



June 12, 2024

CFPB PROPOSES RULE PROHIBITING MEDICAL DEBT FROM CREDIT REPORTS

The Consumer Financial Protection Bureau (“CFPB”) announced a proposed amendment to Regulation V which would prohibit medical debt from credit reports in most circumstances. The proposed amendment is the latest step in the CFPB’s crusade against medical debt and follows the announcement in September 2023 of its intention to ban medical debt from credit reports.

The proposal would amend Regulation V to (i) remove the financial information exception which broadly permits creditors to obtain and use medical financial information in connection with credit eligibility determinations, while retaining select elements of the exception related to income, benefits and loan purpose and (ii) limit the circumstances under which consumer reporting agencies are permitted to furnish medical debt information to creditors in connection with credit eligibility determinations. Under the new rule, creditors could no longer obtain or use medical information related to debts, expenses, assets or collateral in connection with a credit eligibility determination unless a specific exception otherwise applies. Likewise, credit reporting agencies would be generally prohibited from furnishing to creditors a consumer report containing medical debt information in connection with a credit eligibility determination. The proposed rule would also ban the repossession of medical devices.

In the rule proposal, the CFPB indicated that the change is based on its determination that regulatory exception to the Fair and Accurate Credit Transactions Act of 2003 (“FACT Act”), which permitted creditors to use medical financial information if certain conditions are met, is neither warranted nor consistent with the FACT Act’s purpose of protecting the privacy of medical information.

The CFPB is not the only entity currently attacking medical debt use and reporting. Several states, including New York, Colorado, Connecticut and Virginia, have passed laws prohibiting medical debts from appearing on consumer reports. This follows Equifax, Experian and TransUnion’s 2022 announcement that they will no longer consider paid medical collection debt on consumer credit reports and the subsequent removal of any unpaid medical debt of less than \$500 in 2023. See our [ALERT of March 22, 2022](#).

The comment period for the proposed rule closes August 12,

2024. We are happy to help prepare a comment letter or to pass on client comments to industry groups. We will continue to monitor and report on the status of the proposed rule. □

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