



August 12, 2024

Via 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 National Consumer Law Center submit these comments¹ in response to the Consumer Financial Protection Bureau’s Notice of Proposed Rulemaking (NPRM)² 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. Medical debt disproportionately affects Black and Latino communities as well as consumers with disabilities.

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.
- Extend the medical debt ban to credit reports used for employment and tenant screening.
- 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 who qualify for financial assistance, and prohibiting services from being charged to a credit card before they are rendered.

These comments also make technical suggestions on making explicit certain intended protections.

¹ These comments were written by Chi Chi Wu and April Kuehnhoff, with assistance from Ariel Nelson and Berneta Haynes and intern Andrew Schreder. Carolyn Carter provided editorial oversight.

² CFPB, Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V), 89 Fed. Reg. 51,682 (June 18, 2024), <https://www.federalregister.gov/documents/2024/06/18/2024-13208/prohibition-on-creditors-and-consumer-reporting-agencies-concerning-medical-information-regulation-v>.

Table of Contents

<i>I. We Support the CFPB's Proposed Rule, Which Will Protect Millions of Vulnerable Consumers</i>	3
a. The proposed rule will help the 15 million consumers unfairly burdened by medical debt on their credit reports	3
b. The voluntary changes by the nationwide CRAs are insufficient to protect consumers	4
c. The CFPB rule will promote racial and disability justice because these communities are disproportionately burdened by medical debt	4
d. The CFPB and other organizations have provided ample research and support for the proposed rule	5
e. Credit reporting of medical debt is not necessary to ensure payment of medical bills	8
f. The CFPB has strong legal authority to issue the proposed rule	11
i. Section 1681b(g)(5) gives the CFPB clear authority to adopt this rule	11
ii. The proposed rule also falls within the CFPB's general rulemaking authority	13
<i>II. The CFPB should extend the credit reporting ban to medical debt incurred using medical lending products and general-purpose credit cards</i>	15
<i>III. The CFPB should extend the medical debt credit reporting ban to credit reports used for employment and tenant screening</i>	18
a. Consumers should not be denied rental housing or jobs because they got sick	18
b. Use of medical debt in employment or tenant screening implicates civil rights laws	19
c. NCLC Survey: Whether medical debt keeps tenants out of housing	19
d. The CFPB has the legal authority to extend the medical debt credit reporting ban to credit reports used for employment and tenant screening	21
<i>IV. The CFPB should address common abuses with medical lending products in addition to credit reporting</i>	23
<i>V. Analysis of specific provisions</i>	24
a. The CFPB should develop Official Interpretations to clarify that the definition of "medical debt information" includes debt held by debt buyers	24
b. We support including all consumer reporting agencies and debts reduced to judgment in the ban on reporting of medical debt	25
c. The CFPB should be explicit in order to ban repossession of medical devices	26
d. The restrictions on reporting of medical debt should require CRAs to follow strict procedures	27
<i>Appendix A - Medical Debt Narratives</i>	29

I. We Support the CFPB’s Proposed Rule, Which Will Protect Millions of Vulnerable Consumers

a. The proposed rule will help the 15 million consumers unfairly burdened by medical debt on their credit reports

We 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 as a deterrent to seeking care in the first place.³ The consumer stories discussed in Appendix A of these comments are a sample of the harms experienced by everyday consumers from medical debt on their credit reports

Medical debt is unique among consumer debts. As the CFPB itself has noted both in the proposal and its numerous research reports (listed in Section I.d of these comments on pages 5-8), it is often incurred involuntarily, unexpected in nature, and lacking in price transparency.

First, patients seeking vitally necessary, sometimes urgent, health care services have little or no ability to negotiate prices or shop around. A patient in need of emergency services for a heart attack, chemotherapy to treat cancer, orthopedic services to set a broken bone, or a root canal for an infected tooth is in no position to decide whether to receive services or forego them to save money, or to bargain over the price.

Furthermore, as the CFPB noted in its reports, consumers often end up with medical debt due to the dysfunctional and confusing nature of the U.S. health care payment system.⁴ Consumers end up missing payments, which results in credit reporting damage, because they are uncertain about what they owe, to whom, when, or for what. This is due, in part, to the fact that health care in the US is primarily paid for by third party payors, *i.e.*, private and government insurers. This system creates complications and confusion. Thus, consumers often do not pay bills because they think the insurer should have paid or will pay, maybe after an appeal, or they do not understand why they are being charged after they have paid a co-pay and their insurer has made a payment.

The health care industry is also notorious for its dysfunctional pricing practices. Despite federal law requiring pricing transparency, these prices are often not publicly available. Even if the prices are posted as required, the actual price an individual consumer must pay is often a moving target. This is because of the phenomenon of “chargemaster” pricing, in which hospitals and

³ See CFPB, Complaint Bulletin: Medical billing and collection issues described in consumer complaints (Apr. 2022), https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin-medical-billing_report_2022-04.pdf (highlighting consumer complaints about credit reporting medical debts).

⁴ CFPB, Medical Billing and Collections Among Older Americans, May 30, 2023, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-medical-billing-and-collections-among-older-americans/full-report/>; CFPB, Consumer credit reports: A study of medical and non-medical collections, Dec. 2014, https://files.consumerfinance.gov/f/201412_cfpb_reports_consumer-credit-medical-and-non-medical-collections.pdf.

health care providers set artificially high list or chargemaster prices that are several times their cost of services.⁵ The health care providers give massive discounts to various insurers from these chargemaster prices, so that the insurers often pay a fraction of the list price. As a result, only uninsured or out-of-network patients end up being charged the inflated chargemaster price. With such opaque and irrational pricing practices, disputes are certain to arise. In the midst of a dispute, the bills might be sent to a debt collector and end up on consumers' credit reports.

b. The voluntary changes by the nationwide CRAs are insufficient to protect consumers

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 nationwide consumer reporting agencies (NCRAs) removed 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 about 5 percent of individuals with a credit record, or 15 million consumers.⁶ The Urban Institute similarly found that while the voluntary changes did erase medical debt from the credit reports of most consumers, about 5 percent still had medical debt on their reports.⁷

These consumers are likely to be the most vulnerable – those who had greater medical needs and thus higher health care costs, and could not afford to pay for bills out of pocket. Furthermore, 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. Consumers need the assurance of regulation to ensure that medical debt no longer unfairly harms their credit records.

c. The CFPB rule will promote racial and disability justice because these communities are disproportionately burdened by medical debt

Medical debt has an outsized impact on communities of color and consumers with disabilities. This is another important reason we support the CFPB's proposed rule, because it may help to reduce the economic divides by race and disability status.

With respect to race, a 2022 NCLC report documented how 27.9 percent of Black households were saddled with medical debt compared to 17.2 percent of white non-Hispanic households.⁸ These disparities may be due to long-standing racial inequalities in health and wealth, including decades of Jim Crow-era structural racism in healthcare.⁹ Black and Latino workers also face occupational segregation into jobs with less health care coverage and lower quality health insurance. There are tremendous racial disparities in incidence, access, and treatment.

⁵ National Consumer Law Center, Collection Actions, § 9.1.3 (6th ed. 2024), updated at www.nclc.org/library.

⁶ CFPB, Recent Changes in Medical Collections on Consumer Credit Records, March 2024, https://files.consumerfinance.gov/f/documents/cfpb_recent-changes-medical-collections-on-consumer-credit-reports_2024-03.pdf.

⁷ Fredric Blavin, Breno Braga, Michael Karpman, Urban Institute, Medical Debt Was Erased from Credit Records for Most Consumers, Potentially Improving Many Americans' Lives, Nov. 2, 2023, <https://www.urban.org/urban-wire/medical-debt-was-erased-credit-records-most-consumers-potentially-improving-many>.

⁸ Berneta Haynes, National Consumer Law Center, The Racial Health and Wealth Gap: Impact of Medical Debt on Black Families, at 2, March 8, 2022, <https://www.nclc.org/resources/the-racial-health-and-wealth-gap/>.

⁹ *Id.* at 3-4.

These systemic inequalities continue to leave Black and Latino individuals with greater amounts of medical debt. Even after the removal of many medical debts with the NCRAs' voluntary charges, racial disparities persist. The CFPB's April 2024 report found that Black and Latino consumers were more likely to have medical debts remaining after the voluntary changes.¹⁰

A recently released data tool from the Urban Institute shows similar racial disparities, confirming that communities of color are still more likely to be impacted after the voluntary changes.¹¹ Nationally, in 2023, 6.1 percent of consumers in communities of color have medical debt on their credit reports versus 4.6 percent in white communities. In certain states, these disparities are even greater. In Arkansas, 10 percent of consumers in communities of color have medical debt on their credit reports versus 6.7 percent in white communities. In South Carolina, 11.3 percent of consumers in communities of color have medical debt on their credit reports versus 8.5 percent in white communities. And in Wyoming, a whopping 21 percent of consumers in communities of color have medical debt on their credit reports versus 9.9 percent in white communities.

Another disproportionately impacted protected class are consumers with disabilities, who are more than twice as likely as those without disabilities to have medical debt. Based on the Census Bureau's 2021 Survey of Income and Program Participation (SIPP), 13 percent of consumers with disabilities have medical debt versus 6 percent of those without a disability.¹²

Removing all medical debt from credit reports would help mitigate some of the negative impacts that disproportionately harm consumers of color and their ability to obtain credit. It will similarly help the economic condition of individuals with disabilities. And given that it has no added predictive value, as discussed in the next section below, the use of medical debt creates a racially disparate impact under the Equal Credit Opportunity Act for which there is no "legitimate business justification."¹³

d. The CFPB and other organizations have provided ample research and support for the proposed rule

The proposed rule has more than ample support from research conducted by the CFPB itself as well as other entities, such as the Urban Institute and the Peterson-KFF Health System Tracker. The CFPB itself has conducted at least 10 studies including:

¹⁰ CFPB, Recent Changes in Medical Collections on Consumer Credit Records, March 2024, https://files.consumerfinance.gov/f/documents/cfpb_recent-changes-medical-collections-on-consumer-credit-reports_2024-03.pdf

¹¹ Urban Institute, The Changing Medical Debt Landscape in the United States, July 20, 2024, <https://apps.urban.org/features/medical-debt-over-time/>.

¹² Shameek Rakshit, Peterson-KFF Health System Tracker, The burden of medical debt in the United States, Feb. 12, 2024, <https://www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states/> (analyzing 2021 SIPP data).

¹³ National Consumer Law Center, Credit Discrimination, § 4.3 (8th ed. 2022), updated at www.nclc.org/library (discussing test for disparate impact under the ECOA).

