

July 30, 2024

Submitted via www.regulations.gov

Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Comments in response to proposed rules addressing medical debt on credit reports - Docket ID CFPB-2024-0023-0001; RIN 3170-AA54

To Whom It May Concern:

On behalf of RRF Foundation for Aging, thank you for the opportunity to comment on the Consumer Financial Protection Bureau (CFPB)'s proposed regulations addressing medical debt on credit reports.¹ For more than 40 years, RRF Foundation for Aging (formerly The Retirement Research Foundation) has been dedicated to improving quality of life as we age. Achieving economic security is critical to enhancing quality of life for older adults and is a core area of our focus.

As we discuss in our comments below, economic security in later life is increasingly threatened by medical debt, and we applaud the CFPB for proposing steps to help relieve the burden of medical debt on credit reports. In these comments, we will share research about older adults carrying medical debt; highlight the impact of medical debt on credit reports and the need to go beyond voluntary industry changes; discuss the need to remove from credit reports the medical debt that is on general-purpose credit cards, medical credit cards, and other medical payment products; and explain the need to remove medical collection accounts from specialty credit reports used by landlords and employers.

I. Many Older Adults Are Carrying Medical Debt into Retirement Age

Older adults are far from immune from the burden of medical debt. In 2020, nearly four million people 65 and older carried \$53.8 billion in unpaid medical debt.² That was a 20% increase from the \$44.8 billion owed in 2019.³

Despite near universal coverage by Medicare, gaps in that coverage caused 22% of adults 65 and over to report that they currently had medical debt in 2022. An additional 15%

¹ Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V), 89 Fed. Reg. 51682 (Jun. 11, 2024), www.federalregister.gov/documents/2024/06/18/2024-13208/prohibition-on-creditors-and-consumer-reporting-agencies-concerning-medical-information-regulation-v.

² Consumer Financial Protection Bureau, Issue Spotlight: Medical Billing and Collections Among Older Americans (May 30, 2023), www.consumerfinance.gov/data-research/research-reports/issue-spotlight-medical-billing-and-collections-among-older-americans/full-report/.

³ *Id.*

reported that they have had medical debt in the past 5 years.⁴ A startling statistic is that, of the adults 65 and older with medical debt, nearly 70% reported having health insurance from two or more sources.⁵

Among adults age 50-64, 44% had medical debt in 2022. An additional 16% reported that they have had medical debt in the past 5 years.⁶ These older adults frequently struggle to afford health care premiums or are underinsured before qualifying for Medicare.⁷

Older adults face an increased risk of errors and inaccurate medical bills because they are more likely to have chronic conditions and carry multiple insurance plans. This leads to difficulty navigating complex billing systems to correct inaccurate bills.⁸ In addition, half of all people with a disability are age 65 or older;⁹ they are more than twice as likely as those without disabilities to have medical debt.¹⁰

Medical debt does not affect all older adults equally. Low-income older adults are more vulnerable. During the period 2019-2021, adults 65 and older who had dual eligibility for Medicare and Medicaid were more than twice as likely to live in families with medical debt as those of the same age who had private insurance.¹¹ Older adults in the South and non-Medicaid expansion states were also more likely to live in families with medical debt.¹² The burden of medical debt falls even more heavily on Black and Hispanic older adults, who are nearly two times more likely to carry medical debt than older white or Asian adults.¹³ Thus, medical debt is an economic justice issue.

II. Medical Debt Can Significantly Lower Credit Scores, and Voluntary Changes by Credit Bureaus Are Not Sufficient to Protect All Older Adults

The appearance of medical debt on credit reports can be one of the worst financial consequences of becoming ill, especially for people with debilitating or chronic conditions. These consequences are particularly unfair, given that medical debt is often incurred involuntarily and unexpectedly. Moreover, older adults seeking vitally necessary, sometimes

⁴ Lunna Lopes, et al., Health Care Debt In The U.S.: The Broad Consequences Of Medical And Dental Bills (KFF, Jun. 16, 2022), <https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/>.

⁵ Consumer Fin. Protection Bur., Issue Spotlight: 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/>, citing analysis of U.S. Census Bureau data from *Survey of Income and Program Participation*, 2021 (last revised Aug. 17, 2022), www.census.gov/programs-surveys/sipp/data.html.

