DEC 11 2014

Prepared Remarks of CFPB Director Richard Cordray at the Medical Debt Collection Hearing

BY RICHARD CORDRAY

Thank you all for joining us today. It is great to be here and to see that, as the song goes, "You're doing fine, Oklahoma!" And without meaning to steal any of your thunder, as an avid basketball fan I am glad to see that your hometown NBA team is finally back at full strength. For myself, I come from Ohio, the once and future home of the true king, LeBron James. In fact, he is visiting you tonight, and maybe we will also get to see you in the finals later this season.

Today the Consumer Financial Protection Bureau has come here to talk about debt collection and credit reporting, both in general and more specifically as they relate to medical debt. Collection of consumer debts serves an important role in the proper functioning of consumer credit markets. Obviously if lenders and other providers cannot get paid what they are owed, they cannot provide the kinds of products and services that consumers need to improve their lives.

But certain debt collection practices have long been a source of frustration for many consumers. Debt collection is a top source of consumer complaints to the Consumer Bureau and to our sister agency, the Federal Trade Commission. From the millions of complaints that have been submitted over the years, we know that consumers are quite frustrated with how the debt collection system works. Consumers complain about being hounded by a collector for a debt they do not recognize and do not believe they owe. Others tell us about their frustration in trying to get information about these debts or trying to explain that the collector is calling the wrong person.

The problems with debt collection can be magnified if the debt collector reports the debt as a collections trade line to the national credit reporting companies. Trade lines are individual consumer credit accounts, so one person will likely have multiple trade lines, such as her car loan, home mortgage, and each credit card. Either a severe delinquency or a "collections" trade line is a black mark –

more like a scarlet letter – on any credit report. It means the debt has "gone to collections" and generally indicates that the consumer is so past due that the consumer is unable or unwilling to repay. Having a collections item or a severe delinquency on a credit report can affect a consumer's ability to borrow money, and it can also increase their interest rate.

Our national credit reporting system is enormous and enormously important. Roughly 220 million consumers have credit reports on file at the three largest credit reporting companies: Experian, TransUnion, and Equifax. Each year, approximately 36 billion updates are made to these files. More than 1.3 billion trade lines are actively reported. Collections trade lines are an important factor in this system. They affect roughly one out of three consumers who have credit reports – more than 70 million people in all. Medical debt is the type of debt that appears most frequently in collections trade lines on credit reports, and so it is a key focus of this field hearing. Later on, I will circle back to describe some of the significant changes we are making to improve the credit reporting market more generally.

***

The white paper we are publishing today sheds light on the way medical debt is collected, and describes how it can appear and disappear on consumer credit reports. What we discovered is that medical debt amplifies many of the problems generated by debt collection and the credit reporting system. When people fall ill and end up at the hospital with unexpected bills, far too often they have entered into a financial maze.

To better explain the frustration that consumers face, let me tell you about Harold from Connecticut. About a year ago, Harold went to his regular doctor who used a new medical lab to run some blood tests. Despite having full health insurance and a Health Savings Account to cover any out-of-pocket expenses, Harold got an unexpected bill from the lab. After going back and forth with his insurance company about this charge, which he had never incurred before, he finally gave in and paid the bill out-of-pocket.

Months later, Harold checked his credit report at each of the big three national credit reporting companies and discovered a medical collections item for the

blood work in each company's report. Harold then had multiple exchanges with the debt collector where he presented proof of payment. The whole thing turned into an aggravating tangle of back and forth between the collections agency, the blood lab, and his insurance company. Every month, the debt collector continued to file entries for the same lab charge with all three credit reporting agencies. Harold complained to us and called it "a continuous and concerted harassment effort."

Harold's story is not unique. Today's study found that many consumers are affected by medical debt, that medical debt dominates collections trade lines in the credit reporting system, and that the appearance of medical debt information on credit reports can reflect the complexity, confusion, and delays that characterize medical billing and insurance reimbursement rather than the consumer's ability or willingness to pay their debts.

Our study found that one in five consumers with a credit report has a medical collections item, and about half of the overall debt collection trade lines are from medical bills at hospitals and other providers. Fifteen million consumers have medical debt collections items as the only collections items on their credit reports, and many of them have no other seriously delinquent accounts.

Some of the large volume of medical debt on credit reports can be attributed to the process by which medical costs get billed. A patient who undergoes a medical treatment may receive bills from any number of providers. For example, a consumer who had one trip to the emergency room might receive one bill from the hospital, one from the ambulance company, one from the radiologist who read the X-rays, and possibly others as well. Each bill may be separately submitted to an insurance company, and each unpaid bill can turn into a separate collections item, meaning one medical incident can have an outsized impact on a consumer's credit report.

Interestingly, most medical debts that end up on a consumer's credit profile are for small amounts. The average is $579 and the median is $207. By contrast, products like credit cards or student loans that become delinquent or are subject to debt collection efforts are usually for several thousand dollars apiece.

In May, we released a research report which found that consumers' credit scores were overly penalized for medical debt. Credit scoring models that weigh all collections accounts the same appear to underestimate the creditworthiness of consumers who owe medical debt in collections. Today's study reinforces this point. Most importantly, about half of those with only medical collections show no other evidence of financial distress and generally appear to be paying their other financial obligations on time. In other words, roughly seven million people who are otherwise good paying consumers may be treated as greater risks and have lower credit scores solely because of medical debt.

If a credit score is supposed to be a predictor of a consumer's likelihood of paying back a debt, these findings raise serious questions about how medical debt collections items affect a consumer's credit score.