1. A technical appendix published with the Notice of Proposed Rulemaking with research finding that medical debt information, in the form of medical collections, has limited predictive value for credit underwriting.
2. CFPB, Data spotlight: Early impacts of removing low-balance medical collections, May 2024, <https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-early-impacts-of-removing-low-balance-medical-collections/>.
3. CFPB, Recent Changes in Medical Collections on Consumer Credit Records, March 2024, https://files.consumerfinance.gov/f/documents/cfpb_recent-changes-medical-collections-on-consumer-credit-reports_2024-03.pdf.
4. CFPB, Medical Billing and Collections Among Older Americans, May 30, 2023, <https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-medical-billing-and-collections-among-older-americans/full-report/>.
5. CFPB, Consumer Credit and the Removal of Medical Collections from Credit Reports, Apr. 2023, https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-removal-medical-collections-from-credit-reports_2023-04.pdf.
6. CFPB, Consumer Credit Trends Report: Paid and Low-Balance Medical Collections on Consumer Credit Reports, July 27, 2022, https://files.consumerfinance.gov/f/documents/cfpb_paid-and-low-balance-medical-collections-on-consumer-credit-reports_2022-07.pdf.
7. CFPB, Complaint Bulletin: Medical billing and collection issues described in consumer complaints, April 20, 2022, https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin-medical-billing_report_2022-04.pdf.
8. CFPB, Medical debt burden in the United States, Mar. 2, 2022, https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.
9. CFPB, Consumer credit reports: A study of medical and non-medical collections, Dec. 2014, https://files.consumerfinance.gov/f/201412_cfpb_reports_consumer-credit-medical-and-non-medical-collections.pdf.
10. CFPB, Data point: Medical debt and credit scores, May 20, 2014, https://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf.

The Urban Institute has published numerous reports about medical debt, including the following recent research on medical debt:

1. Urban Institute, The Changing Medical Debt Landscape in the United States, July 20, 2024, <https://apps.urban.org/features/medical-debt-over-time/>
2. Fredric Blavin, Breno Braga, Michael Karpman, Urban Institute, Medical Debt Was Erased from Credit Records for Most Consumers, Potentially Improving Many Americans' Lives, Nov. 2, 2023, <https://www.urban.org/urban-wire/medical-debt-was-erased-credit-records-most-consumers-potentially-improving-many>.
3. Michael Karpman, Fredric Blavin, and Dulce Gonzalez, Urban Institute, How Many Adults Have Past-Due Medical Bills on Credit Cards?, Sept. 5, 2023, <https://www.urban.org/research/publication/how-many-adults-have-past-due-medical-bills-credit-cards>

4. Michael Karpman, Fredric Blavin, Dulce Gonzalez, Jennifer Andre, Breno Braga, Urban Institute, Medical Debt in New York State and Its Unequal Burden across Communities, July 12, 2023, <https://www.urban.org/research/publication/medical-debt-new-york-state-and-its-unequal-burden-across-communities>.
5. Fredric Blavin and Breno Braga, Urban Institute, How to Address Medical Debt Burdens in Immigrant Communities, Apr. 3, 2024, <https://www.urban.org/urban-wire/how-address-medical-debt-burdens-immigrant-communities>
6. Michael Karpman, Urban Institute, Most Adults with Past-Due Medical Debt Owe Money to Hospitals, Mar. 13, 2023, <https://www.urban.org/research/publication/most-adults-past-due-medical-debt-owe-money-hospitals>
7. Miranda Santillo, Breno Braga, Fredric Blavin, and Anuj Gangopadhyaya, Urban Institute, Communities of Color Disproportionally Suffer from Medical Debt, Oct. 14, 2022, <https://www.urban.org/urban-wire/communities-color-disproportionally-suffer-medical-debt>.
8. Fredric Blavin, Breno Braga, and Anuj Gangopadhyaya, Urban Institute, Which County Characteristics Predict Medical Debt?, June 15, 2022, <https://www.urban.org/research/publication/which-county-characteristics-predict-medical-debt>

The latest research from KFF on medical debt includes:

1. Alex Cottrill, Tricia Neuman, Lunna Lopes, and Liz Hamel, KFF, What are the Consequences of Health Care Debt Among Older Adults?, July 26, 2024, <https://www.kff.org/medicare/issue-brief/what-are-the-consequences-of-health-care-debt-among-older-adults/>.
2. Shameek Rakshit, Peterson-KFF Health System Tracker, The burden of medical debt in the United States, Feb. 12, 2024, <https://www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states/>
3. Lunna Lopes, Audrey Kearney, Alex Montero, Liz Hamel, and Mollyann Brodie, KFF, Health Care Debt In The U.S.: The Broad Consequences Of Medical And Dental Bills, Jun. 16, 2022, <https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/>

In particular, the CFPB’s research in both the Technical Appendix to the NPRM¹⁴ and in its May 2014 report demonstrates that medical debt on credit reports does not provide added predictiveness for credit underwriting.¹⁵ Specifically, the CFPB’s researchers found, using data from the Consumer Credit Panel from Equifax, that:

On average, new credit accounts of consumers whose medical collections were not included on their consumer reports at the time of their credit applications were no more likely to be seriously delinquent within two years of a credit account’s origination than the new credit accounts of consumers whose medical collections were included on their

¹⁴ 89 Fed. Reg. at 51,718-35.

¹⁵ CFPB, Data point: Medical debt and credit scores, May 20, 2014, https://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf

consumer reports at the time of their credit applications. This research suggests that not only can creditors underwrite credit without information about consumers' medical debts, but also that such information may lead to a market failure because it may be an inaccurate signal of whether a consumer will pay a future debt.¹⁶

Thus, medical debt information is simply not needed for credit scores to be predictive. 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.”¹⁷ As the CFPB knows, VantageScore is jointly owned by the NCRAs, i.e., Equifax, Experian, and TransUnion.

Another indication that medical debt is not necessary for the predictiveness of credit score is the fact that most of the state laws that permit insurers to use credit information prohibit consideration of medical debt in the credit reports. In fact, the model law from the National Council of Insurance Legislators (NCOIL) prohibits the use of collection accounts associated with a medical industry code.¹⁸ This appears to not have resulted in complaints from the insurance industry about the usefulness or value of insurance credit scores.¹⁹

e. Credit reporting of medical debt is not necessary to ensure payment of medical bills

One of the primary arguments in opposition to the proposed rule is that it will disincentivize consumers from paying their medical bills, which will harm health care providers. One economist hired by the debt collection industry estimated that health care providers would lose \$24 billion in the first year of the rule.²⁰

However, plenty of evidence shows that having medical debts appear on credit reports is not necessary to ensure the payment of medical bills. First, we know that many debt collectors do not furnish medical debts to the NCRAs when they are collecting on those accounts. A survey by industry analytics company ARMSights found that 22% of collection agencies who answered the survey did not furnish information on their medical debts to the NCRAs.²¹ Of those that did furnish information, most did not furnish information on all their medical debts but did so for just a portion of their portfolios.²²

¹⁶ 89 Fed. Reg. at 51,692.

¹⁷ VantageScore, What was the rationale for removing Medical Debt from VantageScore 4.0?, <https://www.vantagescore.com/faq/what-was-the-rationale-for-removing-medical-debt-from-vantagescore-4-0/> (visited July 14, 2024).

¹⁸ NCOIL, Model Act Regarding Use of Credit Information in Personal Insurance, Sept. 26, 2020, <https://ncoil.org/wp-content/uploads/2020/10/Credit-Model-readopted-9-26-20.pdf>.

¹⁹ Email from Birny Birnbaum, Executive Director, Center for Economic Justice, to Chi Chi Wu, July 12, 2024.

²⁰ Andrew Rodrigo Nigrinis, Economic Analysis of the Consumer Financial Protection Bureau's Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V), July 2024, <https://policymakers.acainternational.org/wp-content/uploads/2024/07/AndrewNigrinisEconomicAnalysis-CFPB-FCRA-NPRM-July2024.pdf> [hereinafter “Nigrinis Report”]

²¹ ARMInsights, Medical Debt Credit Reporting, July 2, 2024, <https://www.accountsrecovery.net/armsights/>.

²² *Id.*

Based on the Census Bureau’s Survey of Income and Program Participation (SIPP), there is an estimated \$220 billion in medical debt in the United States,²³ but only \$49 billion of that debt shows up on credit reports. Thus, the vast majority of medical debts are NOT reported to the NCRAs, and yet there is no indication that the other \$171 billion in medical debt goes entirely uncollected or even that it is collected at a lower rate than the \$49 billion that is reported on credit reports.

There are numerous reasons why less than one-quarter of medical debt shows up on credit reports. First, some of the \$220 billion in medical debt may not have been referred to debt collectors and would not be reported since providers almost never directly furnish medical debt to the NCRAs themselves.²⁴ Second, as the CFPB notes, some providers prohibit collectors from credit reporting the debts owed to these providers.²⁵ Third, another portion of the \$220 billion may either be too new to report (less than one year for purposes of the NCRA voluntary changes) or too old (over the seven year FCRA obsolescence period). In any event, less than one-quarter of the amount will be affected by the CFPB’s proposed rule.

Another reason that less than one-quarter of medical debt is currently reported is due to the voluntary changes by the NCRAs to stop reporting paid medical debts or debts under \$500. These changes eliminated medical debt on credit reports for about half of consumers who had previously had it on their reports, from \$88 billion to about \$49 billion.²⁶ The debt collection industry’s hired economist implies that the voluntary changes have resulted in a decline in collection rate of 5.6 percent from Q1 2022 to Q4 2023, based on a dataset provided by members of the American Collectors Association.²⁷ That means at most, the voluntary changes resulted in a reduction in collection of about \$2.2 billion²⁸ - and that is if *every single dollar* in that decline was due to the voluntary changes, not other factors such as the depletion of savings from pandemic-era economic supports.²⁹

Furthermore, at least eight states have banned or restricted the reporting of medical debt.³⁰ While most of these state laws have been enacted too recently to be represented in the data, we know from the recently released Urban Institute data tool that there was zero medical debt on the credit

²³ Shameek Rakshit, Peterson-KFF Health System Tracker, The burden of medical debt in the United States, Feb. 12, 2024, <https://www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states/>

²⁴ CFPB, Data point: Medical debt and credit scores, at 4, May 20, 2014, https://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf.

²⁵ 89 Fed. Reg at 51,697-98.

²⁶ CFPB, Consumer Credit and the Removal of Medical Collections from Credit Reports, Apr. 2023, https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-removal-medical-collections-from-credit-reports_2023-04.pdf

²⁷ Nigrinis Report at 54, fig. 3.

²⁸ The math is \$88 billion minus \$49 billion times 0.056 equals 2.18 billion.

²⁹ See Scott Fulford, Pandemic Paradox: How the COVID Crisis Made Americans More Financially Secure (2023) (discussing impact of COVID-era pandemic economic payments on financial health of consumers).

