DOLLAR FOR
We crush medical bills.

Rohit Chopra, Director
Consumer Financial Protection Bureau
1700 G. St. NW
Washington, DC 20552

Aug 8, 2024

Re: Public Comment on Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V). Docket No. CFPB 2024-0023.

Dear Director Chopra,

Dollar For is in favor of the proposed regulations. We are a national 501(c)(3) non-profit patient advocacy organization. We help patients access hospital financial assistance and advocate for policies that reduce the burden of medical debt in the United States. To date we have helped over 16,000 patients access hospital charity care, relieving over $56 million in medical debt.

There are few metrics more impactful to a person's life in the United States than their credit score. As the CFPB has noted, credit scores are used by lenders, landlords, employers, insurance companies, and more to make the most impactful decisions about people's lives. These entities are using credit scores to decide where people may live, where they may work, if they may finance a house, if they will be insured, etc. Medical debt is perhaps the most unfair tradeline to factor into a person's credit score because patients rarely, if ever, have any choice whether they incur it. Through a person's credit score, medical debt grows tentacles to reach out and negatively impact important aspects of people's lives. In this way, medical debt becomes an inescapable scarlet letter carved into one's history. Nobody invites medical debt into their lives through poor decisions. It just happens to people, almost always unexpectedly, and sometimes completely randomly.

The debt collection industry has been active in the media trying to make the case that the implementation of the proposed regulations would have dire,

unintended consequences.[1] At the core of their talking points is a misunderstanding of moral hazard. They present a false narrative that the only incentive a patient has to pay their bill or even buy insurance is the fear that an unpaid amount will appear on their credit report. Not only is this empirically false, it dramatically oversimplifies how patients think about and process their medical bills. Dollar For's public comment is focussed on dissecting and evaluating this moral hazard argument to show the CFPB that it should not be taken seriously.

These regulations will not decrease payment of medical bills or purchasing of insurance in any meaningful way

Economists hired by the debt collection industry, the Wall Street Journal Editorial Board, and others opposed to these regulations have argued that patients will not pay their bills if these regulations are implemented. The general argument has two main pillars: 1) whatever bill a patient is sent is valid and owed, and 2) the only incentive a patient has to pay anything at all is the fear of having their bill reported to a credit bureau. They are wrong on both fronts.

Assumption 1: The full amount of the medical bill is owed

Most of the time when patients engage with a provider they have no idea what it will cost and even if they did it would be irrelevant – they usually *need* the service one way or the other. To make matters worse, many of these bills are not even accurate. Between 60[2] - 80%[3] hospital bills have errors. However, most bills are written in medical billing short-hand with codes and

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[1] ACA International, https://www.acainternational.org/press/former-cfpb-economists-groundbreaking-research-shows-lack-of-analysis-in-bureaus-proposed-medical-debt-credit-reporting-rule/ (last visited Aug. 8, 2024); Yahoo Finance, , https://finance.yahoo.com/news/m-economist-biden-win-could-120117753.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAJguBqtQe8oB40BbNrkIOYljOm3y5P-9aaYQLoeY5sNEfhWFLKpLLYkJslVQtSqop94yD_dgP_1afiJYxg4ASa5AIlzYI0N39DSs2XY0-UehygwDhJBgRnO7RqgSUeWI9n7PsbzXBD0GE5doEUf6h_zGiyIVZs-R-Yt2pwnPFJjX (last visited Aug. 8, 2024), Wall Street Journal, https://www.wsj.com/articles/consumer-financial-protection-bureau-medical-debt-credit-score-rohit-chopra-1689e007 (last visited Aug. 8, 2024).

[2] https://www.vox.com/even-better/23661759/reduce-health-care-costs-medical-bills

[3] https://www.beckershospitalreview.com/finance/medical-billing-errors-growing-says-medical-billing-advocates-of-america.html

abbreviations for services, products, or medications. Patients without advanced medical or coding training have no way to know if their bill is accurate or not.

Further, many other bills have dubious line-items if they are technically "accurate" but highly suspect. For example, hospital emergency rooms charge a "facility fee" that is charged the second a person enters the hospital, regardless of what services they require. These fees are exorbitant and between 2004 - 2021 grew 541%. This is four times higher than the growth of emergency department professional fees.[4] Patients usually receive these bills under the mandate that they are due immediately or sometime within the next 30 days.

Patients are not necessarily legally obligated to pay all of these fees just because they were included in an invoice in every instance. For example, in a recent Colorado case the state Supreme Court found that the price term of the hospital's services agreement was open because its chargemaster was not incorporated by reference.[5] The jury in that case found that the patient was only legally obligated to pay $766.74 when the hospital had billed her $229,112.13.[6] This was an extreme case, but it clearly shows that just because a patient has been billed an amount doesn't mean it is what they actually owe.

