NATIONAL WOMEN'S LAW CENTER
Justice for Her. Justice for All.

1350 I STREET NW
SUITE 700
WASHINGTON, DC 20005
202-588-5180
NWLC.ORG

August 8, 2024

Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 2055

Submitted Electronically

RE: RIN 3170-AA54; CFPB-2024-2023
Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information

The National Women's Law Center appreciates the opportunity to comment on proposed rule "Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information."[1] Since 1972, the National Women's Law Center has fought for gender justice in the courts, in public policy, and in our society. We have worked to protect and advance the progress of women and their families in core aspects of their lives, including health and reproductive rights, income security, employment, and education, with an emphasis on the needs of people who face multiple and intersecting forms of discrimination.

Medical debt and its potential impacts on credit reports harm millions of people in the United States, endangering their health, financial security, and access to key resources and services—harms that fall disproportionately on women of color, disabled women, low-income women, and women overall. We therefore welcome the Consumer Financial Protection Bureau's (CFPB) proposal to ban the inclusion of medical debt in credit reports to creditors, and to prohibit creditors from considering medical debt information in underwriting decisions. We urge the CFPB to further strengthen the rule, including by extending the credit reporting ban to additional sources of medical debt such as medical and general-purpose credit cards, and by applying its prohibitions to employment and tenant screenings.

I. Medical debt has disproportionate impacts on those who already face barriers to financial security, health care, and essential services and resources.

Medical debt is widespread: The CFPB estimates that 15 million people in the U.S. have an estimated $49 billion in outstanding medical bills that have been sent to collections.[2] When taking into account additional forms of debt incurred by medical bills—including, for example, past-due

[1] 89 Fed. Reg. 51682 (proposed Jun. 18, 2024) (to be codified at 12 C.F.R. pt. 1022).
[2] Ryan Sandler & Zachary Blizard, *Recent Changes in Medical Collections on Consumer Credit Records* 3–4 (Mar. 2024) https://files.consumerfinance.gov/f/documents/cfpb_recent-changes-medical-collections-on-consumer-credit-reports_2024-03.pdf.

bills that have not been sent to collections, debt owed to banks or lenders, and medical debt incurred through credit cards—that figure rises even higher: A staggering 100 million people, including 41% of adults, have debt resulting from medical bills.[3] Many more are vulnerable to entering into medical debt, particularly those with lower incomes and other barriers to maintaining emergency savings: About half of adults say they would be unable to pay an unexpected medical bill of $500 without borrowing money,[4] with similar studies finding that meeting a financial emergency is more burdensome for Black and Latine people and parents living with minor children.[5] And while uninsured people are more likely to have medical debt,[6] medical costs can be unaffordable for those who are insured as well as those who are not, with large shares of those enrolled in private insurance lacking sufficient funds to pay typical cost-sharing amounts.[7]

The burden of medical debt does not fall equally. For example, women (48%) are substantially more likely than men (34%) to have medical debt.[8] This difference is fueled in part by lower incomes and greater financial insecurity, which leaves women less prepared to afford medical costs[9]; systemic factors like the underinvestment in the care economy and its disproportionate impacts on women of color further exacerbate this gap.[10] And women are more likely to face higher expenses for care, particularly due to higher rates of chronic conditions, as well as medical costs that disproportionately impact women, such as pregnancy-related expenses.[11] For women of color and disabled women—who face deeper disparities in poverty,[12] chronic conditions, and medical