³⁰ Connecticut (2024 Conn. Act 24-6), Colorado (Colo. Rev. Stat. § 5–18–109), Illinois (Public Act 103-0648), Minnesota (Minn. Stat. § 332C.03 (2024)), New Jersey (P.L.2024, c.48), New York (N.Y. Pub. Health Law art. 49–A), Rhode Island (R.I. Gen. Laws ch. 6-60), and Virginia (2024 Va. Acts ch. 751).

reports of Colorado consumers in August 2023.³¹ Based on the fact that there are at least 36 complaints in the CFPB’s Consumer Complaint Data/base about medical debt collection in Colorado in the past year, we are confident that medical debt collection in that state continued after the new state law prohibited medical debt on credit reports.³² And there have been no reports of the other negative consequences in Colorado predicted by the debt collection industry’s hired economist, such as increased financing for unqualified borrowers, decreased access for credit-qualified borrowers, difficulties in repairing credit scores, or conflicts with the ability-to-repay requirement in Regulation Z.³³

The CFPB’s NPRM discusses many of the reasons why a ban on the reporting of medical debt, whether due to the proposed rule or reforms to state laws, will not cause the laundry list of negative consequences. With respect to the threat of a massive drop in payments to health care providers, the CFPB notes:

- **Very little medical debt on credit reports is actually collected:** As the CFPB notes, “recovery rates associated with furnished medical collections are already low.”³⁴ Prior to the recent NCRA voluntary changes “only 2.5 percent of medical collections on consumer reports are ever reported as paid.”³⁵ The debt collection industry’s own hired expert reports that as of the end of 2023, only 9.6 percent of medical debt placed with collectors is collected.³⁶ Thus, of the \$49 billion in medical debt currently on credit reports, only about anywhere from 2.5 percent to 9.6 percent, or \$1.2 to \$4.7 billion, would be collected.

Furthermore, it is not clear how much of these recoveries are actually attributable to credit reporting as opposed to other simultaneous collection efforts. However, in the unlikely event that collectors would not collect *any* of that \$1.2 to \$4.9 billion with the proposed ban on medical debt credit reporting, that is still far less than the \$24 billion in losses predicted by the industry-hired expert.³⁷ Indeed, much of the \$24 billion estimate is based on self-reported predictions from debt collectors of their “expectations of a decrease in liquidation of referred debts [to collectors] due to the proposed rule,”³⁸ *i.e.*, that they will receive less inventory for collection, which is speculative at best.

³¹ Urban Institute, The Changing Medical Debt Landscape in the United States, July 20, 2024, <https://apps.urban.org/features/medical-debt-over-time/>.

³² https://www.consumerfinance.gov/data-research/consumer-complaints/search/?date_received_max=2024-08-01&date_received_min=2023-08-01&has_narrative=true&page=1&product=Debt%20collection%E2%80%A2Medical%20debt&searchField=all&size=50&sort=created_date_desc&state=CO&tab=List

³³ Nigrinis Report at 3.

³⁴ 89 Fed. Reg. at 51,701.

³⁵ 89 Fed. Reg. at 51,701, note 169.

³⁶ Nigrinis Report at 54. The 9.6 collection rate is for collection of all medical debts, not just medical debts reported on a credit report, and presumably includes collection of amounts not on a credit report.

³⁷ Nigrinis Report at 3.

³⁸ *Id.* at 55.

- **The bulk of medical bills are paid by insurers:** “The vast majority of health care expenses is paid for by third party payors. Out-of-pocket spending by consumers only accounts for about 11 percent of national health expenditures. Of that 11 percent, a significant proportion is paid at point of service at a pharmacy or doctor’s office.”³⁹ Thus, the proposed rule at most would impact a fraction of the 11 percent of health care bills in the U.S.

As for the threat that providers will respond to the proposed rule by demanding upfront payment or even cutting off access to healthcare services, the CFPB notes:

At baseline, there is already a substantial economic incentive to require upfront payment or deny service to patients with overdue accounts given that recovery rates on billed expenses to patients are already low. The proposed rule may only marginally increase the incentive to require prepayment or upfront payment.”⁴⁰

The proposed rule makes no changes in the ability of medical providers and their debt collectors to collect medical debts through other means, including collection letters, phone calls, and the increased focus on electronic communications since Regulation F took effect.

Finally, health care providers themselves, as opposed to debt collectors, have supported foregoing credit reporting as a means of collection. The American Hospital Association stated in a comment letter that its patient billing guidelines “encourag[e] hospitals to forego adverse credit reporting of medical debt” and that the “guidelines, therefore, largely align with the CFPB’s proposals...”⁴¹

f. The CFPB has strong legal authority to issue the proposed rule

i. Section 1681b(g)(5) gives the CFPB clear authority to adopt this rule

The CFPB has ample regulatory authority to prohibit the appearance of medical debt on credit reports. This authority remains strong even after the Supreme Court’s decision in *Loper Bright v. Raimondo*.⁴²

The FCRA’s prohibition in § 1681b(g)(2) against creditors’ use of medical information is clear and explicit. Indeed, it is only because of the presence of a regulatory exception --12 C.F.R. § 1022.30(d), promulgated pursuant to § 1681b(g)(5) of the FCRA -- that creditors are currently permitted to consider medical debt. If the CFPB’s predecessors, *i.e.*, the banking regulators, had the authority to adopt the exception allowing consideration of medical debt at 12 C.F.R. § 1022.30(d), then the Bureau has the authority to repeal that exception.

³⁹ 89 Fed. Reg. at 51,701.

⁴⁰ *Id.*

⁴¹ American Hospital Association, Comments re: Small Business Advisory Review Panel for Consumer Reporting Rulemaking: Outline of Proposals and Alternatives Under Consideration, Oct. 30, 2020, <https://www.aha.org/system/files/media/file/2023/10/AHA-Letter-CFPB-Medical-Debt-Reporting-Feedback.pdf>.

⁴² *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024).

In other words, the plain language of the Act is clear in permitting CFPB to prohibit creditors from considering medical debt. As such, there is no need to engage in an interpretation of an ambiguous term, which was the issue in *Loper Bright*.

Even if there were an issue of statutory interpretation, the CFPB's proposed rule would be on more than firm ground. *Loper Bright* specifically discusses the deference due an administrative agency where Congress delegates explicit authority to an administrative agency to interpret a statutory provision, as it did in § 1681b(g)(5). The Court stated:

In a case involving an agency, of course, the statute's meaning may well be that the agency is authorized to exercise a degree of discretion. Congress has often enacted such statutes. For example, some statutes "expressly delegate[]" to an agency the authority to give meaning to a particular statutory term.... Others empower an agency to prescribe rules to "fill up the details" of a statutory scheme, ..., or to regulate subject to the limits imposed by a term or phrase that "leaves agencies with flexibility,"..., such as "appropriate" or "reasonable."

When the best reading of a statute is that it delegates discretionary authority to an agency, the role of the reviewing court under the APA is, as always, to independently interpret the statute and effectuate the will of Congress subject to constitutional limits. The court fulfills that role by recognizing constitutional delegations, "fix[ing] the boundaries of [the] delegated authority," ..., and ensuring the agency has engaged in " 'reasoned decisionmaking' " within those boundaries...⁴³

Thus, *Loper Bright* holds that the scope of judicial review when Congress has delegated discretionary authority to an agency is limited to whether the agency has acted within the bounds of the authority and engaged in reasoned decisionmaking. If the answer is yes, the court should not substitute its own judgment or interpretation. Section 1681b(g)(5) clearly provides such a delegation of authority, stating the CFPB may "prescribe regulations that permit transactions under [§ 1681b(g)(2)] that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs ..., consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes." (emphasis added).

The CFPB has clearly acted within its authority and used reasoned decisionmaking in this instance. It has removed an exception that is a creature of regulation itself, via notice & comment rulemaking, which is certainly within the bounds of its authority. And the multiple research studies supporting this section, as discussed in Section I.d of these comments on page 5-8, demonstrated that the decision was very well reasoned.

Finally, the legislative history of Section 1681b(g) supports the CFPB's actions in the proposed regulation. The provision was added by the Fair and Accurate Credit Transactions Act of 2003 (FACTA). One of Congress's primary concerns in enacting FACTA was the harm to consumers

⁴³ *Id.* at 2263 (citations omitted; emphasis added).

of medical information in their credit reports – the House of Representatives even held an entire hearing devoted to the issue. In this hearing, then-Representative Bernie Sanders noted:

[W]e need to make it clear that banks and insurance companies cannot use medical information to deny consumers credit or insurance. Banks should not be allowed to use the fact that you have cancer to increase the interest rate on your credit card.⁴⁴

When banks are allowed to consider medical debt, they are doing exactly what then Rep. Sanders sought to prohibit – using one of the consequences of cancer as a factor in granting or pricing credit.

Medical debt was specifically flagged by witnesses as an area of concern. Marc Rotenberg, Executive Director of the Electronic Privacy Information Center, brought to Congress’s attention that:

[M]edical collections commonly appear in credit reports, which exposes personal medical information to any person or business which requests a credit report.... medical organizations are beginning to use more aggressive collection techniques. Mounting evidence suggests that health care providers are more vigorously pursuing consumers because insurance companies frequently reject or dispute claims. Even if the insurer ultimately pays the claim, a collections item will remain on the consumer’s report for seven years.⁴⁵

ii. The proposed rule also falls within the CFPB's general rulemaking authority

In addition to the CFPB’s specific authority, the CFPB has broad general rulemaking authority under § 1681s(e), which states:

The Bureau shall prescribe such regulations as are necessary to carry out the purposes of this subchapter, except with respect to sections 1681m(e) and 1681w of this title [which are not relevant in this instance]. The Bureau may prescribe regulations as may be necessary or appropriate to administer and carry out the purposes and objectives of this subchapter, and to prevent evasions thereof or to facilitate compliance therewith. (emphasis added)

As noted above, the Supreme Court in *Loper Bright* specifically held that courts should give deference to an administrative agency’s interpretation where Congress delegates the explicit authority to “regulate subject to the limits imposed by a term or phrase that ‘leaves agencies with flexibility,’...., such as ‘appropriate’ or ‘reasonable.’”⁴⁶

⁴⁴ The Role of FCRA In Employee Background Checks and the Collection of Medical Information: *Hearing Before the Subcomm. on Fin. Inst. and Consumer Credit Hearing of the H. Comm. on Fin. Serv.*, 108th Cong. (2003)(statement of Rep. Bernie Sanders).

⁴⁵ *Id.* (oral testimony of Marc Rotenberg).

⁴⁶ *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244, 2263 (2024) (citations omitted; emphasis added).

This rulemaking authority was added to the FCRA by Section 1088(a) of the Dodd-Frank Act, and was a significant expansion of authority given that the Federal Trade Commission, which previously enforced the Act, never had such authority.⁴⁷ Section 1681s(e) provides supplemental authority for, and makes even clearer that the CFPB has the authority to, repeal the exception for medical debt at § 1022.30(d). It also provides strong authority for the proposed prohibition against CRAs including medical debt in reports to creditors at new proposed 12 C.F.R. § 1022.38.

