

September 26, 2022

The Honorable Rohit Chopra  
Director, Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

Re: Request for Rulemaking to Ban Medical Debt from Credit Reports

Dear Director Chopra:

The undersigned 91 consumer, civil rights, healthcare, and advocacy organizations urge you to begin the process of issuing a rule that would prohibit medical debts from appearing on credit reports if the debts arose from medically necessary services. While there have been great strides in recent months in reducing the amount of medical debt on credit reports, we believe rulemaking is ultimately necessary to protect consumers, particularly vulnerable consumers. We implore you to begin this rulemaking expeditiously, given the amount of time needed for the notice-and-comment process.

We recognize and applaud the exemplary work that you and the Consumer Financial Protection Bureau staff have already done on this issue. During the one year since your confirmation as Director, the CFPB has put forth numerous issuances on medical debt, such as reports on the [Medical Debt Burden in the United States](#) and [Medical Debt Among Older Adults before the Pandemic](#), as well as the [Compliance Bulletin about Debt Collection and Credit Reporting in Connection with the No Surprises Act](#) and the [Consumer Financial Protection Circular concerning debt collection and consumer reporting practices involving invalid nursing home debts](#).

Likely in response to this heightened scrutiny, the nationwide consumer reporting agencies (CRAs) – Equifax, Experian and TransUnion - have [announced](#) major changes regarding their treatment of medical debt, *i.e.*, the removal of paid medical debts and medical debts under \$500 and the one year delay in reporting other medical debts. The credit scoring modeler VantageScore has [announced](#) that it will no longer include medical debts in its two latest scoring models (VantageScore 3 and 4).

These changes would not have been possible without the excellent work of the CFPB staff, both recently and over the years. And we suspect the changes are driven in no small part by your [statements](#) that the CFPB will be examining the appropriateness of including medical debts in credit reports at all.

However, while the nationwide CRAs' voluntary reforms will result in the removal of the majority of medical debt, the debts that will remain are [held by the most vulnerable consumers](#). These include consumers who may be facing catastrophic or chronic medical issues

and thus have larger medical bills, and low-and-moderate income consumers who cannot afford to pay off the debts.

The recent announcement by VantageScore, which is owned by the nationwide CRAs, unequivocally establishes that these debts are simply not *necessary* for credit scores to be predictive. And if they are not necessary to be predictive, they are not necessary to include in credit reports for the purposes of credit underwriting.

Some stakeholders might argue that medical debts should not be prohibited from credit reports because they do have some predictive value.<sup>1</sup> However, there are many factors that would have some predictive value, but are not necessary for underwriting and are not included in credit scores for various reasons. For example, credit reports do not include income, occupation, educational attainment, and various protected class statuses.

We have no indication whether FICO will follow VantageScore's lead in excluding medical debt from scoring models. And even if FICO does exclude medical debt from credit scores, medical debt on credit reports will continue to harm consumers. Certain critical uses of credit information can involve a review of the full credit report, such as employment decisions (which ostensibly do not use credit scores), mortgage applications, and tenant screening. The possible harms if medical debts continue to appear on credit reports include:

- The appearance of multiple medical debts, especially in larger dollar amounts, may indicate to an employer or housing provider that the consumer has a [chronic health condition](#). This may result in rejections by less-than-upstanding employers worried that the consumer will require frequent sick leave or result in higher health insurance premiums. Housing providers may reject applicants they believe are sick and require some sort of accommodation.
- Mortgage lenders almost always use full credit reports. While Fannie Mae, Freddie Mac and FHA do not require consideration of medical debt collection items, there may be lenders that have additional requirements, *i.e.*, [overlays](#), requiring the collections to be paid off.
- Consumers with a disability are disproportionately impacted by medical debt. According to the Kaiser Family Foundation's [Burden of Medical Debt](#) report, adults with a disability are more likely than those without a disability to report owing over \$250 in medical debt (15% vs. 7%). Consumers with a disability already face significant barriers in obtaining [employment](#) and [housing](#). Medical debts on a credit report might be what tips an already tentative employer or housing provider from hiring a disabled consumer

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<sup>1</sup> The debt collection industry [has also argued](#) that placing medical debts on credit reports provides notice to patients that they have a bill or that their insurance company didn't cover their care. However, there are legal notice requirements for both medical billing and health insurance denials of coverage. Any problems with notices should be handled in other forums and not addressed through potentially harmful credit reporting.

or renting an apartment to them. While such actions violate federal and state anti-discrimination laws, illegal activity does happen. Removing medical debts from credit reports is one way to reduce the potential for such violations.