All of this is to show that just because a patient receives a bill from a medical provider does not *necessarily* mean that it is valid or owed. The nature of how patients receive medical services and the complexities of healthcare pricing make what a patient legally owes much more complicated than whether they received a billing statement or not.

Assumption 2: Patients will only pay their bill if incentivized by the fear of poor credit

This part of the moral hazard argument is multi-faceted. It often assumes that patients *can* pay their bill and simply *choose* not to. This argument was bluntly made by the Wall Street Journal's Editorial Board. They argued that this regulation is unnecessary because the protection Americans have

[4] Peterson-KFF, https://www.healthsystemtracker.org/brief/how-do-facility-fees-contribute-to-rising-emergency-department-costs/ (last visited Aug. 8, 2024).
[5] *French v. Centura Health*, 2022 CO 20 (2022).
[6] *Id.* at 6.

against having medical debt appear on their credit report is to simply carry health insurance and insured patients do not actually receive bills they cannot afford. They argued:

> Mr. Chopra says noting the nonpayment of medical bills is unfair given the vagaries of illness. But this is a reason to carry health insurance. Very few Americans with insurance rack up enormous medical debt. Affordable Care Act plans have deductibles and copays, but the ACA's subsidies can offset premiums.[7]
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> ...
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> Medical debt affected the credit scores of roughly 15 million Americans as of last June, averaging about $3,100 – far from a terrible burden.

The data show that this is just wrong. In fact, 58% of hospital bad debt is held by insured patients.[8] This is attributed to the rising cost of the deductibles and copays brushed aside as inconsequential by the opponents of these regulations.[9] Further, $3,100 *is* a terrible burden for most Americans. Surveys show that most Americans cannot afford unexpected bills of $1,000, let alone three times that.[10] Further, $3,100 is just the average – nearly 1 in 5 hospital bad debt balances exceed $7,500.[11] All available data indicates that patients cannot pay these bills, not that they simply refuse to.

The debt collection industry has paid economists to write papers that make similar arguments. For example, Andrew Nigrinis, PhD was hired by the industry to write a paper that is in opposition to implementation of these

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[7] Wall Street Journal, https://www.wsj.com/articles/consumer-financial-protection-bureau-medical-debt-credit-score-rohit-chopra-1689e007 (last visited Aug. 8, 2024).
[8] Crowe, https://www.crowe.com/-/media/crowe/llp/widen-media-files-folder/h/hospital-collection-rates-for-self-pay-patient-accounts-report-chc2305-001a.pdf (last visited Aug. 8, 2024).
[9] *Id.*
[10] The Hill, https://thehill.com/blogs/blog-briefing-room/4428193-most-americans-cant-afford-1000-emergency-survey/ (last visited Aug. 8, 2024).
[11] Crowe, https://www.crowe.com/-/media/crowe/llp/widen-media-files-folder/h/hospital-collection-rates-for-self-pay-patient-accounts-report-chc2305-001a.pdf (last visited Aug. 8, 2024).

regulations. Dr. Nigrinis' paper makes wild claims such as the proposed regulations would cause "a risk of health insurance markets entering a death spiral" because people will stop paying their bills and buying health insurance.[12] However, his entire paper rests on the same broken foundation as the WSJ opinion piece – that patients choose whether or not to pay a medical bill. Dr. Nigrinis argues that "[l]imiting credit reporting prevents diligent consumers from distinguishing themselves from those who neglect their financial obligations."[13] Describing patients with medical debt as people who "neglect their financial obligations" is remarkably ignorant.

To start, only 29%[14] of patients likely eligible for charity care receive it, resulting in approximately $14 billion[15] in ungranted charity care entering debt pools every year. Put simply – hospitals are reporting billions in debt to credit bureaus that they should not even be owed. Dollar For's research also suggests that some patients are so internally motivated to pay their bill, that they actually forgo applying for charity care. When Dollar For surveyed patients about why they did not apply for charity care, 10% of respondents included "shame" as a reason for not applying.[16] This implies that some patients will try to pay what they perceive they owe even if they know that they are entitled to wipe the debt clean. Patients are not the ones who are "neglecting their financial obligations" as Dr. Nigrinis suggests. Patients are doing everything they can to get through a healthcare system that obfuscates benefit programs and threatens financial ruin around every corner.