In one of the first federal appellate decisions after *Loper Bright*, the Seventh Circuit interpreted a similar grant of authority to the CFPB in the Equal Credit Opportunity Act (ECOA), which like the FCRA is one of the federal consumer protection statutes that comprise the Consumer Credit Protection Act. The ECOA’s grant of rulemaking authority provides:

The Bureau shall prescribe regulations to carry out the purposes of this subchapter. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Bureau are necessary or proper to effectuate the purposes of this subchapter, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.⁴⁸

The Seventh Circuit noted that this language was modeled on the similar provision in the Truth in Lending Act.⁴⁹ The TILA regulatory authority provision was the subject of the Supreme Court’s decision in *Ford Motor Co. v. Milhollin*,⁵⁰ which held that courts should defer to the Federal Reserve’s interpretation of TILA unless “demonstrably irrational.”⁵¹ *Milhollin* predates *Chevron v. NRDC* and was reaffirmed by the Supreme Court in 2004.⁵² The Supreme Court left the decision untouched in *Loper Bright*, and stressed that even its earlier decisions that relied on *Chevron* to uphold agency regulations remained binding as *stare decisis*.⁵³

The Seventh Circuit in *CFPB v. Townstone* went on to state:

Congress vested the Board (and later the Bureau) with the authority to issue regulations “*necessary or proper to effectuate the purposes of this title*” or “*to prevent circumvention or evasion thereof.*” 15 U.S.C. § 1691b(a). In endowing the Board with authority to prevent “*circumvention or evasion,*” Congress indicated that the ECOA must be construed broadly to effectuate its purpose of ending discrimination in credit applications.⁵⁴

⁴⁷ See National Consumer Law Center, Fair Credit Reporting, § 1.3.3.1.1 (10th ed. 2022), updated at www.nclc.org/library.

⁴⁸ 15 U.S.C. § 1681b(a).

⁴⁹ Consumer Fin. Prot. Bureau v. Townstone Fin., Inc., 2024 WL 3370023, at *3 (7th Cir. July 11, 2024).

⁵⁰ 444 U.S. 555, 100 S. Ct. 790, 63 L. Ed. 2d 22 (1980).

⁵¹ *Id.* at 565.

⁵² Household Credit Servs., Inc. v. Pfennig, 541 U.S. 232, 124 S. Ct. 1741, 158 L. Ed. 2d 450 (2004).

⁵³ *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244, 2273 (2024).

⁵⁴ Consumer Fin. Prot. Bureau v. Townstone Fin., Inc., 2024 WL 3370023, at *5 (7th Cir. July 11, 2024) (emphasis added).

The Seventh Circuit also cautioned against reading provisions “in a crabbed fashion that frustrates the obvious statutorily articulated purpose of the statute.”⁵⁵

Similar to the ECOA, the CFPB’s authority under FCRA permits the CFPB to issue rules that are regulations “*necessary or proper to effectuate the purposes of this title*” or “*to prevent circumvention or evasion thereof.*” The stated purpose of the FCRA is to:

require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this subchapter.⁵⁶

Removing medical debts from appearing in credit reports furthers the Act’s purpose in several ways. First, it ensures that the information in a credit report is “relevant” and “accurate.” Given that we know medical debt has minimal predictiveness and often is the subject of billing errors or disputes, its inclusion in credit reports is neither relevant nor accurate. And if Section 1681b(g)(2) and Regulation V, § 1022.30 prohibit creditors from using medical debts in underwriting, its presence in credit reports is entirely irrelevant and prejudicial.

Second, prohibiting medical debts in credit reports furthers the Act’s purpose to ensure that the credit reporting system is treating consumers in a fair and equitable manner. The harm of medical debt on credit reports, as discussed in the reports cited in Section I.d of these comments on pages 5-8 and the narratives in Appendix A, is significant and damaging to the economic lives of consumers. Such harm far outweighs the minimal and limited predictive value, if any, of this information, and thus its presence is neither fair nor equitable, especially since medical debt disproportionately burdens Black and Latino consumers as well as disabled consumers.

II. The CFPB should extend the credit reporting ban to medical debt incurred using medical lending products and general-purpose credit cards

In the NPRM, the CFPB requests comment on whether the Bureau “should consider information about debts generally incurred to pay for medical bills and expenses to be ‘medical information’ that is ‘derived’ from a health care provider or consumer.”⁵⁷ We strongly believe the answer to this question should be a resounding ‘yes’.

Specifically, the CFPB should include in the scope of the proposed rule negative information from medical lending products. Consumers struggling to pay out-of-pocket medical expenses often end up paying bills using products such as:

⁵⁵ *Id.*

⁵⁶ 15 U.S.C. § 1681(b).

⁵⁷ 89 Fed. Reg. at 51,690.

- **Medical credit cards.** Medical credit cards, which are marketed specifically to pay for medical expenses, are typically offered directly by health care providers. CareCredit, the largest medical credit card provider, has more than 12.4 million cardholders.⁵⁸
- **Other medical payment products.** Medical financing companies have also created a variety of other types of medical payment products that they market to healthcare providers, who then offer them to their patients.⁵⁹
- **General-purpose credit cards.** Medical bills are a common source of credit card debt. In 2022, one study found that 1 in 6 adults was paying off medical debt on a credit card.⁶⁰

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 should not be on credit reports – these debts are incurred for expenses that are involuntary and unexpected, and for which the consumer has little ability 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 consumers do not even realize they are opening up a credit account. This occurs when providers’ staff fail to properly explain to patients that what they are receiving is not a payment plan with the health care provider. As NCLC’s report *Health Care Plastic* documented:

More than half of survey respondents (53%) report that the staff of medical providers described the terms of credit incorrectly.

A legal services attorney from California reported that providers were incorrectly describing the financial arrangement:

“Seniors were being told that the financing agreement was a repayment agreement with the dental office. They did not understand that it was an extension of credit.

Three other legal services attorneys from California also reported that clients did not understand that the financing was with a third-party credit card company.⁶¹

⁵⁸ CareCredit, Dedicated support you can rely on for your business, Is CareCredit widely used?, www.carecredit.com/providers/faq (viewed July 24, 2024).

⁵⁹ For examples of these products, see NCLC Comments in Response to CFPB, HHS, and Treasury Request for Information Regarding Medical Payment Products, September 11, 2023, <https://www.nclc.org/resources/comments-in-response-to-cfpb-hhs-and-treasury-request-for-information-regarding-medical-payment-products/>.

⁶⁰ Noam N. Levey, 100 Million People in America Are Saddled With Health Care Debt (KHN and NPR (June 16, 2022), kffhealthnews.org/news/article/diagnosis-debt-investigation-100-million-americans-hidden-medical-debt/. See also Lunna Lopes, et al., Health Care Debt In The U.S.: The Broad Consequences Of Medical And Dental Bills (Kaiser Family Foundation, Jun. 16, 2022), www.kff.org/report-section/kff-health-care-debt-survey-main-findings/ (17% of survey respondents said that they had credit card debt that they are paying off over time due to medical or dental bills).

⁶¹ April Kuehnhoff and Chi Chi Wu, National Consumer Law Center, Health Care Plastic: The Risks of Medical Credit Cards, at 20, April 27, 2023, https://www.nclc.org/wp-content/uploads/2023/04/Report_Health-Care-Plastic.pdf.

These patients should not suffer credit damage because they did not realize they were signing up for a lending product.

A recent study from KFF discusses how medical expenses can result in credit card or other financial debt for older adults. The KFF study found that 11 percent of older adults reported they had “[m]edical or dental bills they have put on a credit card and are paying off over time.”⁶² Another seven percent had “[d]ebt they owe to a bank, collection agency, or other lender that includes debt or loans used to pay medical or dental bills.”⁶³ KFF explained that:

The rate of health care debt among people ages 65 and older is higher than reported by some others, principally because of methodological differences in the way health care debt is defined. Surveys of health care debt in the US have commonly focused on unpaid medical bills, or bills which have been sent to collections, which may overlook the share of adults who pay off their health care bills by accumulating credit card debt, taking out loans, or borrowing from family and friends.⁶⁴

As for general purpose credit cards, the CFPB asks in the NPRM about “the feasibility of furnishing such medical debt information ... in a way that distinguishes between loan obligations and disbursements that pay for medical expenses and those that do not.”⁶⁵ We assume that refers to the ability to identify medical debt on general purpose credit cards. Such identification is operationally possible as medical debt can be identified by using Merchant Category Codes (MCCs).⁶⁶ The CFPB could extend the ban to medical debts on general purpose credit cards by requiring issuers to exclude negative information about debts from merchants who are coded under MCCs as medical providers.⁶⁷

Including medical credit cards and other lending products in the scope of the proposed ban will be important if opponents of the proposed rule are correct that health care providers will seek upfront payment even more for medical services. These upfront payments are likely to involve medical credit cards or other lending products.⁶⁸

⁶² Alex Cottrill, Tricia Neuman, Lunna Lopes, and Liz Hamel, KFF, What are the Consequences of Health Care Debt Among Older Adults?, July 26, 2024, <https://www.kff.org/medicare/issue-brief/what-are-the-consequences-of-health-care-debt-among-older-adults/>. These bills were for services for themselves or the care of a spouse, child, or parent.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ 89 Fed. Reg. at 51,690.

⁶⁶ See, e.g., Visa Merchant Data Standards Manual - Visa Supplemental Requirements, Apr. 2023, 102 (MCC 8011 - Doctors and Physicians (Not Elsewhere Classified)), <https://usa.visa.com/content/dam/VCOM/download/merchants/visa-merchant-data-standards-manual.pdf>.

⁶⁷ For example, if a \$500 medical debt is charged to a credit card and that account is subsequently charged off with a \$700 balance, the issuer would only be permitted to report a defaulted balance of \$200. The CFPB would be required to figure out rules for payment application and allocation of interest with respect to mixed medical/non-medical balances, which would require a new proposed rule. But that should be no more complicated than the general Regulation Z rules concerning payment allocation and calculation of interest on balances with different APRs.

⁶⁸ “What Can Congress Do to End Medical Debt in America?” Hearing before the Sen. Cmte on Health, Education, Labor, and Pensions, 118th Congr. (July 11, 2024) (Written Statement of Benedic N. Ippolito, Ph.D.,

III. The CFPB should extend the medical debt credit reporting ban to credit reports used for employment and tenant screening

a. Consumers should not be denied rental housing or jobs because they got sick

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 them from getting a job or putting a roof over their heads.

Yet as we know, credit history is too often used inappropriately by landlords and employers.⁶⁹ The vast majority of landlords – about 90 percent according to TransUnion⁷⁰ – and about half of employers use credit history.⁷¹ In 2023, NCLC conducted a survey of tenant advocates which found that 84 percent of these advocates had a client who was denied rental housing due to their credit history in general.⁷² And as discussed in the next section, a survey of advocates and housing counselors found that a sizable number have observed clients who had medical debt on their credit reports and were denied rental housing. As one Wisconsin consumer recently recounted in an op-ed piece:

In 2019 alone, I paid over \$11,000 out of pocket for surgery, doctor co-pays, and other medical expenses. This hefty sum was despite having health insurance. While I managed to pay off these debts, they left an indelible mark on my credit report. And due to recurring healthcare needs, I pay an estimated \$10,000 out of pocket each year.

Recently, the duplex I had called home for four years was sold, and I was forced to start looking for a new place to live. With a credit score of over 750, a well-paying job, and an impeccable rental history, I felt confident that it would be easy for me to find a new place to live.

