



United States House of Representatives  
One Hundred Eighteenth Congress  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

August 14, 2024

The Honorable Rohit Chopra  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, D.C. 20552

Director Chopra:

We write to express our serious concerns regarding the Consumer Financial Protection Bureau's (CFPB's) latest actions to weaken the accuracy and completeness of consumer credit reports. The CFPB's recent notice of proposed rulemaking restricting inclusion of medical debt in credit reports and scores will undermine underwriting processes and increase risk in the financial system, to the detriment of consumers. This effort will have significant negative effects on access and affordability of credit for all consumers, and particularly for low-income borrowers.

In the 50 years since enactment of the Fair Credit Reporting Act (FCRA), creditors have been permitted to obtain and use relevant medical debt information for credit eligibility determinations. In 2003, Congress enacted privacy protections and restricted "the use of medical information for inappropriate purposes."<sup>1</sup> At the same time, it acknowledges that use of medical debt information is beneficial to understanding the full picture of a consumer's financial situation when extending credit.

Contrary to the CFPB's claims that consideration of medical debt in credit transactions is a "regulatory loophole," Congress' intent was clear: to direct the federal banking agencies<sup>2</sup> and the National Credit Union Administration (NCUA) to promulgate a joint rulemaking to determine the "necessary and appropriate [use of medical information] to protect legitimate operational, transactional, risk, consumer, and other needs<sup>3</sup> . . . in connection with any determination of the consumer's eligibility, or continued eligibility, for credit."<sup>4</sup>

As a result, Regulation V, which implements the FCRA, expressly permits creditors to obtain and use medical information to understand a consumer's ability to repay a loan.<sup>5</sup> The CFPB has had authority to implement Regulation V for more than a decade. Yet, not once during that time has the CFPB proposed to prohibit inclusion of medical debt information on credit reports until now, thus raising questions about the political nature of this rulemaking.

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<sup>1</sup> 15 U.S. Code § 1681b(g)(2) and 15 U.S. Code § 1681b(g)(5)(A)

<sup>2</sup> The term "Federal banking agencies" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

<sup>3</sup> 15 U.S. Code § 1681b(g)(5)(A)

<sup>4</sup> 15 U.S. Code § 1681b(g)(2)

<sup>5</sup> 12 CFR § 1022.30(d)(2)(i)

In June 2024, the CFPB proposed to “stop credit reporting companies from sharing medical debts with lenders and prohibit lenders from making lending decisions based on medical information” through rulemaking.<sup>6</sup> However, the CFPB not only fails to use current data to justify the proposed rule,<sup>7</sup> but also fails to analyze the economic impact of the private sector initiatives taken in recent years, particularly on consumer access to credit.<sup>8</sup> Rather, the CFPB merely alleges that “medical bills on credit reports too often are inaccurate and have little to no predictive value when it comes to repaying other loans,”<sup>9</sup> neglecting to provide supporting evidence for either assertion.

The FCRA requires credit reports to be accurate and complete. The inclusion of medical debt in credit reports meets this requirement. The CFPB does not provide sufficient data in the proposed rule to support its claim that there are more inaccuracies in reporting of medical debt than other types of debt. Furthermore, identification of some inaccuracies in reporting of medical debt, particularly given available dispute processes, does not warrant terminating a creditor’s ability to know the debt level and burden of a potential borrower.

With respect to the predictive value of medical debt, the CFPB fails to provide evidence that *all* medical debt information is insufficiently predictive and should not be included on credit reports or in credit underwriting decisions. The CFPB cites its own 2014 “Data Point” that opaquely comingles analysis on medical and non-medical collections with paid and unpaid medical collections to draw a conclusion that “consumers with paid medical collections were less likely to be delinquent than other consumers with the same credit score.”<sup>10</sup> Yet, the CFPB makes no distinction between paid and unpaid medical debt when it proposes to remove *all* medical debt information from credit reports.

Moreover, the CFPB acknowledges that Credit Reporting Agencies currently only include medical collections on consumers’ reports if they are more than one year past due, are for collection amounts greater than \$500, and remain unpaid.<sup>11</sup> As a result, the medical debt information that currently remains on consumer reports can only be unpaid medical debt that the CFPB’s “Data Point” demonstrated to be associated with higher delinquency rates. The CFPB’s

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<sup>6</sup> CFPB, 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/>.