⁶ Lunna Lopes, et al., Health Care Debt In The U.S.: The Broad Consequences Of Medical And Dental Bills (KFF, Jun. 16, 2022), www.kff.org/report-section/kff-health-care-debt-survey-main-findings/.

⁷ Lauren A. Haynes & Sara R. Collins, Can Older Adults with Employer Coverage Afford Their Health Care (The Commonwealth Fund, Aug. 10, 2023), www.commonwealthfund.org/publications/issue-briefs/2023/aug/can-older-adults-employer-coverage-afford-health-care-biennial.

⁸ Consumer Financial Protection Bureau, Issue Spotlight: Medical Billing and Collections Among Older Americans (May 30, 2023), www.consumerfinance.gov/data-research/research-reports/issue-spotlight-medical-billing-and-collections-among-older-americans/full-report/.

⁹ Bureau of Labor Statistics, U.S. Department of Labor, Persons with a Disability: Labor Force Characteristics - 2023 (Feb. 22, 2024), www.bls.gov/news.release/pdf/disabl.pdf.

¹⁰ Shameek Rakshit, et al, Access & Affordability: The Burden of Medical Debt in the United States (Peterson-KFF, Feb. 12, 2024), www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states (13% of individuals with a disability reported having medical debt compared to 6% of individuals without a disability).

¹¹ Robin A. Cohen, et al., Problems Paying Medical Bills: United States (Center for Disease Control and Prevention, U.S. Department of Health and Human Servs., 2021), www.cdc.gov/nchs/data/nhsr/nhsr180.pdf.

¹² *Id.*

¹³ *Id.*

urgent, healthcare services have little or no ability to negotiate prices or shop around and there is little price transparency.

Medical debt can significantly lower a consumer's credit score. A recent study by the Consumer Financial Protection Bureau (CFPB) found an average increase in credit score of 25 points in the first quarter after a medical debt is removed from a credit report.¹⁴ CFPB research also demonstrates that medical debt on credit reports does not provide added predictiveness for credit underwriting.¹⁵

The credit bureaus Equifax, Experian, and TransUnion voluntarily eliminated from credit reports paid medical debts, unpaid medical debts of less than \$500, and unpaid debts of more than \$500 that were less than a year old.²⁰ Consumers who had medical debt collection items on their credit reports in August 2022 experienced a 30 point increase, on average, in their Vantage scores by August 2023 - after these voluntary changes were complete.¹⁶ Another study showed that the share of Americans 62 and older with medical collections on their credit reports declined by more than two thirds as a result of these changes.¹⁷

These voluntary changes were positive, but still leave unpaid medical debts over \$500 on the credit reports of 15 million Americans.¹⁸ That includes the 2.7 percent of adults 62 and over who still had medical collection items on their credit reports.¹⁹ These consumers are likely to be the most vulnerable and to need medical services that are not covered by Medicare. Moreover, they are more likely to reside in majority Black and Hispanic census tracts.²⁰ Finally, the voluntary changes by the credit bureaus are just that – they are voluntary, which means the credit bureaus could reverse them at any time with little or no notice.

III. Older Adults with Medical Debt Owed to Credit Card, Medical Credit Card, and Other Medical Payment Product Companies Will Not Benefit from the Rules as Proposed

According to KFF's recent study, the rate of health care debt among people ages 65 and older may be higher than reported by many surveys because they do not account for the portion who pay off medical bills by using credit cards, taking out loans, or borrowing from family or friends. The *KFF Health Care Debt Survey* found that some 10% of Medicare-age adults report they are paying off medical or dental bills over time directly to a provider, paying

¹⁴ Consumer Financial Protection Bureau, Data Point: Consumer Credit and the Removal of Medical Collections from Credit Reports (Apr. 2023), files.consumerfinance.gov/f/documents/cfpb_consumer-credit-removal-medical-collections-from-credit-reports_2023-04.pdf.

¹⁵ Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V), 89 Fed. Reg. 51682 (Jun. 11, 2024), www.federalregister.gov/documents/2024/06/18/2024-13208/prohibition-on-creditors-and-consumer-reporting-agencies-concerning-medical-information-regulation-v; Consumer Financial Protection Bureau, Data Point: Medical Debt and Credit Scores (May, 20, 2014), www.consumerfinance.gov/data-research/research-reports/data-point-medical-debt-and-credit-scores/.