Despite my excellent credit score, several prospective landlords raised concerns about my past medical bills. One landlord even told me directly that he was concerned about the

Senior Fellow, American Enterprise Institute)(“Eliminating unpaid medical collections from consumer credit profiles ... may trigger reactions from health care providers that affect health care access. To this point evidence suggests providers are securing larger share of payment prior to delivering services in recent years and relying on medical credit cards to secure prompt payment”).

⁶⁹ Chi Chi Wu and Ariel Nelson, National Consumer Law Center, *Mission Creep: a Primer on Use of Credit Reports & Scores for Non-Credit Purposes*, Aug 3, 2022, <https://www.nclc.org/resources/mission-creep-a-primer-on-use-of-credit-reports-scores-for-non-credit-purposes/>.

⁷⁰ TransUnion SmartMove, *TransUnion Independent Landlord Survey Insights* (Aug. 7, 2017) (85% of landlords run an eviction report on all applicants and 90% run credit and criminal background checks on all applicants), www.mysmartmove.com/SmartMove/blog/landlord-rental-market-survey-insights-infographic.page.

⁷¹ National Association of Professional Background Screeners, *How Human Resource Professionals View the Use and Effectiveness of Background Screening Methods*, 2018, at 10, <https://pubs.thepbsa.org/pub.cfm?id=9E5ED85F-C257-C289-9E8E-A7C7A8C58D00>.

⁷² Chi Chi Wu, Ariel Nelson, April Kuehnhoff, Caroline Cohn, & Steve Sharpe, National Consumer Law Center, *Digital Denials: How Abuse, Bias, and Lack of Transparency in Tenant Screening Harm Renters* 54, Sept. 2023, https://www.nclc.org/wp-content/uploads/2023/09/202309_Report_Digital-Denials.pdf.

likelihood of me getting sick again and not being able to pay rent. I was considered a liability not because of my current financial behavior, but because of my health history.⁷³

b. Use of medical debt in employment or tenant screening implicates civil rights laws

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 Section I.c of these comments on pages 4-5.

These disparities with respect to protected classes implicate the Fair Housing Act and Title VII of the Civil Rights Act. 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.”⁷⁴ The guidance cautioned 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.”⁷⁵ Part of that unjustified discriminatory effect based on race and other protected characteristics is how medical debt disproportionately harms communities of color and consumers with disabilities.

c. NCLC Survey: Whether medical debt keeps tenants out of housing

In July 2024, NCLC conducted a survey about the impact of medical debts included in credit reports on renters seeking housing. The survey was sent to members of several listservs focused on consumer, housing counseling, medical debt, and elder issues.

We received 57 responses from 25 states, but one respondent did not answer Question One and another respondent did not answer Question Two, so only 56 responses were counted for each question. The majority of responses (74%) were received from housing counselors. We also received a number of responses from legal services attorneys (18%). The remaining respondents included a Resource Navigator, an Executive Director, a Program Director, and a Regional Property Manager for a nonprofit housing provider.

The survey asked respondents the following questions:

Question One: Have you ever represented a client that you knew had medical debt on their credit report whose application for private housing was denied? (emphasis added)

⁷³ Kat Klawes, Opinion: The hidden toll of medical debt on housing and employment in Wisconsin, Up North News, August 5, 2024, <https://upnorthnewswi.com/2024/08/05/opinion-medical-debt-in-wisconsin/>

⁷⁴ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Guidance on Application of the Fair Housing Act to the Screening of Applicants for Rental Housing, at 16, Apr. 29, 2024, https://www.hud.gov/sites/dfiles/FHEO/documents/FHEO_Guidance_on_Screening_of_Applicants_for_Rental_Housing.pdf.

⁷⁵ *Id.*

Question Two: Have you ever represented a client that you knew had medical debt on their credit report whose application for subsidized housing was denied? (emphasis added)

For private housing, a significant minority (39%) of respondents replied Yes to Question One. With respect to Question Two regarding subsidized housing, about one-quarter (23%) of respondents replied Yes.

Table 1: Survey Respondent that Have Represented a Client with Medical Debt on Credit Report Whose Application for Private Housing Was Denied (n=56)

	Percent
Yes	39
No	50
Other	10

Table 2: Survey Respondent that Have Represented a Client with Medical Debt on Credit Report Whose Application for Subsidized Housing Was Denied (n=56)

	Percent
Yes	23
No	64
Other	13

Many of the “Other” responses involved respondents who did not know or were unsure whether their clients had medical debts on their credit reports, likely because the respondents were not looking for it or were only aware that clients were rejected due to their credit reports or scores.

The survey also gave respondents the opportunity to give narrative responses. For private housing, some of the narratives included:

“This is INCREDIBLY common”
 - Housing counselor from North Carolina

“I am a current housing advocate. However, before I became an advocate, I was a property manager for private, multi-family housing. I accepted potential residents' applications and I saw where the only negative issues they had on their credit report was medical debt that had gone in to collections. These applicants had stellar rental histories,

stable income, and were ideal candidates for housing. However, because of the number and amount of medical debt in collections, the third party credit reporting system marked them as 'fail.'”

- Housing counselor from Georgia

“A private landlord told my past client that because their medical/collection debt on their credit report exceeded \$2,000, that they would have to pay it down to \$2,000 or less before they could approve them for his rental property.”

- Housing counselor from Maryland

“Again, there are so many clients I've served who have been denied private housing due to medical debt on a credit report that it became routine and still very frustrating.”

- Housing counselor from North Carolina

For subsidized housing, narratives included:

“It was a large part of her debt. Due to this her score was too low to pass the screening criteria for tenancy.”

- Housing counselor from California

“Our resident management system includes bad debt from medical bills when running a credit check.

- Regional property manager for nonprofit housing provider in Nevada

“I have had dozens of senior homeowners who were seeking subsidized housing because they were losing their home to foreclosure but couldn't qualify because of medical debt.”

- Housing counselor from North Carolina

In conclusion, it appears that a sizable minority of survey respondents have observed medical debt presenting a barrier to tenants in the private rental housing market. Medical debt also appears to be an issue to securing subsidized housing. While only a minority of survey respondents observed the issue, it was widespread enough to be reported by 25 advocates and counselors in 18 states.⁷⁶ This provides an indication that medical debt presenting a barrier to rental housing occurs on a meaningful and troubling basis.

d. The CFPB has the legal authority to extend the medical debt credit reporting ban to credit reports used for employment and tenant screening

Including rental housing in the ban on reporting medical debt would be within the CFPB's legal authority for reasons similar to the ban for use by creditors generally. HUD has already stated that the use of credit reports generally in tenant screening may violate the Fair Housing Act

⁷⁶ Ten respondents reported that they had represented clients with medical debt on their credit reports whose application for housing was denied for both private and subsidized housing. Thirteen respondents said they had represented clients with this issue for private housing only. Two respondents said they had represented clients with this issue for subsidized housing only.

(FHA) given the disparities by (inter alia) race and disability status,⁷⁷ and medical debt itself adds another layer of disparities. If the use of medical debts in tenant screening violates the FHA, it should not appear in credit reports used for that purpose.

The CFPB could prohibit the inclusion of medical debts on credit reports used for tenant screening or employment using its authority under § 1681s(e) of the FCRA. With respect to tenant screening, the CFPB could define “credit” under the FCRA to include rental housing for purposes of the medical information provisions of new 12 C.F.R. § 1022.38 by renumbering subsection (a) as paragraph (a)(1) and adding the following definitions in new paragraph (a)(2):

- (2) Definitions. (i) Credit has the same meaning as in section 702 of the Equal Credit Opportunity Act, 15 U.S.C. 1691a. For purposes of this section, credit also includes leases for residential real property.
- (ii) Creditor has the same meaning as in section 702 of the Equal Credit Opportunity Act, 15 U.S.C. 1691a. For purposes of this section, creditor also includes a lessee of residential real property.

Another option for tenant screening is for the CFPB to define rental housing leases as “credit” under Regulation B, which implements the ECOA, for this limited purpose. We are submitting a petition along with these comments urging the CFPB to open a rulemaking under the ECOA to protect consumers as tenants. The petition urges CFPB to cover residential leases as “credit” for this purpose and for purposes of the ECOA adverse action notice requirement.

For employment uses, the CFPB could use its authority under the FCRA to “prescribe regulations as may be necessary or appropriate to administer and carry out the purposes and objectives of this subchapter” under § 1681s(e). Such a regulation would carry out the objectives of the FCRA of “treating consumers in a fair and equitable manner” in the employment context. As the CFPB knows, a number of FCRA provisions provide specific protections for consumers with respect to employment use of consumer reports.⁷⁸ A prohibition on including medical debt in employment screening reports would carry out the purpose of those provisions to protect consumers as workers.

Alternatively, the CFPB could require a separate consent for inclusion of medical information in consumer reports used for employment purposes, using its authority under § 1681s(e) to interpret § 1681b(b) of the FCRA. The CFPB should also urge the Equal Employment Opportunity Commission to state that use of medical debt in employment decisions violates Title VII of the Civil Rights Act of 1964.

⁷⁷ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Guidance on Application of the Fair Housing Act to the Screening of Applicants for Rental Housing, at 16, Apr. 29, 2024, https://www.hud.gov/sites/dfiles/FHEO/documents/FHEO_Guidance_on_Screening_of_Applicants_for_Rental_Housing.pdf.

⁷⁸ See, e.g., § 1681b(b)(special disclosures and consent required for employment uses of consumer reports), § 1681k (strict procedures required for consumer reports containing public records used for employment purposes).

IV. The CFPB should address common abuses with medical lending products in addition to credit reporting

The problems with specialized medical lending products go way beyond negative credit 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 medical credit card or lending product;
- charging procedures to a credit card that were covered by insurance, or for which another procedure addressing the same issue would have been paid for by insurance (e.g., dentures) but the consumer was upsold to more expensive service (e.g. implants);
- being sued or sustaining credit reporting damage, and
- having services pre-charged to the card that were ultimately never provided.⁷⁹

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.”⁸⁰

We appreciate that the CFPB has opened an inquiry into medical payment products.⁸¹ 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 the same or similar procedure;
- prohibiting issuance of medical credit cards or loans to consumers who qualify for financial assistance; and
- prohibiting services from being charged to a credit card before they are rendered.

Additional discussion of the problems with medical payment products and our full set of recommendations can be found in NCLC’s *Health Care Plastic* report and NCLC’s comments⁸²

⁷⁹ April Kuehnhoff, et al., National Consumer Law Center, *Health Care Plastic: The Risks of Medical Credit Cards*, at 20, April 27, 2023, https://www.nclc.org/wp-content/uploads/2023/04/Report_Health-Care-Plastic.pdf.

⁸⁰ CFPB, Supervisory Highlights: Servicing and Collection of Consumer Debt, Issue 34, Summer 2024, at 12, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-34_2024-07.pdf.

⁸¹ Lorelei Salas, CFPB, Ensuring consumers aren’t pushed into medical payment products, June 18, 2024, <https://www.consumerfinance.gov/about-us/blog/ensuring-consumers-arent-pushed-into-medical-payment-products/>.