<sup>7</sup> CFPB, Consumer credit reports: A study of medical and non-medical collections (December 2014), [https://files.consumerfinance.gov/f/201412\\_cfpb\\_reports\\_consumer-credit-medical-and-non-medical-collections.pdf](https://files.consumerfinance.gov/f/201412_cfpb_reports_consumer-credit-medical-and-non-medical-collections.pdf).

<sup>8</sup> “Effective July 1, 2022, paid medical collection debt will no longer be included on consumer credit reports. In addition, the time period before unpaid medical collection debt would appear on a consumer’s report will be increased from 6 months to one year, giving consumers more time to work with insurance and/or healthcare providers to address their debt before it is reported on their credit file. In the first half of 2023, Equifax, Experian and TransUnion will also no longer include medical collection debt under at least \$500 on credit reports.” Business Wire, Equifax, Experian, and TransUnion Support U.S. Consumers With Changes to Medical Collection Debt Reporting (March 18, 2022), <https://www.businesswire.com/news/home/20220318005244/en/Equifax-Experian-and-TransUnion-Support-U.S.-Consumers-With-Changes-to-Medical-Collection-Debt-Reporting>.

<sup>9</sup> See supra note 6.

<sup>10</sup> CFPB, CFPB Data Point: Medical Debt And Credit Scores (May 2014), [https://files.consumerfinance.gov/f/201405\\_cfpb\\_report\\_data-point\\_medical-debt-credit-scores.pdf](https://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf) at 6.

<sup>11</sup> See supra note 8.

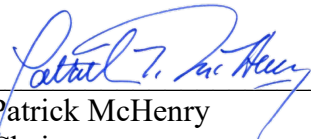
failure to provide any further analysis as to how the recognized predictive value of unpaid medical debt is insufficient to allow for inclusion in consumer reports inserts confusion and increases the likelihood of further inaccuracies in underwriting decisions.


The true cost of the CFPB's proposal to eliminate use of medical debt information will be paid by all consumers. The proposed rule will result in critical debt information being withheld from creditors as they consider whether to make a loan to a consumer. The proposed rule will ultimately make health care more expensive particularly for those who need it most. The negative economic consequences, some of which the CFPB's own analysis acknowledge, include:


- more consumers approved for mortgages, some of whom will pose default risks hidden from credit underwriters;
- medical providers requiring additional upfront payments for procedures as they will have less assurance of payment after the procedure occurs, limiting access for vulnerable consumers who cannot afford to pay in full;
- many high-risk borrowers being rejected for credit or finding credit to be prohibitively expensive; and
- consumers being encouraged to take on more medical debt because the consequences of such debt are less salient when they are ignored in underwriting decisions.

We trust that these comments are persuasive in moving the CFPB to change course.

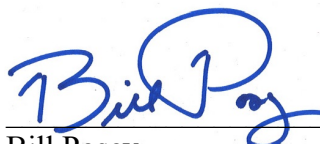
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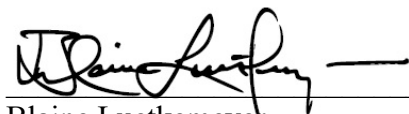
  
Patrick McHenry  
Chairman

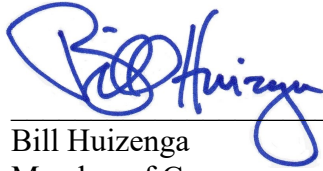
  
French Hill  
Vice Chairman

  
Frank Lucas  
Member of Congress

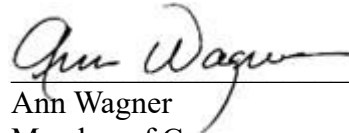
  
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Member of Congress

  
Bill Posey  
Member of Congress

  
Blaine Luetkemeyer  
Member of Congress



Bill Huizenga  
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Ann Wagner  
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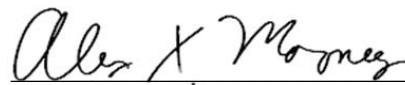
Andy Barr  
Member of Congress



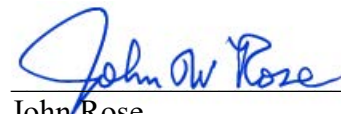
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Ralph Norman  
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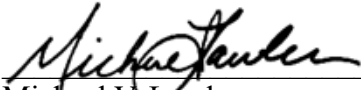
Andrew R. Garbarino  
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