

September 17, 2019

Kathy Kraninger, Director  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

Re: Docket No. CFPB-2019-0022

Director Kraninger:

We, the undersigned groups who advocate on behalf of consumers impacted by medical debt, write to urge you to strengthen the Consumer Financial Protection Bureau's (CFPB) proposed debt collection rule. While we believe that the rule should be strengthened to better protect all consumers, those consumers struggling under medical debt will be particularly harmed by the rule as written.

### **Medical Debt Impacts a Staggering Number of Americans**

Medical debt harms millions of consumers every year, with nearly one in six adults age 19–64 contacted by a collection agency for unpaid medical bills in 2018.<sup>1</sup> Twenty-three percent of consumers had overdue medical bills in 2018.<sup>2</sup>

It should be no surprise that a recent CFPB report found that an incredible 58 percent of third-party debt collections tradelines on consumer credit reports were for medical debt.<sup>3</sup> This level of debt has serious consequences for consumers, as nearly 60 percent of bankruptcy filers believe that medical debt contributed to their bankruptcy.<sup>4</sup>

### **Why Medical Debt Is Different**

While we believe that all consumers deserve strong protections from harassing and unscrupulous debt collectors, those dealing with medical debt particularly need a strong rule. Because a third party, the insurer, is often in the middle of the consumer and the health care

<sup>1</sup> Sara R. Collins et al., *Health Insurance Coverage Eight Years After the ACA: Fewer Uninsured Americans and Shorter Coverage Gaps, But More Underinsured*, COMMONWEALTH FUND 28 (Feb. 2019),

[https://www.commonwealthfund.org/sites/default/files/2019-02/Collins\\_hlt\\_ins\\_coverage\\_8\\_years\\_after\\_ACA\\_2018\\_biennial\\_survey\\_sb.pdf](https://www.commonwealthfund.org/sites/default/files/2019-02/Collins_hlt_ins_coverage_8_years_after_ACA_2018_biennial_survey_sb.pdf).

<sup>2</sup> FINRA Investor Educ. Found., *National Financial Capability Study*, <http://www.usfinancialcapability.org/results.php?region=US> (last visited Sept. 12, 2019).

<sup>3</sup> Consumer Fin. Prot. Bureau, *Market Snapshot: Third-Party Debt Collections Tradeline Reporting* (July 2019), [https://files.consumerfinance.gov/f/documents/201907\\_cfpb\\_third-party-debt-collections\\_report.pdf](https://files.consumerfinance.gov/f/documents/201907_cfpb_third-party-debt-collections_report.pdf).

<sup>4</sup> David U. Himmelstein et al., *Medical Bankruptcy: Still Common Despite the Affordable Care Act*, 109 AM. J. PUB. HEALTH 431–33 (Mar. 2019), <http://www.pnhp.org/docs/AJPHBankruptcy2019.pdf>.

provider, what is paid when and by whom may be an ongoing negotiation. Third-party errors may result in consumers having bills go into collections in error.

Debts resulting from medical procedures also often result from emergencies, and a sick or recovering patient, who may be out of work, is in a poor position to pay the amounts demanded by bill collectors.

The high, unpredictable costs of medical care already affect how we make medical decisions. Forty percent of adults report skipping a medical test or treatment in the last year due to costs.<sup>5</sup> And consumers worried about costs sometimes withhold essential medical treatment, leading to worse health outcomes and more expensive care later on.<sup>6</sup> More harassment from collectors over a previous medical debt can only make these problems worse.

Consumers struggling with medical debt deserve much more robust protections from debt collectors than the proposed rule provides.

### **Too Many Phone Calls Allowed, Given the Nature of Medical Debt**

Medical emergencies may result in multiple bills that under the proposed rule would allow for a high volume of attempted calls. Take the story of Venus Lockett, who was uninsured and had a mini-stroke while giving a presentation. She spent the night in the hospital and received a bill for over \$26,000. She then received a separate \$1,301 bill for two doctors' consultations and a third bill from the ambulance company for \$1,807. Venus was lucky and ended up only having to pay a reduced ambulance bill after she found help from a local advocacy group.<sup>7</sup>

Not everyone will be so lucky. It is not a stretch of the imagination to go from the 21 attempted calls per week that the rule would allow for someone like Venus with three medical debts, to 56 attempted calls per week for a family with eight medical bills. Those high-volume communications from collectors can contribute to health problems of their own: chronic stress can have tangible health effects on the immune system, including increased inflammation, increased susceptibility to disease, and slower wound healing.<sup>8</sup>

<sup>5</sup> West Health Institute & NORC at the University of Chicago, *Americans' Views of Healthcare Costs, Coverage, and Policy* 3 (Mar. 2018), <http://www.norc.org/PDFs/WHI%20Healthcare%20Costs%20Coverage%20and%20Policy/WHI%20Healthcare%20Costs%20Coverage%20and%20Policy%20Issue%20Brief.pdf>.

<sup>6</sup> Leighton Ku & Victoria Wachino, Ctr. on Budget & Policy Priorities, *The Effect of Increased Cost-Sharing in Medicaid: A Summary of Research Findings* 1–2 (July 7, 2005), <https://www.cbpp.org/archiveSite/5-31-05health2.pdf>.