⁸² NCLC, Comments in Response to CFPB, HHS, and Treasury Request for Information Regarding Medical Payment Products, Sept. 11, 2023, <https://www.nclc.org/resources/comments-in-response-to-cfpb-hhs-and-treasury-request-for-information-regarding-medical-payment-products/>

submitted in response to the Request for Information on medical payment products issued by CFPB, Dept. Health and Human Services, and the Dept. of Treasury.⁸³

V. Analysis of specific provisions

a. The CFPB should develop Official Interpretations to clarify that the definition of “medical debt information” includes debt held by debt buyers

The CFPB has proposed adding new subsection (j) to the definitions in § 1022.3 of Regulation V. Proposed subsection (j) would define “medical debt information” as:

medical information that pertains to a debt owed by a consumer to a person whose primary business is providing medical services, products, or devices, or to such person’s agent or assignee, for the provision of such medical services, products, or devices. Medical debt information includes but is not limited to medical bills that are not past due or that have been paid.

In turn, “medical information” is defined at § 1022.3(k) as, in part:

- (1) Information or data, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to:
 - (i) The past, present, or future physical, mental, or behavioral health or condition of an individual;
 - (ii) The provision of health care to an individual; or
 - (iii) The payment for the provision of health care to an individual.

This definition of “medical information” in § 1022.3(k) is unchanged from the existing Regulation V definition.

One important question is whether the new definition of “medical debt information” applies to medical debt placed with third-party debt collectors or sold to by debt buyers. As the CFPB knows, over 99% of medical debts on credit reports are reported by debt collectors and buyers.⁸⁴ The CFPB has stated in the Supplementary Information that the proposed rule does apply to these debts, explaining:

The CFPB’s interpretation also includes medical debt that has been sold or resold to a debt buyer, who has become the health provider’s assignee for the debt, because the payment obligation that was sold was created by a health care provider and at one time was owed to the health care provider. It would also include medical debt that has been

⁸³ 88 Fed. Reg. 44,281 (July 12, 2023), <https://www.regulations.gov/document/CFPB-2023-0038-0001>.

⁸⁴ CFPB, Data point: Medical debt and credit scores, at 4, May 20, 2014, https://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf.

assigned to a third-party debt collector, who is acting as an agent on behalf of the health care provider or debt buyer, to whom the debt is owed.⁸⁵

However, these statements are not in the text of the proposed rule and thus do not have the same weight or visibility. We urge that the CFPB include the above interpretation in the proposed rule or Official Interpretations to the rule.

b. We support including all consumer reporting agencies and debts reduced to judgment in the ban on reporting of medical debt

The proposed rule has two important provisions that are necessary to ensure that it addresses medical debts in the form of public records, *i.e.*, civil judgments. First, the restrictions in proposed § 1022.38 against reporting of medical debt information apply to *all* consumer reporting agencies under § 1681a(f), not just the NCRAs under § 1681a(p) (*i.e.*, Equifax, Experian and Trans Union). Second, the definition of medical debt information in new proposed § 1022.3(j) is intended to include civil judgments for such debts.

Both of these provisions are important because one source of medical debt information, especially after the voluntary changes by the NCRAs, is LexisNexis. LexisNexis RiskView sells a “Liens & Judgments” report to lenders that consists of public records information, including court judgments.⁸⁶ It specifically markets the reports to mortgage lenders, stating that the report “provides lenders with detailed, reliable data for making credit decisions.”⁸⁷ These reports likely include public record court judgments related to medical debt. Thus, we support the scope of proposed Reg. V § 1022.38 applying to all CRAs under § 1681a(f), including specialty CRAs such as LexisNexis.

With respect to civil judgments, the CFPB states that proposed § 1022.3(j):

would include medical information in the form of a civil judgment arising from a debt collection action as to a medical debt directly owed to a health care provider or debt buyer, whether provided on a consumer report, by the consumer on a credit application, or if the creditor learns of the civil judgment through other means;...

We support this interpretation but urge the CFPB to do more than make this statement in the Supplementary Information in the NPRM. The CFPB should make this statement part of the final rule itself or in an Official Interpretation where it will have more weight and visibility.

⁸⁵ 89 Fed. Reg. at 51,690.

⁸⁶ LexisNexis Risk Solutions, RiskView™ Liens & Judgments Report, <https://risk.lexisnexis.com/products/riskview-liens-and-judgments-report> (viewed July 24, 2024).

⁸⁷ LexisNexis® RiskView™ Liens & Judgments Report Delivers New Confidence for Home Mortgage Lenders and Limits Risk, May 23, 2017, <https://www.prnewswire.com/news-releases/lexisnexis-riskview-liens--judgments-report-delivers-new-confidence-for-home-mortgage-lenders-and-limits-risk-300462383.html>.

c. The CFPB should be explicit in order to ban repossession of medical devices

In its press release, the CFPB states that the proposed rule would "[b]an repossession of medical devices: The proposed rule would prohibit lenders from taking medical devices as collateral for a loan, and bans lenders from repossessing medical devices, like wheelchairs or prosthetic limbs, if people are unable to repay the loan."⁸⁸ We certainly and eagerly support such a ban. However, what is being proposed is somewhat more limited than the statements in the press release.

In the NPRM, the CFPB states:

The CFPB understands that medical information related to a consumer's assets and collateral generally refers to medical equipment serving as an asset or as collateral for a loan, which a creditor may potentially seize or anticipate could be liquidated to pay off a loan. However, such medical equipment is often necessary and potentially lifesaving. Given the importance of medical assets and collateral to a consumer's well-being, the CFPB has preliminarily determined that it is not "necessary and appropriate . . . to protect legitimate operational, transactional, risk, consumer, and other needs" as required under FCRA section 604(g)(5) to continue to have the financial information exception to the creditor prohibition apply to information about medical assets and collateral.⁸⁹

Thus, the ban on seizure of medical devices would be effectuated by preventing the creditor from considering medical information with respect to a consumer's assets and collateral. However, this measure will not fully protect consumers from having their medical devices serve as collateral for a loan or repossessed by lenders.

For one thing, the existing rule at § 1022.30(e)(1)(v), which would not be amended by the proposed rule, permits consideration of medical information "[i]n the case of credit for the purpose of financing medical products or services, to determine and verify the medical purpose of a loan and the use of proceeds." A similar provision at § 1022.30(e)(1)(x)(a) would permit creditors to consider medical information if it is related to "the purpose of the loan, including the use of proceeds." In fact, a loan to finance a medical device also might fit into the exception for a special purpose credit program for consumers with medical conditions at § 1022.30(e)(1)(iii).

Thus, a creditor could use these exceptions to obtain medical information in order to offer loans specifically for the purposes of financing a medical device. Since there is no explicit prohibition on requiring the medical device to serve as collateral or repossessing it in case of a default, it appears that the creditor would not violate Regulation V if it took these actions.

In addition, creditors will still be able to seize medical devices in the following circumstances.

1. Creditors could seize medical devices that are affixed to other collateral, such as a home or automobile. Examples include mechanical stairlifts in homes and wheelchair

⁸⁸ Press Release, CFPB Proposes to Ban Medical Bills from Credit Reports, June 11, 2024, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-to-ban-medical-bills-from-credit-reports/>.

⁸⁹ 89 Fed. Reg. at 51,693-94.

lifts or hand accelerators and brakes in automobiles. When the home is foreclosed upon or the automobile repossessed, the creditor might repossess these medical devices.

2. Creditors could seize medical devices by obtaining court judgments and using them to levy on a consumer's assets including medical devices.

Furthermore, it is not entirely clear that information that a consumer owns a medical device necessarily constitutes "medical information" about the consumer, as it could involve information about the health of a family member or other third party. For example, if a creditor found out that a consumer's assets include a wheelchair, that might not necessarily mean that the consumer has a disability involving mobility. The wheelchair could belong to the consumer but be used by their minor child, which is not medical information about the consumer.

If the CFPB wants to prevent repossession of medical devices, it needs to say that. The CFPB should go further and explicitly state that the repeal of the exception for medical information related to assets and collateral means that medical devices cannot be repossessed or seized. The CFPB could adopt such a prohibition under § 1681b(g)(2) of the FCRA, or as a provision in the bank version of the Credit Practices rule for which the Bureau recently announced it would consider reinstating after the rule was repealed due to transfer of authority in the Dodd-Frank Act.⁹⁰

d. The restrictions on reporting of medical debt should require CRAs to follow strict procedures

The CFPB's proposed § 1022.38(b) would restrict consumer reporting agencies from reporting medical debt only if the CRA:

- (1) Has reason to believe the creditor intends to use the medical debt information in a manner not prohibited by § 1022.30 and is not otherwise prohibited by a state law.
- (2) Is not otherwise prohibited from furnishing to the creditor a consumer report containing the medical debt information, including by a State law that prohibits furnishing to the creditor a consumer report containing medical debt information.

We urge the CFPB to instead revise the language in proposed 1022.38(b)(1) to require that a CRA may only report medical debt if it:

- (1) Is following strict procedures to ensure that the creditor will be using the medical debt information in a manner not prohibited by § 1022.30.

"Reason to believe" is too loose of a standard to adequately protect the rights of consumers. The same language in § 1681b(a) of the FCRA has been interpreted by courts to absolve CRAs of liability if the user merely avers a permissible use.⁹¹ It has even been used to absolve users from

⁹⁰ CFPB, Agency Rule List (Semi-Regulatory Agenda), Spring 2024, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202404&RIN=3170-AB23>.

⁹¹ National Consumer Law Center, Fair Credit Reporting § 7.1.2.2 (10th ed. 2022), updated at www.nclc.org/library.

liability for impermissibly obtaining a consumer report, even though the plain language of the Act does not apply it to users.⁹²

Instead, we urge the CFPB to require that CRAs have “strict procedures” to prevent including medical debt in a report unless the user is permitted to use medical information under § 1022.30 of Regulation V. Such a standard is the same as in § 1681k of the FCRA, which requires CRAs to “maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer’s ability to obtain employment is reported it is complete and up to date.” Congress required CRAs to have strict procedures given the importance and high stakes when a consumer seeking employment is subject to a criminal background check. A similarly high standard should apply to CRAs with respect to medical debt information.

We support paragraph (b)(2) of proposed § 1022.38, which prohibits CRAs from including medical debt in a consumer report when a state law prohibits them from doing so. Regulation V should not be interpreted to allow CRAs to violate state laws governing medical information, and the will of duly-elected state legislative bodies.

* * * *

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 [ccwu@nclc.org](mailto:cwu@nclc.org).

Respectfully submitted,

National Consumer Law Center (on behalf of its low-income clients)

⁹² *Id.*

Appendix A - Medical Debt Narratives

In this Appendix, we provide examples of how medical debt on credit reports has harmed consumers. The first section contains excerpts from selected comments by individual consumers submitted through August 1, 2024 in response to the CFPB's Notice of Proposed Rulemaking. The second section contains excerpts from a sample of medical debt credit reporting complaints filed with the CFPB's Complaint Database within the last nine months. These stories demonstrate the urgent need for the CFPB's proposed rule to be finalized and effective to protect consumers from the unfair harm of medical debt on credit reports.