---

[3] Lunna Lopes et al., *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.
[4] *Id*.
[5] Board of Governors of the Federal Research System, *Report on the Economic Well-Being of U.S. Households* (May 21, 2024), https://www.federalreserve.gov/consumerscommunities/sheddataviz/unexpectedexpenses.html.
[6] Lopes et al., *supra* note 3.
[7] Gregory Young et al., *How Many People Have Enough Money to Afford Private Insurance Cost Sharing?* (Mar. 10, 2022), https://www.healthsystemtracker.org/brief/many-households-do-not-have-enough-money-to-pay-cost-sharing-in-typical-private-health-plans
[8] Lopes et al., *supra* note 3.
[9] Shameek Rakshit et al., *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. *See also* Denny Chan et al., *The Economic Security and Health of Older Women of Color* 4, 24 (Jul. 2023), https://nwlc.org/wp-content/uploads/2023/07/Economic-Security-Brief-Accessible.pdf (finding high rates of economic insecurity among older women of color).
[10] Amy Royce & Amy Matsui, *Unsupported: Underinvestment in the Care Economy Drives Gender and Racial Wealth Gaps*, 48 HUMAN RIGHTS 1 (Jan. 6, 2023), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/wealth-disparities-in-civil-rights/unsupported/.
[11] Rackshit et al., *supra* note 9. *See also* Matthew Rae et al., *Health Costs Associated with Pregnancy, Childbirth, and Postpartum Care* (Jul. 13, 2022), https://healthsystemtracker.org/brief/health-costs-associated-with-pregnancy-childbirth-and-postpartum-care.
[12] National Women's Law Center, *Gender and Racial Wealth Gaps and Why They Matter* (Jun. 10, 2022), https://nwlc.org/resource/gender-and-racial-wealth-gaps-and-why-they-matter/. For example, for every dollar of median wealth held by never-married white men, never-married Black women and never-married Latinas had 8 cents and 14 cents, respectively. Ana Hernández Kent, *The Gender Wealth Gap for Never-Married Adults Shrank in 2022* (Mar. 26, 2024), https://www.stlouisfed.org/on-the-economy/2024/mar/gender-wealth-gap-never-married-adults-shrank.

costs than white and/or nondisabled women—the burden of medical debt is almost certain to be even heavier.

Deep racial disparities in medical debt and its impact on credit are well-documented. The racial wealth gap,[13] worse health outcomes and higher rates of chronic conditions, lower rates of insurance, and other consequences of structural racism all contribute to medical debt's oversized impacts on communities of color.[14] As a result, approximately half of Black (56%) and Latine (50%) people report debt due to medical bills compared to 37% of white people,[15] and Black (28%) and Latine (22%) people are substantially more likely to have a medical debt collection item in their credit reports than white people (17%).[16] The CFPB has similarly found that people who had medical collections on their credit record were more likely to live in majority-Black and majority-Latine census tracts.[17] For Black people in particular, the downstream impacts of medical debt are especially pronounced. For example, Black adults more likely than white or Latine adults to say that they do not expect to ever be able to pay off their debt, more likely to have been contacted by a collections agency, and more likely to report resultant decreases in their credit scores.[18]

The impact of medical debt is also disproportionate for disabled people. Disabled people, particularly disabled women, are already more likely to experience economic insecurity,[19] and they are more likely to face high medical costs.[20] It is unsurprising, therefore, that disabled people are more than twice as likely to have past-due medical debt as nondisabled people,[21] and they are more likely to owe larger amounts of debt.[22] People with disabilities or chronic conditions are also more likely to have medical debt in collections, lower credit scores, and recent bankruptcy.[23]

There are significant geographic disparities in medical debt, with a higher burden in the South,[24] in part because fewer Southern states have expanded Medicaid or enacted strong insurance

---

[13] See National Women's Law Center, *supra* note 12.
[14] Berneta L. Hayes, *The Racial Health and Wealth Gap: Impact of Medical Debt on Black Families* 2 (Mar. 2022), https://www.nclc.org/wp-content/uploads/2022/09/RacialHealth-Rpt-2022.pdf.
[15] Lopes et al., *supra* note 3.
[16] Consumer Financial Protection Bureau, *Medical Debt Burden in the United States* 18 (Feb. 2022), https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.
[17] Sandler & Blizard, *supra* note 2 at 14.
[18] Lopes et al., *supra* note 3.
[19] Office of Disability Employment Policy, Department of Labor, *Women with Disabilities and the Labor Market* 16 (Aug. 2023), https://www.dol.gov/sites/dolgov/files/ODEP/pdf/Women_with_Disabilities_and_the_Labor_Market.pdf.
[20] *See, e.g.,* Sungchul Park & Jim P. Stimpson, *Health Care Expenses and Financial Hardship Among Medicare Beneficiaries with Functional Disability*, 7 JAMA NETWORK OPEN e2317300 (Jun. 17, 2024), doi.org/10.1001/jamanetworkopen.2024.17300.
[21] Michael Karpman, *Most Adults with Past-Due Medical Debt Owe Money to Hospitals* 5 (Mar. 13, 2023), https://www.rwjf.org/en/insights/our-research/2023/03/most-adults-with-past-due-medical-debt-owe-money-to-hospitals.html.
[22] Rakshit et al., *supra* note 9.
[23] Nora V. Becker et al., *Association off Chronic Disease with Patient Financial Outcomes Among Commercially Insured Adults*, 182 JAMA INTERNAL MEDICINE 1044 (Aug. 22, 2022), https://www.doi.org/10.1001/jamainternmed.2022.3687.
[24] Fredric Blavin et al., *Which County Characteristics Predict Medical Debt?* 4 (Jun. 2022), https://www.urban.org/research/publication/which-county-characteristics-predict-medical-debt; *see also* Lopes et al., *supra* note 3.

protections. Black women, women with lower incomes, and women with chronic health conditions are overrepresented in the South,[25] underscoring the inextricability of these geographic differences with disparities across race, gender, poverty, and disability.

