



1700 G Street NW, Washington, D.C. 20552

March 25, 2024

Via electronic mail

The Honorable Monique Limón
California State Senate
1021 O St, Suite 6510
Sacramento, CA 95814

Dear Senator Limón,

I write on behalf of the Consumer Financial Protection Bureau (CFPB) in support of Senate Bill 1061 (SB1061), which would prohibit the inclusion of medical bills on credit reports.

Medical debt is categorically different from many types of consumer tradelines that typically appear on credit reports. Consumers frequently incur medical bills in unique circumstances that differ from other forms of credit extension, and CFPB research has found that medical debt is less predictive of future consumer credit performance than other tradelines. Consumers often incur medical bills through unexpected emergencies. Among consumers who report problems paying medical bills, 66 percent acquired their debt because of a one-time or short-term expense arising from an acute medical need.¹ Even in non-emergencies, medical bills are subject to opaque pricing which differs based on the patient's insurance status, the coverage rules of their insurer, and the billing practices of their medical provider.

In addition to being less predictive of credit risk, unpaid medical bills are frequently rife with unreliable data. Based on CFPB complaints, more than four in ten consumers with medical debt

¹ Consumer Financial Protection Bureau, Report: Medical Debt Burden in the United States, (Feb. 2022), https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf at 3; Hamel, Liz et al., "Report: The Burden of Medical Debt," Kaiser Family Foundation, (Jan. 2016), <https://www.kff.org/wp-content/uploads/2016/01/8806-the-burden-of-medical-debt-results-from-the-kaiser-family-foundation-new-york-times-medical-bills-survey.pdf> at 3.

have received an inaccurate bill, and nearly seven in ten were asked to pay a bill that their insurance company should have covered.² Providers often send unpaid bills to debt collectors with little or no supporting documentation, which creates an opportunity for unscrupulous collectors to collect debts without knowing if they are valid or accurate.

The purpose of the credit reporting system is to assess credit risk, not to coerce people to pay debts they may not owe. Unfortunately, the CFPB has heard from consumers across the country, including in California, that many people do not find out that they have an erroneous medical bill in collections until they apply for a mortgage or car loan.³ They are then forced to choose between a protracted fight to address the inaccuracy or to pay it without ample time to review, which is not an option for many. Debt collectors have many other legal remedies to collect legitimate medical bills without resorting to coercive credit reporting.

We commend your introduction of SB1061 to proactively protect Californians against the harms of medical debt reporting. States play a frontline role in protecting consumers from unscrupulous practices, including by enacting laws that go further than or reinforce federal protections. In 2022, the CFPB issued an interpretive rule noting that, with limited exceptions, states are permitted to enact state-level laws that provide consumer protections in addition to those in the federal Fair Credit Reporting Act (FCRA).⁴ Federal courts have similarly affirmed the ability of states to enact laws with stronger consumer credit protections than the FCRA, consistent with this interpretive rule. In February 2022, in *Consumer Data Industry Association v. Frey*, the First Circuit Court of Appeals rejected a challenge to Maine’s Medical Debt Reporting Act—which among other things restricts when consumer reporting agencies may report medical bills—on the grounds that the FCRA does not categorically preempt all state laws governing information contained in consumer reports.⁵ Similarly, in June 2023, in *Aargon Agency, Inc. v. O’Laughlin*, the Ninth Circuit Court of Appeals denied a challenge to Nevada Senate Bill 248—which restricts the collection of medical debt—on the grounds that the legislation was not preempted by federal law.⁶ Accordingly, the CFPB welcomes and encourages state legislatures to pass laws reinforcing or exceeding the consumer protections of existing federal laws and regulations.

² Consumer Financial Protection Bureau, *Prepared Remarks of Director Rohit Chopra for the CFPB Hearing on Medical Billing and Collections*, (Jul. 11, 2023), <https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-of-director-rohit-chopra-for-the-cfpb-hearing-on-medical-billing-and-collections/>.

³ Consumer Complaint 7498623, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/7498623>.

⁴ The Fair Credit Reporting Act’s Limited Preemption of State Laws, 87 Fed. Reg. 41042-01 (Jul. 11, 2022).

⁵ 26 F.4th 1 (1st Cir. 2022).

⁶ 70 F.4th 1224 (9th Cir. 2023).

In September 2023, the CFPB announced that it is beginning a rulemaking process to prohibit creditors from using or obtaining medical bills and collection information for underwriting decisions, and to prohibit credit bureaus from providing such information to creditors for use in underwriting. As we have seen in so many other contexts, strong state action provides essential support for federal policymaking. SB1061 would cement important protections against medical bill credit reporting into California law and provide state regulators with additional authority to prevent the inclusion of medical bills in credit reports. This legislation would join a recent wave of efforts by states to protect consumers against medical credit reporting. Last year, Colorado and New York passed legislation to bar medical bills from appearing on consumer credit reports, and many other states are currently considering similar legislation.

States have long been valued and critical partners in establishing and fortifying protections for consumers, and we welcome the opportunity to continue to work together in support of this bill and other consumer protection endeavors.

Sincerely,

Rohit Chopra

Rohit Chopra
Director