1. Excerpts from Comments Submitted in Response to the [CFPB NPRM as of August 1, 2024](#)

"I was a small town banker specializing in consumer lending for 40+ years. I always discounted any negative credit caused by medical bills.

About 15 years ago, I took my son to emergency room. It was taking too long so we went to another one. The hospital took my health insurance information and I never heard another word concerning any unpaid balance.

Then, lo & behold, I ran a credit check on myself and saw that my credit score dropped from 820 to 720. I was completely flabbergasted to find a "\$10 paid collection account" for a medical bill that I knew nothing about, and, was never notified by anyone I owed anything.

I could go on and on with examples from former customers of mine as to how credit reports are abused by collection agencies. Many times had people pay medical bills that they were most likely not legally obligated to pay."

- CFPB-2024-0023-0021

"My daughter got addicted to Xanax in High School and was threatening suicide. I had no other option but to put her in inpatient hospital. It was the worst thing I have ever done. After inpatient we had to do intensive outpatient therapy. She got better but relapsed. We had to go back to inpatient and then a second round of outpatient. My husband also was in inpatient rehabilitation for alcohol at the same time. I was the only provider in the house. I had a choice pay my housing bills or the hospital. This again was not a situation I chose to be in. I am happy that my decisions were good and now I have a sober husband and my daughter graduated, has a great career, and a beautiful family. But my credit suffers from these decisions. I pay my housing and credit cards on time, but my credit hasn't change."

- CFPB-2024-0023-0024

"I'm \$7000 in debt from being chronically ill. All of these bills are inaccurate with what's gotten charged/billed. I don't have time to sit on the phone with billing to get an itemized bill so it just starts snowballing into more debt the longer I go without paying it. I work more than 40 hours a week just to make ends meet, I don't have time to sit on the phone for hours with insurance, doctors, or the er and get it "worked out". I barely have time just to go to my regular doctors appointments." - CFPB-2024-0023-0028

"I have 100% on time payments, my credit card balances are less than 20% but my credit score is below a 600 because of medical debt- some of it is mine and some is from my minor children. I didn't willingly take on this debt. I had a medical emergency, and my insurance didn't cover all of it. The same with my minor children. Please do the right thing- medical debt shouldn't go on someone's credit."

- CFPB-2024-0023-0032

"I have recently been diagnosed with blood cancer, it is definitely not something that I ever expected to happen to me. I have been responsible with my health and finances my whole life and now I'm worried about what will happen to me financially as I go through this journey. I have even considered if I should just give up and let the cancer do what it will and not seek treatment because it is too expensive to fight it. This is something no cancer patient should have to think about. Please don't allow creditors to further victimize people by damaging people's hard earned credit by reporting medical debt."

- CFPB-2024-0023-0042

"I was a young, single girl in my teens and 20s when I started having kidney stones that would send me to the ER. Sometimes I had insurance, other times I did not. Every time I went in, I'd leave with huge bills. Working minimum wage jobs, that were barely paying my normal bills, I couldn't afford any new bills (especially bills that were thousands of dollars). These negative marks STILL affect my credit score. They should have nothing to do with whether I can get a vehicle or home. I vote that medical bills be taken off people's credit scores."

- CFPB-2024-0023-0035

"I had back surgery. I had THREE days in the hospitals then to a skilled nursing facility. Stilling having pain and throwing up. I had to be out in three days was what I was told. I asked how do I get to the skilled nursing facility? I was told you will go by ambulance. Your case worker will set everything up. The third day and before that date no case worker ever talked to me. The day I was discharged everyone was in my room. NO ONE EVER SAID this trip to the skilled nursing facility was considered NON EMERGENCY. I received [sic] a few bills. First one I called said you need to send to my insurance company. Received a second bill showing what the insurance company paid and the rest was to be written off to the "NO SURPRISE ACT". The women from the insurance company made the call with me on the phone. She explained what was being paid by the insurance company and the rest was written off to "no surprise act. He didn't care. It was a non emergency. I have to pay the bill.

I have already meet my out of pocket deductible for the year. NOW I am receiving calls from an COLLECTION AGENCY. This is crazy.

I am retired. My income is limited. I'm want to enjoy my retirement. I can't with a bill collection agency call me. I have work for 33 years. I have excellent credit. Except for a collection agency who say I did pay them. I have receipts"

- CFPB-2024-0023-0043

"I went into the ER with severe chest pains. It was discovered that I was in A-fib. They admitted me for further heart testing. I was in the hospital for a total of three days. No ICU, No surgery. I received a very vague bill for \$60,000, after my insurance & adjustments (the original balance was \$130,000). Requesting the balance be paid in full. I did NOT go to a car dealership and apply for a loan to buy a new car I knew I could not afford! I did NOT apply for a loan to buy a home, that I knew I could not afford! I am a responsible person who had a health emergency! I pay for Private Health Insurance. I've been paying monthly on the hospital bill as much as I can. And they are still sending me to collections because I can't just suddenly pull \$60,000 out of my As#. Who the heck can do that! And why is it remotely acceptable for them to be able to do this to me? Everything I have worked SO very hard for all my life to build up my credit will be completely destroyed by this! It's SO incredibly wrong! Clearly there are no regulations being enforced on Medical Billing requirements regarding validity, accuracy or accountability on behalf of the provider. Nor any protections against false information, bogus and padded medical/hospital billing. My private Healthcare agent is telling me my bill is "grossly padded". One of the worst he's ever seen."

- CFPB-2024-0023-0047

"I have an excessive emergency bill when I didn't have health insurance. It is still on my credit bureau report. My credit score dropped from 810 to 691 because of emergency room and emergency room doctor defaulted. I do have job employer doesn't offer health insurance. Now I have low blood sugar I skipped lunch got busy at work. I passed out in front of my house. That should not effect my credit score for over 7 years. Yes I should not skip meals but I do know how to manage money. I was worried about my job we were understaffed I stayed worked extra."

- CFPB-2024-0023-0067

"Medical debt for my comorbidities continues to plague me years after racking up the bills. I'm so worried about any one of these derogatory medical payments showing up on my credit report that I continue to make payments that I can't manage. Working out deals with collection agencies and so forth. We need this proposal to cross the finish line. Please support th CFPB's proposal. Thank you."

- CFPB-2024-0023-0071

"I started out as a cancer advocate – advocating for more and better treatments for cancer. I still do that, but I switched focuses because I very quickly heard from many going through treatment who said all the cures in the world would not help them if they could not afford the care.

I am talking about people who have (or had) insurance. People who were responsible and played by the rules. But then they had the bad fortune to get sick. Some had plans with huge out of pocket cost and premiums. Did you know that the ACA family plans where I live have an out-of-pocket maximum of about \$20 thousand a year? Who can pay that? Especially year after year if they have a long-term illness. Often, when people get sick, they lose their jobs. COBRA coverage may be \$24 thousand a year or more for a family. Again, who can afford that? I think that I have heard or personally observed every nightmare version of health insurance coverage

loss – or simply refusal to provide coverage. Including some couples who divorce strictly for financial reasons – so that the sick spouse doesn't take the whole family down – financially - with them.

I still find it amazing that we are the only developed nation in the world that seems to feel like it is perfectly fine for people to go bankrupt because they get sick or injured. If they can manage to stay afloat, let's not add insult to injury by making these folks look like they are deadbeats who don't pay their bills. That's just not right."

- CFPB-2024-0023-0072

"I can speak first-hand about the impact of medical bill from my own experiences. In May of 2023 I was at a conference in New Orleans where I was shot three times while walking to dinner on Canal Street. I had fantastic PPO insurance which paid nearly all of the medical bills. I also paid every penny of my \$5,500 deductible. However, due to a failure by the ambulance provider to submit proper documentation, my carrier (Blue Cross of Arizona) refused to pay the bill. The City of New Orleans has sent me at least half a dozen letters demanding payment which I have refused to pay because their error is the reason they weren't paid in full by the insurance company. Literally a few days ago I received a bill from Louisiana Medical Center ("LCMC") for \$910 (more than a year after the services were provided). There was no explanation as to the reason for the billing, which included a summary of the nearly \$60,000 my insurance paid to LCMC. I have submitted that bill to my carrier for payment but I have no intention on paying for medical care that should have been submitted to my insurance for payment and would have been paid if LCMC would have submitted the request properly. The games that occur between insurance companies and medical providers should not cause credit harm to consumers. We should not have to indemnify medical providers for their own failure to understand medical billing codes or for the insurance companies' attempts to avoid payment of proper claims. Credit reporting medical debts fails to achieve the objective of providing accurate information about a consumer's credit worthiness."

- CFPB-2024-0023-0074

"I have had to go to the ER and had to think twice if it was worth it due to the cost after my insurance paid. I have perfect credit score and am terrified that I won't be able to pay the medical bill and it will be reported to my credit score. Many live with this thought. Medical debt is not a good way to determine one's ability to repay a loan. Please remove medical debt from report."

- CFPB-2024-0023-0076

"I am an attorney and remember working with one client in particular, a woman whose medical debt hung over her head for decades. One of her goals was to improve her credit score, so she could build a stronger financial future. But her medical debt lingered on her credit report. This fact weakened my client's negotiating position with her creditor, and the creditor knew it. Had this rule been in place then, my client would have had a stronger position to negotiate a fair deal, based on what she could actually pay on her limited income, and not based on the creditor's role as a credit score gatekeeper."

- CFPB-2024-0023-0078

“When my wife passed away from Inflammatory Breast Cancer (a fast-moving disease that usually appears as stage 4), the medical bills for treatment before her death were over \$250,000. Fortunately, we had health insurance that cut the cost to about \$23,000. Unfortunately, there were follow-on bills that had been passed to a collection agency demanding payment. To keep these debts from appearing on our financially linked accounts I had to dispute these claims, which took effort but was successful. No one should have to deal with medical claims being placed on credit reports - it is hard enough dealing with personal loss.”

- CFPB-2024-0023-0080

“I was misinformed about the fees for a colonoscopy and charged for anesthesia, pathology and other hidden charges. Preventative vs diagnostic are two totally different things and doctors make mistakes on classifications causing bills to get sent to collections and ruining credit before a person can get the bills sorted out. Wading thru the non transparent bureaucracy before your credit is ruined is impossible.”

- CFPB-2024-0023-0087

“More personally, I have seen how medical debt can haunt families already struggling. Within my own family, unavoidable and life-saving medical treatment resulted in insurmountable medical debt. This debt caused incredible hardship on my family. Beyond weekly harassing phone calls from debt collectors and garnishments from already very low wages, the reporting of medical debt prevented my family from upward mobility. We were unable to access loans, move to better housing or get a better paying and more meaningful job that actually aligned with my mother's college degree all because the medical debt was included within credit reporting. I urge you to not include medical debt within credit reporting.”