II. Medical debt and its impacts on credit have lasting consequences for health, financial security, and access to necessities.

Health care debt can have wide-ranging repercussions across people's life—especially if those debts ultimately appear on their credit reports or cause their credit score to drop. A lower credit score is not a rare outcome of medical debt: In one study, 40% of people with medical debt saw a decrease in their credit score as a result.[26] And even though medical debt is not a reliable indicator of creditworthiness,[27] creditors have relied on it to make underwriting decisions. This practice can make it more difficult for people to take out loans for education, vehicles, homeownership, future medical bills, and other needs. Medical debt on credit reports can also impact tenant screening and employment decisions, with more than half of employers conducting credit checks on prospective hires.[28] The resulting barriers people with medical debt face to renting a home or finding a job can have reverberating consequences throughout their lives, including their financial security and ability to pay back their existing medical bills. These consequences of medical debt have particularly heavy impacts on those who already face barriers to education, employment, housing, and loans—including women, people of color, disabled people, and/or people with low incomes, all of whom are more likely to experience medical debt to begin with.

The inclusion of medical debt on credit reports can also prompt civil rights violations: A creditor, employer, or housing provider might use low credit as a pretext for discrimination, or they may be less consciously swayed by the credit report when it confirms their implicit biases. As one example, some employers and landlords have used medical debt as a proxy for disability: They have rejected individuals with multiple medical debts based on the assumption that this pattern is an indication of a chronic health condition, and that the applicant may therefore need accommodations, use more sick leave, or raise insurance premiums. While this discrimination is typically unlawful, protections against civil rights violations of this kind can be difficult to identify and enforce, making it especially vital to prevent them from happening in the first place by limiting access to medical debt information in credit reports.

Medical debt and its potential impact on credit can also have significant indirect consequences. In one study, 63% of people with medical debt had to cut back spending on basic necessities as a

---

[25] *See, e.g.,* Office of Minority Health, *Black/African American Health* (accessed Aug. 6, 2024), https://minorityhealth.hhs.gov/blackafrican-american-health; Gabriel A. Benavidez et al., *Chronic Disease Prevalence in the US: Sociodemographic and Geographic Variations by Zip Code Tabulation Area*, 21 PREVENTING CHRONIC DISEASE 230267 (Feb. 29, 2024), http://dx.doi.org/10.5888/pcd21.230267.

[26] Sara R. Collins et al., *U.S. Health Insurance Coverage in 2020: A Looming Crisis in Affordability* (Aug. 19, 2020), https://www.commonwealthfund.org/publications/issue-briefs/2020/aug/looming-crisis-health-coverage-2020-biennial.

[27] Kenneth P. Brevoort & Michelle Kambara, *Data Point: Medical Debt and Credit Scores* (May 2014), https://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf.

[28] Professional Background Screening Association & HR.com, *Background Screening: Trends in the U.S. and Abroad* (Aug. 2021), https://www.hr.com/en/resources/free_research_white_papers/research-study-background-screening---trends-in-th_ksq5meoj.html?utm.

result; nearly half (48%) used up most or all of their savings; and 37% had to miss or delay payments on other bills.[29] People who incur medical debt can be impeded from accessing care in the future, leading some to forgo health services. Indeed, nearly eight in ten (79%) of those with medical debt report skipping or delaying care or medications in the prior year due to cost, compared with 49% of those without medical debt.[30] Similarly, a study of adults with depression or anxiety found that medical debt was associated with an over two-fold increase in delayed or forgone mental health treatment,[31] an especially perverse outcome as medical debt itself has been shown to contribute to increased rates of depression, anxiety, and suicidality.[32] Not seeking medical care can leave people with even more medical debt in the future due to untreated conditions and inadequate preventive care. Even before people incur medical debt, the unaffordable cost of care and the debt that may arise can deter them from seeking the health services they need.[33]