Finally, all of this ignores the fact that a debt being reported to a credit bureau is the least motivating tool in the creditor's toolbox. Opponents to

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[12] Andrew Rodrigo Nirgrinis, Ph.D, *Economic Analysis of the Consumer Financial Protection Bureau's Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V),* https://policymakers.acainternational.org/wp-content/uploads/2024/07/AndrewNigrinisEconomicAnalysis-CFPB-FCRA-NPRM-July2024.pdf (last visited Aug. 8, 2024).
[13] *Id.*
[14] Dollar For, https://dollarfor.org/wp-content/uploads/2024/04/Dollar_For_Path.pdf (last visited Aug. 8, 2024).
[15] Dollar For, https://dollarfor.org/wp-content/uploads/2024/04/Dollar_For.Bridging_the_Chasm.pdf (last visited Aug. 8, 2024)
[16] Dollar For, https://dollarfor.org/wp-content/uploads/2024/04/Dollar_For_Path.pdf (last visited Aug. 8, 2024)

these regulations pretend that tactics like debt collection calls, lawsuits, liens, and garnishment are irrelevant or do not exist. Patients are well aware that they will have to deal with nonstop debt collection calls and could be sued if they do not pay a bill. Very few patients will decide to not pay a bill they owe and could otherwise pay simply because it will be reported to a credit bureau. Patients are well aware that they can ultimately be sued if payment is not made. Their motivation to pay is unaffected by this regulation. As to the consistent argument that patients will no longer purchase health insurance causing insurance markets to enter a "death spiral" – this makes even less sense. No rational patient would trade a $3,100 debt for a $100,000 debt that they can be sued for, regardless of what's reported to a credit bureau.

To be clear, there *is* moral hazard in healthcare billing, but not how opponents to this regulation have claimed. There is an asymmetric power and knowledge imbalance favoring the providers over patients. Under the existing system unscrupulous providers can send a patient a bill that they could not avoid, that contains inaccurate and price-gouged line-items. The patient is left with no ability to evaluate whether the bill is accurate or fair and is told that they have 30 days to pay or their credit will be negatively impacted, all while benefit programs such as charity care are not clearly presented. This is the actual moral hazard to regulate against, as the proposed regulations would do.

Even if payments to providers are reduced it would be miniscule and well worth the trade off.

The most comprehensive analysis Dollar For has reviewed by a person or organization against these regulations as to the actual financial impact to providers was conducted by Dr. Nigrinis. His paper estimates that the first year reduction of impact in medical debt collection will be approximately $24.04 billion. Setting aside for now that Dr. Nigrinis cherry picked figures to make that number as high as possible, this is still an extremely small impact to overall provider revenue. This $24.04 billion is out of $4.5 trillion in health expenditures every year.[17] Even using Dr. Nigrini's inflated baseline figures,

[17] CMS, https://www.cms.gov/data-research/statistics-trends-and-reports/national-health-expenditure-data/historical#:~:text=U.S.%20health%20care%20spending%20grew,trillion%20or%20%2413%2C493%20per%20person (last visited Aug. 8, 2024)

these regulations would affect approximately 0.5% of overall healthcare expenditures. However, there are two figures used by Dr. Nigrinis that make this number higher than it likely would be in reality. First, his calculation estimates that 13% of Americans hold medical debt annually.[18] This is the upper-end of estimates on this number. The Census Bureau's Survey of Income and Program Participation (SIPP) data set estimates that only 8% of US adults have some form of medical debt.[19] This figure is based on self-reported data so is more reflective of what debt consumers believe they owe. As this analysis attempts to estimate the impact of consumer behavior, we believe that 8% is a more accurate figure because it reflects the medical debt that consumers are aware of. Additionally, estimates on how much medical debt currently exists are between $88 billion (CFPB estimate) and $220 billion (KFF estimate). Dr. Nigrinis' analysis used $220 billion, further inflating the impact.

While there is likely to be *some* impact to provider revenue, Dr. Nigrinis' paper confirms that, even in the most dire scenario, these regulations will affect a tiny fraction of provider revenue. On the other hand, the benefits of these regulations are profound. As the CFPB estimates, 22,000 more people every year will build generational wealth by purchasing a home and many more will no longer struggle to rent housing or obtain employment because of a medical event. The benefits to these proposed regulations are worth such such an insignificant cost.

Sincerely,

Eli Rushbanks
General Counsel & Director, Policy & Advocacy

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[18] ACA Internaional, https://policymakers.acainternational.org/wp-content/uploads/2024/07/AndrewNigrinisEconomicAnalysis-CFPB-FCRA-NPRM-July2024.pdf (last visited Aug. 8, 2024).
[19] Peterson-KFF, https://www.healthsystemtracker.org/brief/the-burden-of-medical-debt-in-the-united-states/#Share%20of%20adults%20who%20have%20medical%20debt,%20by%20health%20status%20and%20disability%20status,%202021 (last visited Aug. 8, 2024).