¹⁶ Fredric Blavin, et al, Urban Wire: Medical Debt Was Erased from Credit Records for Most Consumers, Potentially Improving Many Americans' Lives (Nov. 2, 2023), www.urban.org/urban-wire/medical-debt-was-erased-credit-records-most-consumers-potentially-improving-many.

¹⁷ Ryan Sandler and Zachary Blizard, Data Point: Recent Changes in Medical Collections on Consumer Credit Records (Consumer Financial Protection Bureau, Mar. 2024), files.consumerfinance.gov/f/documents/cfpb_recent-changes-medical-collections-on-consumer-credit-reports_2024-03.pdf.

¹⁸ Consumer Financial Protection Bureau, CFPB Finds 15 Million Americans Have Medical Bills on Their Credit Reports (Apr. 29, 2024), www.consumerfinance.gov/about-us/newsroom/cfpb-finds-15-million-americans-have-medical-bills-on-their-credit-reports/.

¹⁹ Ryan Sandler and Zachary Blizard, Data Point: Recent Changes in Medical Collections on Consumer Credit Records (Consumer Financial Protection Bureau, Mar. 2024), files.consumerfinance.gov/f/documents/cfpb_recent-changes-medical-collections-on-consumer-credit-reports_2024-03.pdf.

²⁰ *Id.*

off over time on a credit card, unable to pay, or have debts owed to a bank, collection agency or other lender as a result of loans used to pay off medical or dental bills.²¹

Older adults faced with unaffordable out-of-pocket medical expenses may end up paying for care by using general-purpose credit cards, medical credit cards, or other medical payment products.

- 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.²² Older people represent a large share of adults who resort to using their credit cards to cover medical debt.
- Medical credit cards - Medical credit cards, which can only be used for medical expenses, are typically offered directly by medical providers. CareCredit, the largest medical credit card provider, has more than 12.4 million cardholders.²³ We are unaware of any public sources that specify the percentage of CareCredit or other medical credit card products that are held by older adults. A large portion of these cardholders are older adults who use them to pay for dental care. In fact, nearly half of Medicare-age adults who carry health care debt report that some of their bills were due to dental care. Because traditional Medicare does not cover these services, dental care is one of the leading causes of health care debt for Medicare-age adults.²⁴
- 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, including many who are likely to be older.²⁵

An older adult that uses one of these methods of paying for a medical debt will not benefit from the proposed rule as drafted. This is especially problematic for older adults given that, as indicated above, Medicare does not generally provide coverage for dental care,²⁶ and dental care financing represents the largest market for medical patient financing products, accounting for as much as \$8.9 billion (59% of industry revenue).²⁷

We urge the CFPB to amend the proposed rule so that it also applies to medical debts on general-purpose credit cards, medical credit cards, and medical payment products. 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

²¹ Cottrill, Neuman, Lopez, Hamel, What are the Consequences of Health Care Debt Among Older Adults? KFF, July 26, 2024. <https://www.kff.org/medicare/issue-brief/what-are-the-consequences-of-health-care-debt-among-older-adults/>

²² 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/](https://www.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).

²³ CareCredit, Dedicated support you can rely on for your business, Is CareCredit widely used? www.carecredit.com/providers/faq

²⁴ Cottrill, Neuman, Lopez, Hamel, What are the Consequences of Health Care Debt Among Older Adults? KFF, July 26, 2024. <https://www.kff.org/medicare/issue-brief/what-are-the-consequences-of-health-care-debt-among-older-adults/>

²⁵ Consumer Financial Protection Bureau, Medical Credit Cards and Financing Plans (May 2023), files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf.

²⁶ Medicare.gov, Dental services, <https://www.medicare.gov/coverage/dental-services>.

²⁷ IbisWorld, Industry Report: Medical Patient Financing in the US (Sept. 2023).

generally should not be on credit reports – these debts are incurred for expenses that are involuntary and unexpected, and for which there is little ability for the consumer to negotiate prices or shop around.

