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Rohit Chopra, Director
Consumer Financial Protection Bureau
1700 G St 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, Document Number: 2024-13208

Dear Director Chopra:

We applaud the Consumer Financial Protection Bureau's (CFPB) proposed rule to minimize the harmful impact of reporting medical debt on credit reports. We asked for this rulemaking in June 2023 and are happy to see issuance of this proposed rule. This marks an important first step towards protecting individuals and families from the unnecessarily harsh and long-term consequences of attributing owed medical bills as an indicator of a person's financial responsibility and credit-worthiness.

U.S. PIRG is an advocate for the public interest which promotes policies that protect consumers and support the delivery of the high value healthcare we deserve. We are strong champions of the creation and existence of the Consumer Financial Protection Bureau (CFPB). We value the agency's work to protect consumers from unfair and predatory credit practices. We urge you to swiftly finalize this rule (with our recommended additions) so people facing large medical expenses can minimize the long-term financial harm caused by medical bills reported to their their credit report.

The broad impact of this proposed rule will be almost immediate and help people of all ages across the country. A recent survey showed about 14 million adults owe over $1000 in medical debt and three million owe more than that. Unlike many other forms of consumer debt, most people cannot avoid incurring medical debt.

Why is medical debt often unavoidable?

Health status: Our health status is mostly out of our control. Health care bills pile up without regard to the careful budgeting of a family. When you get sick or are injured in an accident, you will likely receive large medical bills. Couple those bills with loss of income from missed work days or an extended leave, and suddenly any savings a person has that might have paid some of the medical bill are gobbled up to cover everyday essentials like rent and food.

Out-of-pocket obligations, even with insurance: Most families have some type of insurance (Medicare, Medicaid, Veteran's or commercial insurance) which covers many health bills. However, insured people are still responsible for significant out-of-pocket obligations for their care. Patients face the full cost of annual deductibles, co-pays, and co-insurance payments on many curative treatments and prescription medications. And if they need treatment for more significant care related to disease diagnosis or emergency health encounters, the amount patients owe to health care providers grows even larger. People in the U.S. on average spend $1,425 out-of-pocket on health care. Those with serious ailments owe more than average bills.

Claim denials: Claim denials are happening more frequently with the use of technology. When an insurance claim is denied, the patient owes the full cost of the medical bill; insurance refuses to pay and yet the patient has already received the care. Insurers rely heavily on artificial intelligence (AI) to review claims, meaning fewer claims are reviewed individually by doctors. When claims are batched for the purposes of AI analysis, important information can be missed which might have prevented a claim denial. In 2020, almost 1 in 5 insurance claims were denied. Even though patients have the right to challenge those denials, less than one percent do. But insurance companies do make mistakes, even in claim denials. So when bills arrive for necessary care that has already been provided, patients are unfairly left with a large bill if the insurance company denies a claim. Appealing denials is a complicated and time-consuming business. Many don't have the skills or time to manage an appeal, so the bill lands on them.

Billing errors: Medical billing and coding errors inappropriately burden families with extra medical bills that they have to spend months or years fighting. Meanwhile, as patients dispute errors through complex insurance appeal systems, the bills pile up. The CFPB's own study shows that collections on medical debt were significantly more likely than credit cards or student loans of being disputed. Billing errors are common and difficult to fight. Patients end up owing erroneous bills.

Timelines for paying off a medical bill: Unlike most large consumer purchases such as cars and mortgages, medical bills are required to be paid off within 30, 60 or 90 days. Taking into account that about 28% of Americans have less than $1000 in savings, and average out-of-pocket costs for health care is $1,425, it is no wonder that many individuals find themselves struggling to come up with the extra money to pay those medical bills. Adding to the financial burden is the loss of income some may experience because of their illness or injury.

These are just some reasons why hardworking families who normally can meet their financial obligations suddenly find themselves in over their heads with medical bills, and falling into medical debt.

When medical debt is included on a person's credit report, the troubles begin.

A bad credit report can make it significantly more difficult for someone to get a line of credit for items like home improvement loans, home mortgages and a working vehicle. The other consequence is that they will likely be charged a higher interest rate for any loans they are able to obtain. Both of those scenarios are harmful to the financial well-being of an individual who has had the unfortunate luck of getting sick or injured.

That's why PIRG applauded the June 2022 announcement by three major credit bureaus (Equifax, Experian and TransUnion) to voluntarily change some of their practices regarding medical debt on credit reports. They pledged to:

1. Remove paid-off medical debt from credit reports. (Paid-off debt used to stay on reports for up to seven years).
2. Remove medical debt under $500 from credit reports.
3. Delay reporting of medical debt on credit reports by one year, to allow patients time to pay off their bills or fix billing errors.

Even after these changes were implemented, the CFPB found that "15 million Americans still have $49 billion in medical bills on their consumer reports" and "the total dollar balances of medical collections on consumer reports fell by only 38 percent nationwide."

These voluntary industry changes, although helpful for some, are failing to provide relief for millions of people. Additionally these changes are could be rescinded at any time by the reporting agencies themselves.