The impacts of medical debt on health and financial stability are further exacerbated when it results in a lower credit rating. For example, barriers to employment and housing rank among the most harmful consequences of low credit driven by medical debt. When prospective employers or landlords use low credit to reject applicants, it can leave individuals in a vicious cycle where they are unable to regain the financial stability to pay down their debts. And it can have a ripple effect throughout their lives: For example, they may be forced into substandard or unsafe housing conditions or may be unable to find housing at all, which further worsens their health, employment, access to nutrition, and ability to escape settings of domestic abuse.[34] Limited access to jobs leaves people with fewer resources to support themselves and their families—an especially concerning outcome for people already saddled with past-due medical bills or those who face high interest rates due to low credit. Without sufficient resources, people may be forced to pare back expenses on necessities, and they may be unable to build savings throughout their lifetimes; the disparities in both medical debt and its outcomes means that these barriers in turn exacerbate the racial and gender wealth gap. Preventing employers and landlords from relying on medical debt-driven low credit in their decision-making is therefore critical for people's financial security, health, and safety, especially for communities that already face heightened barriers to jobs and housing.

III. Recommendations for the proposed rule

We generally support the proposed rule and urge the CFPB to further reinforce it in several ways. First, we support limiting when credit reporting companies can include medical debt on credit reports. We emphasize that the recent voluntary changes by several credit reporting companies to remove this debt, while welcome, are not legally binding, cannot be relied on to be permanent in

---

[29] Lopes et al., *supra* note 3.
[30] *Id*.
[31] Kyle J. Moon et al., *Medical Debt and the Mental Health Treatment Gap Among US Adults*, JAMA PSYCHIATRY (Jul. 2024), doi.org/10.1001/jamapsychiatry.2024.1861.
[32] Consumer Financial Protection Bureau, *supra* note 16 at 34.
[33] *See, e.g.,* Lunna Lopes et al., *Americans' Challenges with Health Care Costs* (Mar. 1, 2024), https://www.kff.org/health-costs/issue-brief/americans-challenges-with-health-care-costs.
[34] Talia Grossman et al., *Housing is Foundational to Women, LGBTQI+ People, and Families* (Jun. 2024), https://nwlc.org/wp-content/uploads/2024/06/Housing-Is-Foundational-to-Women-LGBTQIA-People-and-Families.pdf.

the absence of clear regulations, and do not encompass all companies or all forms and quantities of medical debt. This concern is underscored by the CFPB's finding that even after these voluntary changes, 15 million people collectively had more than $49 billion in outstanding medical bills on their credit reports.[35]

To strengthen the prohibition on including medical debt in credit reports, we urge the CFPB to extend it to additional sources of medical debt, including medical debt incurred through medical credit cards such as CareCredit cards, as well as through general-purpose credit cards. Credit cards are a significant source of medical debt: In one analysis, approximately a quarter of those with past-due medical bills used credit cards for some or all of those bills, with Latine and Black adults more likely to report using credit cards than white adults.[36]

We also urge the CFPB to extend the prohibition on disclosing medical debt to reach reports used in tenant and employment screening, rather than limiting it to reports to creditors. As discussed above, the consequences of medical debt-driven low credit for housing and employment can be devastating, particularly for communities that already face barriers and discrimination in these areas.

Second, we support limiting when creditors can use medical debt to make underwriting decisions. We encourage the CFPB to similarly prohibit prospective employers and housing providers from factoring in medical debt when screening applicants.

Finally, we support the prohibition on coercive practices, including banning debt collectors from coercing payments for potentially inaccurate medical bills, banning repossession of medical devices like wheelchairs and prosthetics if people are unable to pay, and prohibiting lenders from using medical devices as collateral for a loan. We encourage the CFPB to address other common practices, such as by prohibiting providers from issuing medical credit cards or loans to patients when their insurance covers the procedure or when they qualify for financial assistance, and by prohibiting services from being charged to a credit card before they are rendered.

IV. Conclusion

We appreciate the opportunity to comment on this proposed rule. We request that the supporting documentation that we have made available through direct links in our citations be considered part of the formal administrative record for purposes of the Administrative Procedure Act. For further information, please contact Ma'ayan Anafi, Senior Counsel for Health Equity and Justice at the National Women's Law Center, at manafi@nwlc.org.

[35] Sandler & Blizard, *supra* note 2.
[36] Michael Karpman et al., *How Many Adults Have Past-Due Medical Bills on Credit Cards?* 2 (Sep. 2023), https://www.rwjf.org/en/insights/our-research/2023/09/risk-of-using-credit-cards-to-pay-medical-bills.html.