<sup>7</sup> Olga Khazan, *Americans Are Going Bankrupt From Getting Sick*, ATLANTIC, Mar. 15, 2019, <https://www.theatlantic.com/health/archive/2019/03/hospital-bills-medical-debt-bankruptcy/584998/>.

<sup>8</sup> Ronald Glaser & Janice K. Kiecolt-Glaser, *Stress-Induced Immune Dysfunction: Implications for Health*, 5 IMMUNOLOGY 243, 244–49 (2005).

We, along with advocates across multiple issue areas, recommend that the CFPB limit collectors to one conversation and three attempts per week, per consumer—not per debt. Dealing with the stress of a phone ringing constantly is no solution to a debt you simply cannot afford to repay.

### **Give Consumers a Choice on How to Be Contacted**

It is perhaps easy to forget that in addition to struggling with the debt itself, those with medical debt may still be struggling with poor health, reduced cognition, or even a new disability, or they may be caring for a loved one who is. Because of these challenges, we believe that consumers with medical debt should be allowed to choose how they are contacted.

Along with other advocates in other issue areas, we urge the CFPB to require collectors to obtain consent before contacting consumers via email, text, or direct message; allow consumers to stop any electronic messages by simply replying “stop” or using any other convenient method; and not require consumers to click a hyperlink to receive information about the debt and their rights. People who are in and out of the hospital or rehabilitation may enlist family members to check their mail and deal with bills. They may miss important notices that get buried in email, especially an old address that may not even be checked. For older consumers, in particular, medical issues may lead them to have more trouble with electronic communications that were not a problem when they were younger.

### **A Medical Emergency Should Not Result in Perpetual Debt**

Once a debt is so old that it has passed the statute of limitations in a consumer’s state, the CFPB should ban the collection of this time-barred debt in and out of court. There is general agreement among consumer advocates that these zombie debts are so old that the records are likely lost, and the collector may have the wrong information about the debt. Debts like that cannot be collected without mistakes or deception.

This is particularly true when it comes to medical debt. Details about what is owed, what insurance payments have been processed or paid, and what agreements have been made to pay what, and by whom, are easily lost. These are complicated and variable questions that become impossible to answer as time passes.

Having a clear cutoff date rather than a debatable question about what the collector or collection attorney knows or should know is the best way to deal with old debts. Statutes of limitations exist for good reason, and the CFPB should reinforce—not dilute—those protections for consumers.

### **Require the Use of Original Documents**

Relatedly, the CFPB should require collectors’ attorneys to review original account-level documents when contemplating suing a consumer over a debt. This is the reasonable practice

for any debt, and it is particularly important in the context of medical debt because hospital stays can result in multiple bills, and multiple insurance claims. Exactly who is responsible for the bill can be complicated and unclear. This is particularly true for older consumers whose bills must go through not only Medicare but often another Medi-gap plan.

Giving collection attorneys a pass for false information or misrepresentations just because they reviewed unspecified “information” and somehow made a “determination” does not adequately or reasonably protect consumers—it protects debt collectors and their attorneys.

## **Conclusion**

We urge you to adopt the recommendations in this letter, as well as the recommendations made by other consumer advocates in their comments. There is broad consensus that the proposed rule as written does more to protect debt collectors than it does to protect consumers and we ask that you change course and put ordinary consumers first.

Sincerely,

Alaska Community Action on Toxics  
Alaska Public Interest Research Group (AkPIRG)  
Americans for Financial Reform Education Fund  
Arizona Council of Human Service Providers  
Asian Americans Advancing Justice-LA  
Atlanta Legal Aid Society, Inc.  
CCCS of WNC, Inc. d/b/a OnTrack Financial Education & Counseling  
Charlotte Center for Legal Advocacy  
CIAAG  
Colorado Center on Law and Policy  
Consumer Action  
Consumer Federation of California  
CT Health Policy Project  
Delaware Community Reinvestment Action Council, Inc.  
Disability Rights California  
Disability Rights New Jersey  
Florida Consumer Action Network  
Florida Health Justice Project  
Florida Legal Services, Inc.  
Genesee County Legal Aid Society d/b/a Center for Civil Justice  
Georgia Advocacy Office  
Justice in Aging  
Kentucky Equal Justice Center  
Law Foundation of Silicon Valley  
Legal Aid Justice Center

Legal Aid Society of the District of Columbia  
Massachusetts Law Reform Institute  
Mississippi Center for Justice  
Missouri Faith Voices  
Mountain State Justice, Inc.  
National Advocacy Center of the Sisters of the Good Shepherd  
National Center for Law and Economic Justice  
National Health Law Program  
Nevada Coalition of Legal Service Providers  
New Jersey Citizen Action  
New Mexico Center on Law and Poverty  
New York Legal Assistance Group (NYLAG)  
Northwest Health Law Advocates  
Pennsylvania Health Law Project  
People's Action  
Progressive Leadership Alliance of Nevada  
Public Justice Center  
Public Law Center  
SC Appleseed  
Southern Poverty Law Center  
Tennessee Citizen Action  
Tennessee Justice Center  
Terris, Pravlik & Millian, LLP  
The Legal Aid Society of Columbus  
The National Alliance to Advance Adolescent Health  
Virginia Citizens Consumer Council  
Virginia Poverty Law Center  
VOICE OKC  
William E. Morris Institute for Justice  
Woodstock Institute