- CFPB-2024-0023-0098

“I am commenting as a patient and someone who has been working in healthcare for the last 15 years. I support the Fair Credit Reporting Act to The CFPB is proposing to remove the regulatory exception in Regulation V from the limitation in the FCRA on creditors obtaining or using information on medical debts for credit eligibility determinations. I support this because one in 10 patients experience medical harm and that harm often that additional financial burden falls onto the patients and their families. No person seeking care who is harmed should have to worry about new medical debt affecting their credit. Medical debt should not be accessible to any creditor. People do not run up their medical debt like they do a retailer's credit card because they want to buy new shoes, or a new boat. Medical debt is serious and oftentimes out of the control of the patient. I've heard numerous stories about families who experienced infections, medication errors, delayed diagnoses - preventable harms - that had difficulty in paying their rent, or opening up a new credit card due to these debts. This should be in our far distant pasts.”

- CFPB-2024-0023-0108

“I am the manager of a small apartment building. We base our entire decision on whether to rent to an applicant on their credit score. We don't even bother contacting their current employer, or look at their bank statements. It's all the credit score. And yet when you put medical debt as a factor in the credit score it becomes a horrible self-fulfilling prophecy. The person's credit score will get lower and they will have a hard time renting an apartment which is going to affect their ability to hold down a job, and basically their life is ruined. They will have no other option that bankruptcy, which is not easily accessible to most people. It's complicated and requires legal assistance. So that's why I agree with the new policy to exclude medical debt from credit reporting. There shouldn't be medical debt in the first place, because everyone should be covered by insurance or everyone should be included in Medicare. In other words, we should have Universal Health coverage. So until that happens, the very least we can do for people is to keep medical debt off of their credit reports.”

- CFPB-2024-0023-0356

2. Recent Narratives from [CFPB Complaint Database](#)

“I went to the XXXX XXXX XXXX 's ER, where I received very bad medical attention and was sent home in the same condition that I arrived. Afterward, they sent me a bill for {\$850.00} that I paid through their OWN system on XX/XX/year>. Please see Attachment XXXX, with the receipt from XXXX XXXX XXXX which is the hospital 's system to make electronic payments. Also, please check Attachment XXXX, where my insurance immediately paid their part of the bill. However, it seems that XXXX XXXX XXXX regularly sells or shares information about people who have pending bills with different collection agencies. It doesn't matter if the debt is due by a week, a month, or a year. They sent the personal information to the collectors. Those collection agencies then (at least three in my case) started to harass the patients by sending letters to their houses threatening to create a negative credit report. Even after you have paid the debt, the collecting agencies continue sending correspondence without verifying the payment status with the hospital.”

- CFPB Complaint: [9494920](#) (filed July 14, 2024)

“I recently discovered that Aargon Agency has added a medical account to my credit report. Despite speaking with a representative from Aargon Agency XXXX times in XXXX and requesting validation information by mail, I have yet to receive any notices from them. Additionally, I have disputed this debt with XXXX XXXX. When I spoke to Aargon 's representative, they requested payment but did not provide validation of the debt. I have the right to dispute the debt ; if it is valid, I am willing to handle it with the original creditor. I had insurance during the procedure, so I wonder why I received a bill and disputed it with the hospital. Despite this, no one could explain the {\$550.00} charge.”

- CFPB Complaint: [9427789](#) (July 5, 2024)

“This collection suddenly appeared on my credit report at the beginning of this year with an open date of XX/XX/XXXX, with XXXX XXXXXXXX XXXX as the original creditor. Again, I don't live in XXXX, and I have not lived there for more than XXXX years. Unsure how an account will be

open this year for medical debt in XXXX when I live in XXXX Because of my previous complaint, I received a document from CASCADE CAPITAL FUNDING stating I owe {\$1400.00} for services given on XX/XX/XXXX. What was that for? Prior to this collection appearing on my reports, I had never been contacted by anybody about such an account existing. Where is the original bill from the original creditor? So many questions regarding an account that magically pops up in XXXX for services that you are saying were given in XX/XX/XXXX.”

- CFPB Complaint: [9418926](#) (filed July 3, 2024)

“In XXXX I had a XXXXXXXX XXXX XXXXXXXX XXXX from an on the job injury where I hurt my knee. Based on my knowledge all the hospital and medical bills had been paid and I had moved on from it. 4 years later (XX/XX/XXXX) I found out about several bills that were turned into a collection agency for non payment because they were reported to my credit and dropped my scores by over 100 points! I immediately contacted the collection agency to find out what the bill was for and was told it was anesthesiology. So I asked the representative, XXXX, to send me a copy of the bill so I could send it to my XXXX 's comp case manager to get it paid. XXXX said she would send it, but I never received the bill. I called the collection agency again and spoke with another representative named XXXX and he said that he was going to call the claims rep directly and get the bill sent to him so that it could get paid. Again, my XXXXXXXX XXXX XXXXXXXX rep told me that he hadn't received anything. Not knowing what else to do, I decided to get the credit bureaus involved to see if they could get the collection agency to provide me with a copy of the bill. I sent a written request to XXXX, XXXX and XXXX on XX/XX/XXXX, XX/XX/XXXX and XX/XX/XXXX and I have not received any responses from the credit agencies or from Allied Collection Agency. Someone told me about the CFPB and how the CFPB is supposed to help consumers so I decided to give this a shot.”

- CFPB Complaint: [9230014](#) (filed June 11, 2024)

“This is in regards a debt of {\$690.00} place on collections. I have contacted FIRST FEDERAL CREDIT, XXXX XXXX XXXX XXXX XXXX XXXX, OH XXXX, disputing this debt place on my credit report. I was not aware of this debt until I apply for a student loan and was denied, I have always has great credit standing. I checked my credit report and noticed that this debt has been place on my credit report as delinquent. I have contacted Federal credit about this debt, they send me an original bill of {\$690.00} for XXXX XXXX out of XXXX, Ohio for XXXX XXXX for a XXXX XXXX I contacted XXXX about this and was told that XXXX did not cover the expense for the XXXX for the routine procedure. I have also contacted XXXX about this issue and have been disputed, I still have not received any information. My questions to Federal Credit and XXXX continues to be the same, What control does a patient have when a doctor decides not to use the proper procedure for invoicing? The amount of {\$690.00} is not a co-pay. Would this have been a out of pocket co-pay it would've been taken care of. As it is right now, my credit score continues to suffer due to a delinquent account I have nothing to do with when in reality the doctors office should have utilized XXXX, my insurance policy to cover all expenses related to the procedure.”

- CFPB Complaint: [9056089](#) (filed May 20, 2024)

"I have been pursued for a debt of {\$2400.00}, which is claimed to be owed to XXXX XXXX XXXX XXXX XXXX Upon requesting my records from XXXX XXXX XXXX XXXX, I received documentation detailing past and current balances, indicating payments made by either my insurance or myself. I provided these documents to the party in question, but they refused to accept them as evidence. ... They have also insisted that I provide proof of payment and supplied an invoice number to contact XXXX XXXX XXXX. However, XXXX XXXX XXXX has denied any record of such an invoice and directed me back to ARC Management Group , LLC to furnish my statements demonstrating a clean account without any outstanding debt. This situation has had a detrimental impact on my credit score and has hindered my ability to progress with a home purchase. Despite this, they have persisted in refusing to remove the debt from XXXX, the sole credit bureau where this collection is reported. It is disheartening that individuals or entities can inflict such harm on someone's credit without adequately verifying the information they possess. They have neglected to contact XXXX XXXX XXXX XXXX, which would have revealed that I do not owe any outstanding amount there."

- CFPB Complaint: [9009522](#) (May 15, 2024)

"I am a XXXX XXXX service connected VA veteran and i am having a issue with XXXX and XXXX reporting a collection on my account from original creditor XXXX XXXX XXXX sold to Lockhart, Morris, & Mont XXXX XXXXXXXXX for a ambulance service taken me to the VA XXXX for XXXX XXXX and XXXX risks when i was homeless. All my medical bills are paid thru the Dept. of Veteran Affairs from being XXXX XXXX service connected. I am better now and care about my life and credit, and this is hurting me from getting a VA Loan for my house. Attached is my VA benefit letter, credit report, id and proof of residency. thank you"

- CFPB Complaint: [8981317](#) (filed May 10, 2024)

"In XXXX a XXXX XXXX bill was sent to collections of {\$500.00} dollars was paid in XXXX with receipt saved. The debt was sold anyway on XXXX I fought back and disputed the collection with the credit bureaus and was awarded it be taken down months later the debt was sold twice now on my credit report twice under 2 different collection agencies. I reached out to both collection agencies for the original debt document and called after 30 day to check on the documents was told the file was pulled and resold. This harassment and harm to my credit score has been going on for 2 years they post the debt and pull it when I dispute. Post again almost 4-5 times a year. I called the hospital to gain access to all debts owed and there is not one {\$500.00} debt owed. When I dispute now this the credit bureaus say the debt is valid. But everytime I request information from the debt creditors they sell the debt which is under XXXX XXXX XXXX XXXX of different collection agencies own by the same company. Help what do I do. I have all documents to prove my case."

- CFPB Complaint: [8298910](#) (Feb 8, 2024)

"Bull City Financial contacted me via phone call about a hospital bill. They asked me to set up payments or to pay in full. I told them I could not afford to pay the bill in full & asked them if they could accept a discounted settlement of {\$2500.00} paid in full. The representative told me she would have to send the request up to her manager. I was worried about this being reported on my credit & advised the rep as such. The rep told me that my account would be

placed on hold, would not be reported to any credit bureau agency, & that they would notify me of their decision. I consistently check my credit score & found that Bull City did report me to the credit bureaus. I never received a phone call, email, or letter regarding my request for settlement. When I contacted Bull City on XX/XX/XXXX, the rep confirmed that I had not, in fact, been contacted by Bull City. This seriously impacted my credit score, which was over XXXX, and has jeopardize my business & a real estate transaction in progress. ... I would also like written proof that this medical bill belongs to me, an itemized statement of the charges, and proof that no part of the original bill was written off by the original debtor (as the original debtor has no record of me owing them for this account).”

- CFPB Complaint: [8132615](#) (Jan. 10, 2024)

“It's currently XX/XX/2023 and I received my first bill from the XXXX XXXX XXXX XXXX center last week for a visit back in XXXX of 2023. I call the number to pay the XXXX charge and the operator tells me that it's been sent to collections. With this being the first bill I had received in the mail and it already being sent to collections was ridiculous. I received the collections phone number, XXXX (XXXX) XXXX, and proceeded to call them numerous times and every time it would send me to their voicemail and I would leave one, with of course no reply. After multiple failed attempts, I finally was answered by the operator today who was extremely unprofessional and rude with her language and responses to me. She asked what bill I wanted to pay and I said it was a bill from XXXXXXXX XXXX XXXX XXXX. She said " Oh you're gon na have to call back in a month we don't have none of that in our system yet ", and I said " Are you serious? My credit score has dropped XXXX points and I've been calling trying to pay this and you're telling me I can't pay it? ", she responded " Excuse me??? Call back in a month " and proceeded to hang up on me. I'm not sure what to do but this is beyond ridiculous, like for one it was sent there with only one bill being sent 8 whole months later and two I can't even pay it because this collections agency is extremely unprofessional at the very least. Is this legal?”

- CFPB Complaint: [8067457](#) (Dec. 27, 2023)