August 12, 2024

Mr. Rohit Chopra
Director, Consumer Financial Protection Bureau
The Federal Reserve System

VIA Electronic Submission through Regulations.gov

Re: RIN 3170-AA54 Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V); Comments of the American Institute for Economic Research (AIER) in opposition of proposed regulation.

Dear Mr. Chopra,

The American Institute for Economic Research (AIER) submits this comment in opposition to proposed changes concerning medical information of Regulation V under the Fair Credit Reporting Act (FCRA). The proposed regulations would create a regulatory environment that would result in potential lenders hesitant to provide loans because of a known lack of information. This would decrease access to capital, particularly among low- and middle-income Americans.

The proposed regulation would prohibit all "medical debt information" including,

> "[I]nformation that pertains to a debt owed by a consumer to a person whose primary business is providing medical services, products, or devices, or to such person's agent or assignee, for the provision of such medical services, products, or devices. Medical debt information includes but is not limited to medical bills that are not past due or that have been paid."[1]

Although the regulation aims to increase access to credit for those with medical debt, as proposed the regulation would have the opposite effect. The outcome of this regulation would be the generation of "information asymmetry," where potential borrowers would have more information than potential lenders. Potential lenders would know of this information asymmetry and reasonably fear "adverse selection," where borrowers could take advantage of undisclosed medical information to benefit from an exchange with potential lenders. This adverse selection would mean lenders may be hesitant to lend to some borrowers, impose higher interest rates, or leave the marketplace altogether. The more lenders leave the market, the more competition is reduced, raising borrowing costs and reducing the number and type of market participants - to the detriment of borrowers.

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[1] "Unofficial Redline of the Medical Debt Proposed Rule." Consumer Financial Protection Bureau. 11 June 2024. Accessed August 6, 2024. https://files.consumerfinance.gov/f/documents/cfpb_med-debt-nprm-coverpage-and-redline-of-rule_2024-06.pdf

The effects of information asymmetry and adverse selection would have the harshest effects on low-income Americans. In 2021, the U.S. Census Bureau found that 19.9 million households (15 percent of all American households) had medical debt.[2] Of that 19.9 million, 2.9 million households (14.8 percent) had household income below the poverty threshold and 4.2 million (3.2 percent) households were enrolled in one or more social service program.[3] With this knowledge, many lenders may assume that low-income Americans looking for a loan are likely to have undisclosed medical debt. This may mean increasing their borrowing rates to compensate for a lack of information, offering lowering borrowing rates if medical debt is disclosed voluntarily, or they may choose to stop lending to low-income Americans altogether. The demand for credit will persist regardless of its falling supply, which will cut off the already-limited access to credit that low-income Americans have. For those citizens the alternative may be illicit sources of income or black-market lending via organized crime to access credit.

Ultimately, the proposed cure may be worse than the disease. Of the households surveyed, 80.3 million (60.5 percent) had less than $1,000 of medical expenses, 109.6 million (82.6 percent) had no household members staying overnight in a hospital, and 96.8 million (73 percent) reported having no household member with poor or fair health. [4] Meanwhile, 45 million households (34 percent) had a household net worth of under $50,000. While eliminating medical debt from credit reports may help a relatively small portion of households that have medical debt, the damage done by potentially limiting access to credit through these regulations and reducing competition in credit markets would do far greater damage to Americans hoping to access credit.

Given the available data as discussed in this comment, the Bureau's proposed regulation regarding medical debt is not a necessary, and proper, interpretation of FCRA, and AIER recommends its rejection.

Sincerely,

Thomas Savidge
Research Fellow, AIER

Peter C. Earle, Ph.D.
Senior Research Fellow, AIER

[2] "Wealth, Asset Ownership, & Debt of Households Detailed Tables: 2021." U.S. Census Bureau. Updated Nov 2023. Accessed August 6, 2024.
[3] Id.
[4] Id.