The CFPB has ample regulatory authority to prohibit the appearance of medical debt on credit reports. First, there is the CFPB's broad general rulemaking authority under Section 621(e), 15 U.S.C. § 1681s(e) to "prescribe regulations as may be necessary or appropriate to administer and carry out the purposes and objectives of [the FCRA]." One of the objectives of the FCRA is that credit reporting "meet[] the needs of commerce ... in a manner which is fair and equitable to the consumer,..." 15 USC 1681(b). Removing medical debts from appearing in credit reports furthers the objective of treating consumers fairly and equitably.

Second, the FCRA provides the CFPB with specific rulemaking authority concerning medical information. The Act prohibits creditors from considering medical information under Section 604(g)(2), 15 U.S.C. § 168b(g)(2), unless the use is permitted by regulations issued by the CFPB under Section 604(g)(5), 15 U.S.C. § 168b(g)(5). The current regulations, which were promulgated by the banking regulators in 2005, do allow the use of medical debt information. Regulation V, 12 C.F.R. § 1022.30(d). However, the CFPB could remove this provision from Regulation V and instead prohibit the inclusion of medical debt in credit reports, given that it is not necessary for credit underwriting.

Thus, we urge the CFPB to use its clearly delineated rulemaking authority to prohibit the inclusion of medical debts in credit reports. Please also consider this a petition for rulemaking under section 553(e) of the Administrative Procedure Act. If you have any questions about this letter, please contact Chi Chi Wu at [cwu@nclc.org](mailto:cwu@nclc.org) or 617-542-8010. Thank you for your consideration, and for all your work to protect consumers.

Sincerely,

**National Organizations**

National Consumer Law Center (on behalf of its low-income clients)

20/20 Vision

Americans for Financial Reform Education Fund

Appleseed Foundation

Be A Hero

CASA

Center for Digital Democracy

Center for Responsible Lending

Community Catalyst

Consumer Action

Consumer Federation of America

Consumer Reports

Debt Collective

**(signatories continue on following page)**

Families USA  
Justice in Aging  
National Association of Consumer Advocates  
National Consumers League  
National Fair Housing Alliance  
National Health Law Program  
Public Good Law Center  
Public Justice  
RIP Medical Debt  
UnidosUS  
U.S. PIRG  
Woodstock Institute

**State and Local Organizations**

Center for Economic Integrity (AZ)  
Health Access California  
California Low-Income Consumer Coalition  
Consumer Federation of California  
Public Law Center (CA)  
Western Center on Law and Poverty (CA)  
Colorado Center on Law and Policy  
Colorado Consumer Health Initiative  
Tzedek DC  
Jacksonville Area Legal Aid  
Florida Health Justice Project  
Florida Voices for Health  
Georgia Watch  
Georgians for a Healthy Future  
Legal Action Chicago  
Legal Council for Health Justice (IL)  
Shriver Center on Poverty Law (IL)  
Fair Housing Center of Central Indiana, Inc.  
Hoosier Action (IN)  
The H.O.P.E. (Helping Others Prosper Economically) TEAM (IN)  
Hoosiers for Responsible Lending (IN)  
Indiana Community Action Poverty Institute  
Kentucky Equal Justice Center  
Kentucky Voices for Health  
Louisiana Community Health Outreach Network  
Consumers for Affordable Health Care (ME)  
Health Law Advocates (MA)  
Massachusetts Law Reform Institute  
Maryland Consumer Rights Coalition

**(signatories continue on following page)**

Public Justice Center (MD)  
Michigan Disability Rights Coalition  
Mississippi Center for Justice  
Nebraska Appleseed  
New Jersey Appleseed Public Interest Law Center  
New Jersey Citizen Action  
New Mexico Center on Law and Poverty  
Center for Elder Law & Justice (NY)  
Citizen Action of New York  
Community Service Society of New York  
Health Care for All New York  
Labor-Religion Coalition of NYS  
Metro New York Health Care for All  
New Economy Project (NY)  
New York State Public Health Association  
Northwest Bronx Indivisible (NY)  
Queens County Bar Association Volunteer Lawyers (NY)  
Volunteer Lawyers Project of CNY, Inc.  
Healthcare For All Western North Carolina  
North Carolina Medicare For All Coalition  
NC Justice Center  
Fayetteville PACT (NC)  
Contact Center (OH)  
Universal Health Care Action Network of Ohio  
Oregon Consumer Justice  
Pennsylvania Health Access Network  
South Carolina Appleseed Legal Justice Center  
Tennessee Justice Center  
Utah Health Policy Project  
Legal Aid Justice Center (VA)  
Virginia Organizing  
Virginia Poverty Law Center  
Northwest Health Law Advocates (WA)  
ABC for Health, Inc. (WI)  
Citizen Action of Wisconsin  
West Virginians for Affordable Health Care  
WV Citizen Action Group