

## CFPB Finalizes Rule Curbing Use and Reporting of Medical Debt

January 10, 2025

On January 7, 2025, the Consumer Financial Protection Bureau (CFPB) [issued a final rule](#) that would generally prohibit lenders from considering medical debt information when determining a consumer's eligibility for credit, and would keep most medical debt information off of consumer reports provided to creditors. The final rule largely tracks the [June 11, 2024, proposal](#) and is scheduled to take effect 60 days after publication in the Federal Register. However, a group of trade associations, as well as a separate trade group and a medical debt collector, have each already filed lawsuits urging the rule to be set aside.

### **Creditor consideration of medical debt information generally prohibited**

The final rule removes a long-standing regulatory exemption that previously permitted a creditor to consider medical debt information in connection with a determination of a consumer's eligibility – or continued eligibility – for credit. Medical information that now cannot be considered as part of a credit decision includes a consumer's debts related to obtaining medical services, products or devices, including debts that are assigned to a person other than the provider of the services. The final rule also prohibits a creditor from using the amount and payment status of medical debt in an assessment of creditworthiness. However, creditors would still be able to rely on medical debt information in limited cases, such as where information is included in the transaction information of an account accessed with the consumer's authorization (such as medical debts that were charged to a credit card), or if the information relates to income, benefits or the purpose of a loan.

### **Consumer reporting agencies (CRAs) restricted in the inclusion of medical debt on credit reports**

The final rule also significantly restricts a CRA's ability to include medical debt information in a consumer credit report provided to a creditor. Pursuant to the final rule, a CRA now cannot furnish a credit report containing medical debt information to a person that intends to use the information for prohibited purposes, such as credit decisioning or underwriting. However, a CRA can include medical debt information in a consumer report if the CRA has "reason to believe" that such information will be used for another purpose that is not expressly prohibited – though the rule does not offer specific examples. Also of note, while courts (and the CFPB) have addressed this "reason to believe" standard in interpreting other sections of the Fair Credit Reporting Act (FCRA), it is not clear what level of knowledge may be required of CRAs to satisfy the standard in this new context.

The CFPB indicated the rule will remove \$49 billion of medical bill information from the credit reports of 15 million Americans.

### **Looking ahead**

Although the final rule is scheduled to take effect 60 days after publication in the Federal Register, the rule is already subject to a court challenge and also could be overturned in the new Congress.

Shortly after the rule was issued, a group of trade associations filed a lawsuit in the Eastern District of Texas claiming the rule

violates the Administrative Procedure Act because, among other things, it is contrary to the FCRA and exceeds the CFPB's statutory authority. The lawsuit also argues that the rule is arbitrary and capricious because it reverses 20 years of settled practice with insufficient rationale and is based upon a flawed cost-benefit analysis. The following day, a separate trade group and a medical debt collector filed a joint lawsuit in the Southern District of Texas advancing similar legal theories.

In addition to this pending legal challenge, the final rule is subject to the Congressional Review Act and, as such, could be nullified by the new Congress.

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