We also applaud the CFPB for opening an inquiry into medical payment products.²⁸ Recent reports have documented a variety of problems with specialized medical payment products that go far beyond negative reporting.²⁹ Harms include being confused by deferred interest; misrepresentations about deferred interest; feeling pressured by healthcare providers to open a credit card while receiving treatment; not being screened for financial assistance before medical bills are charged to a medical payment product; charging procedures to a medical payment product that are covered by insurance; being sued; and having pre-charged the patient for services that are ultimately never provided. In addition to its general inquiry, we urge the CFPB to consider the particular ways that older adults may be targeted for, or harmed by, such products.³⁰

IV. Older Adults with Medical Collections on Credit Reports and the Impact on Rental Housing and Employment

In addition to affecting access to credit, medical debt on credit reports can also hinder the ability of older adults to secure rental housing and employment. Some 90% of landlords³¹ and about half of employers³² consider credit history. Yet the proposed rule, as currently drafted, only applies to credit reports for creditors, not to specialty credit reports for employers or landlords. This leaves older people who have medical collection items on their credit reports vulnerable to denials of housing and employment.

As discussed above, studies show that medical debt is not a good predictor of creditworthiness. It is even less likely to predict whether someone will be a good tenant or worker. Moreover, as discussed above, medical debt disproportionately burdens Black and Latino individuals as well as individuals with disabilities. In fact, the U.S. Dept. of Housing and Urban Development recently released guidance noting the “significant and recognized limitations of credit scores as a predictor of likelihood to pay rent,” and 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.”³³

²⁸ Lorelei Salas, Ensuring consumers aren't pushed into medical payment products (Consumer Financial Protection Bureau, Jun. 18, 2024), www.consumerfinance.gov/about-us/blog/ensuring-consumers-arent-pushed-into-medical-payment-products/.

²⁹ Consumer Financial Protection Bureau, Supervisory Highlights: Servicing and Collection of Consumer Debt (Summer 2024), files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-34_2024-07.pdf; Consumer Financial Protection Bureau, Medical Credit Cards and Financing Plans (May 2023), files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf; April Kuehnhoff & Chi Wu, Health Care Plastic: The Risks of Medical Credit Cards (National Consumer Law Center, April 2023), www.nclc.org/wp-content/uploads/2023/04/Report_Health-Care-Plastic.pdf.

³⁰ See, e.g., April Kuehnhoff & Chi Wu, Health Care Plastic: The Risks of Medical Credit Cards (National Consumer Law Center, April 2023), www.nclc.org/wp-content/uploads/2023/04/Report_Health-Care-Plastic.pdf (highlighting stories of older adults harmed by medical credit cards).

³¹ TransUnion, TransUnion Independent Landlord Survey Insights (Aug. 7, 2017), www.mysmartmove.com/blog/landlord-rental-market-survey-insights-infographic.

³² Chi Chi Wu & Ariel Nelson, Mission Creep: A Primer on Use of Credit Reports & Scores for Non-Credit Purposes (National Consumer Law Center, Aug. 2022), www.nclc.org/wp-content/uploads/2022/08/Mission_Creep_rpt-1.pdf.

³³ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Guidance on Applications of the Fair Housing Act to the Screening of Applicants for Rental Housing (Apr. 29, 2024), www.hud.gov/sites/dfiles/FHEO/documents/FHEO_Guidance_on_Screening_of_Applicants_for_Rental_Housing.pdf.

As with credit, medical debt should simply not be used for either of these purposes. The fact that someone became ill should never be used to keep a consumer from getting a job or housing. We urge the CFPB to prohibit the inclusion of medical debts on credit reports used for tenant screening or employment.

V. Conclusion

We strongly support the CFPB's proposed rule, which will benefit older adults burdened by having medical debt on their credit reports.

We also urge the CFPB to go further to protect vulnerable patients from the harms of medical debt by extending the credit reporting ban to negative information about medical debts on general credit cards, medical credit cards, and other medical payment products; addressing other common abuses with medical payment products; and extending the medical debt ban to credit reports used for employment and tenant screening.

Thank you for considering these comments.

Respectfully submitted,

A handwritten signature in black ink that reads "Mary B. O'Donnell". The signature is written in a cursive, flowing style.

Mary B. O'Donnell
President & CEO