More can and should be done. We support the proposed rule as one important way to change the way medical debt is treated on credit reports.

Why should medical debt be treated differently than other consumer debt?

For years, we've known that medical debt does not predict credit defaults, nor does it accurately predict a person's desire and willingness to pay off loans. When patients call us, they are grateful for their care and genuinely want to pay the bills sent by their life-saving health care providers, especially when the bills are accurate and reflect the cost of the care they received.

CFPB's own research showed that medical billing data on a credit report is "less predictive of future repayment than reporting on traditional credit obligations." Medical debt should be treated differently than debt incurred from overspending on other consumer products, such as taking out a loan for a car you can't afford, or buying a house above your budget. Those kind of purchases are optional and/or consumers can choose budget-friendly versions of those purchases. And

unlike medical bills, consumer products come with clear, upfront pricing in advance. The consumer knows their expected financial obligations on those kinds of loan transactions and when they purchase items on credit.

Medical debt is different and less predictive of credit-worthiness because as outlined above, medical bills don't pile up as a result of bad decision-making and irresponsible budgeting. Those bills are mostly unavoidable. Additionally, unlike consumer products, health care prices are almost impossible to know in advance.

Even with the federal hospital price transparency rule in effect, hospital noncompliance means most patients still have trouble using pricing tools to shop and budget for medical care. Our recent Post the Price report shows prices are missing, unreliable and difficult to obtain in advance. And many of the highest bills in health care are a result of a health condition we couldn't prevent, predict or plan for - such as emergency treatment for accidents or sudden onset of life-threatening medical conditions or disease diagnosis.

Medical bills have long term repercussions, especially when they come with a threat of being included in a credit report.

It's not that simple for families to simply pay off a medical bill. Medical debt holders take advantage of the confusing and long-winding path of billing and appeals processes. They pressure patients, who may still be recovering, to pay up - even if they don't actually owe the bill. Bill collectors use the threat of reporting the debt to credit bureaus to ruin the individual's credit score or harass the patient and their family by telling them that the next step is to hand the debt over to third-party debt collectors.

A perfect example of the spiraling effect of an unavoidable medical bill is the situation shared by Kathy H. from Wisconsin. She reached out to PIRG in September 2023 with an ambulance bill she received for her husband's care. She shared her experience summarized below:

> My 53 year old husband, Wayne, was diagnosed with Stage 4 colon cancer in 2021. He had radiation, chemotherapy and colon-rectal surgery in 2022. In December 2022, he'd been having pains for weeks, but he hid it from our family, because he didn't want to ruin the holidays. Then, two days after Christmas, he couldn't stand the pain any longer. He asked us to take him to the hospital. He lay down in the back seat of our car in excruciating pain for the 15 minute ride to the ER. In the ER, he was diagnosed with a severe infection from a large perforation in the colon. The ER doctors told him to go home to die. We called his oncologist, who along with his surgeon, determined that Wayne needed to go 45 min. to a higher level hospital.

> Because we were afraid he was going to die, we filled out medical directives with the Chaplain in the ER for approximately 1 hour (We have the notarized documents). The hospital Chaplain checked about the ambulance cost. He told us the ambulance ride would be paid for by our insurance. Five months after Wayne's hospital stay, [redacted] of [redacted], Illinois, sent us a bill for $9,715.00 dollars. We discovered later that our health insurance paid them $1,331.60, leaving us with almost $8,400 dollars of balance billing for out-of-network inter-facility transfer which was from and to in-network hospitals.
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> That $8,400 is our entire annual budget for food, electricity, heating and prescription drugs. If we pay [the ambulance company] the $8,400, they say we owe - we will starve, freezing, in the dark, with none of our needed medicine. But if we can't find a way out of collections, we won't be able to get an apartment or buy a car if ours breaks down. Then we are homeless and living in a car that we can't drive. Wayne's 5 day hospital stay, where he received copious amounts of care, cost us less than a 45 minute ride in a van where he received zero medical care. I'm terrified to even look at our credit score."

Since that email, Kathy has been fighting with her insurer and the ambulance company to get the bill reduced. One month after her original email, she sent us an update.

> We have put in hours and hours trying to even figure out what questions to ask - researching on-line, making phone calls, and sending letters. After five attempts, we still haven't received the run report from the EMS provider. This past week, they finally sent us a form to fill out.

And six months later, just last week, Kathy explained that her husband is now receiving hospice care. Despite the emotional and physical toll of her husband's decline, Kathy took the time to share the most recent details of her impossible situation. She has offered to pay what she can on this expensive outstanding ambulance bill, but as you can see by her update, there is no way out of this mess.

> We tried to work with Superior Ambulance (ambulance) of [redacted] Illinois, but it was impossible to work with them. It took us reporting them to the Better Business Bureau to even get them to send us an itemized bill and a copy of Wayne's ambulance report. Ultimately, they sent our account to a collection agency. We recently offered to pay 20% more than what Medicare

> would have billed, but they refused our offer just weeks ago. So, the debt still hangs over our heads.

