)
Statewide Poverty Action Network (WA)
Mountain State Justice, Inc. (WV)
ABC for Health, Inc. (WI)