Most people, like Kathy, are grateful for the care they received and want to pay the debt they truly owe. But they simply can't come up with the thousands of dollars in just 90-days time. That's why we need a better way of dealing with the burden of medical debt.

Whether it is a bill from an ambulance, a neonatal care unit, or an extensive chemotherapy and radiation treatment, families are struggling to pay accurate bills or are caught up in an endless confusing fight to challenge a wrong or overpriced bill.

If that medical bill is then labeled by the provider as a medical debt and shared with credit reporting agencies and creditors, the impact of that debt creeps into other aspects of people's lives. Higher interest rates and denied loans likely follow. And loss of opportunities, like the ability to rent an apartment or land a new job, are also at stake when medical debt - even disputed debt - is shared with those who request a credit report.

That's why we strongly support the proposed rule and urge you to expand it.

Creditors should not consider medical debt when determining credit-worthiness.

> Two decades ago regulators created an exemption to the Fair Credit Reporting Act (FCRA) which allowed creditors to consider a person's medical financial information (medical debt) 12 C.F.R. § 1022.3 That exemption has been the source of long-term consequences that has exacerbated a family's ability to financially survive an accident, health emergency, chronic disease or a serious medical diagnosis. It is time to remove medical debt from credit reports when they are used to determine whether someone deserves a line of credit.

By using its existing authority such as the ability to ban unfair, deceptive or abusive acts and practices, the CFPB should expand the proposed rule.

Expand the proposed rule to prohibit medical debt from inclusion on credit reports used by landlords and employers.

> The proposed rule does not go far enough and will not protect people from significant consequences of medical debt reviewed by other powerful entities. Non-creditors would still be able to use a person's medical debt history to prevent access to stable housing (landlords) and could impact someone's future income (employers). There is no evidence that the existence of medical debt is a good indicator of someone who will be

an unreliable employee or an irresponsible tenant. The rule as proposed would continue to allow these non-creditor entities from requesting and receiving credit reports that show medical debt. State governments have begun to sound the alarm of the wide use of medical debt to harm people's access to credit, housing and employment. Some states have now banned medical debt from all credit reports. The CFPB should follow their lead.

Extend the definition of "medical debt" to include those debts incurred on credit cards or "medical credit cards."

The proposed rule would not prevent medical debt found on credit cards and medical credit cards from being shared with creditors. The rule's definition of "medical debt" should include any debts that originated from a provider of health care services.

We urged you in June 2023 to issue rulemaking to stop providers from marketing medical credit cards. Gone are the days where a hospital sets up a low- or no-interest plan for its patients. Now hospital billing websites often market financial instruments to patients who visit the hospital billing page hoping to pay their bills by setting up a payment plan directly with the hospital. Instead they find their only pathway to payment is signing up for a medical credit card. Most patients are unaware of the consequences of these relatively new financial products. Medical credit cards are notorious for high interest rates, expensive late fees, and short time frames to fully pay the balance. Patients who can't meet the payment timelines soon find themselves in arrears and owing significantly more than the original medical bills themselves.

PIRG is doing what we can to protect patients by educating them about the high cost of medical credit cards: A bad deal: Why you don't want (medical credit) cards in your hand. But if hospitals aren't offering payment plans or are requiring upfront down payments before scheduling care, patients sometimes have little choice. Desperate for timely access to care, patients either sign up for a medical credit card or reach for their own credit card to get their treatment on the calendar.

As cited by the CFPB, a 2021 PIRG study of bankruptcies in Oregon showed that the most frequently listed creditor was the issuer of a health-care-specific credit card (CareCredit), followed by big hospital/provider networks. The report found that 1,037 debtors reported owing a total of over $2 million to CareCredit, with a median of $1,443 owed per debtor. The median debt owed to CareCredit was higher than the median debt owed to any of the ten most frequently mentioned health care systems. We appreciate previous action by the CFPB against Care Credit in 2013 to address their unfair and deceptive practices and getting the company to refund $34 million for up to a million

harmed consumers. But the company continues to grow and others are entering the market offering similar high cost medical credit cards.

Regardless of where these medical-related debts end up, they originated from a health care provider, and should be included in the protections afforded in this proposed rule. When medical credit cards are being marketed by the health care provider, it implies a close connection between the medical debt and the health care entity that should not be ignored in this rulemaking.

For the same reasons that medical debt should not be allowed to ruin a person's credit score or have a creditor deny them a car loan or mortgage, these health care-related amounts due on credit cards or medical credit cards should not be provided to those requesting a credit report.

The CFPB's own medical debt report demonstrated that as of mid-2021, medical bills made up 58% of bills in collections and on credit reports. We applaud the CFPB for proposing a rule that would minimize the long term impact of high priced medical bills. Bad credit scores follow people for years, impacting their ability to rent or buy a home. These lasting financial impacts further harm individuals who are battling a cancer diagnosis, managing a chronic disease or recently survived a car crash.

Respectfully submitted,

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