***

Given the large role that medical debt plays in both debt collection and credit reporting, we want to make sure that consumers are fully empowered to make the best decisions for their financial lives. The complex and opaque processes around incurring, reporting, and collecting medical debt can create unnecessary and frustrating challenges for consumers.

These challenges begin when consumers seek medical care. People rarely know the actual cost of a treatment or procedure beforehand, and after they receive treatment, it can be difficult to assess how much of the cost they will have to pay themselves. The amount can depend on whether the consumer has insurance and what and how much the insurance covers. The result is that even consumers with health coverage often receive medical bills that can be surprising and hard to understand.

After the bill is due, hospitals, doctors, and other providers may hire third-party debt collectors with names the consumer does not recognize. Of course, this is also true for other types of debt, but medical collections are particularly fragmented, with the top ten collectors accounting for only 18 percent of the market, compared with the top ten banking collections companies that account for 87 percent of the market. And when a single medical incident can result in

multiple bills, debts that are unpaid can get reported to the credit reporting companies from many sources.

The debt collectors that furnish the vast majority of this information have only loose ties to the underlying debt for a fairly brief period. Since consumers have no choice about who collects from them, debt collectors have less incentive to treat them well than if the collectors had to compete for their business. The upshot is that consumers are frequently confused about their medical debt and are not able to manage the situation effectively.

***

If the process for incurring medical debt creates confusion, the process of reporting medical debt just compounds the uncertainty. Consumers have little insight into how a medical debt winds up on their credit report.

In some industries, norms or even state regulations control when a delinquent account can be reported as a collections item. But medical debt has no standard time frame. A doctor's office or hospital may send a debt to collections as early as 30 days after billing, while others may wait up to 180 days. Nor is there any consistency about when a collector reports the overdue bill to the credit reporting companies as a black mark. Sometimes reporting happens rather quickly, sometimes the company takes a wait-and-see approach, and sometimes the debt is never reported at all. It may seem illogical, but the companies that are the most removed from the actual transaction often have the greatest influence on how the debt affects the consumer.

The lack of consistent reporting practices, such as a standard minimum wait time, can cause consumers to be surprised by a medical collections item showing up on their credit report. A consumer might be unaware of a charge, still be waiting for a bill, or think they have already paid. This creates a haphazard system for consumers.

In addition, the state where a consumer lives also affects how much medical debt makes it onto her credit profile. Our study found that the range of consumers who have medical debt collections on their credit reports can vary considerably from state to state, from a low of only 4 percent of consumers in one state, but fully 32 percent of consumers in another state. There is no reason to think this

disparity reflects people's actual character or creditworthiness. Rather, it may have to do with variations in state laws, as well as agreements about billing practices, billing disclosures, collections practices, and credit reporting practices.

***

Another factor that can contribute to consumers' confusion is the practice of "parking" debts on credit reports as a way to get consumers to pay. Rather than actively collecting from the consumer, they simply post a collections trade line to a credit report as a "passive collections" tactic.

Collectors do this because they know that even the mere appearance of an overdue debt on a consumer's credit report can strongly motivate the consumer to engage with the collection agency to resolve the debt. Consumers may pay debts they do not believe they owe simply to clean up their credit report and to qualify for some other source of credit. Medical debt tends to be for smaller amounts than loans than have gone delinquent. So collectors are less likely to take the trouble to make direct contact with the consumer in order to collect it.

Neither providers nor debt collectors should report an item to the credit reporting companies without having first directly communicated with the consumer. This is viewed by some collectors as a way to minimize costs, but it is not how the system is supposed to work. And the collection process should not depend on harming consumers by adverse reporting before a consumer even learns she owes a medical debt. If it takes a drop in her credit score or an adverse action notice to make the point, then even more damage has been done to her financial standing.

Instead, debt collectors need to give consumers a reasonable opportunity to learn about and pay their debts before they appear on their credit reports. The practice of parking debts may deprive consumers of that chance. Responsible consumers who normally pay their debts when they find out about them may be unduly punished by having their creditworthiness tarnished before they have a reasonable opportunity to pay up.

To help people through these situations, today we are putting out a consumer advisory with some basic principles on managing medical debt. We are recommending that consumers review their bills carefully and request itemized

bills if necessary, especially if they need to check to see what their insurance covers. They should keep good, organized records of all bills. They should act quickly to resolve or dispute any final medical bills they receive. And, if the medical debt has incorrectly shown up on their credit report, they should consider disputing it both with the furnisher of the information and with the credit reporting company.

***

This brings me back to the broader issues involved in credit reporting. This process has an enormous influence over people's lives and a broad impact on our economy. Thus we need to ensure that credit reports are working properly for consumers and creditors alike. These issues go well beyond just medical debt. So let me describe some of the important breakthroughs we have been making in this area over the past two years.

The Consumer Bureau is the first federal government agency to supervise the larger players in both the credit reporting market and the debt collection market. We also supervise the larger lenders who furnish information on their customers' accounts, which also populate credit reports. This provides us with a unique perspective that allows us to play a positive role in identifying how consumers are affected by the interplay between the furnishers of information and the credit reporting companies.

We have targeted substantial resources towards the issue of accuracy of consumer information, and we will continue to do so. To this end, one area of focus in our debt collector examinations has been on how collectors furnish information to the credit reporting companies in the first place. In turn, our credit reporting examinations have focused on how those companies vet and monitor their furnishers. And we have issued a bulletin spelling out the legal duty that all furnishers have to investigate credit reporting disputes. This is especially important because we have uncovered some impermissible barriers blocking consumers who seek to dispute errors in their reports. Let me be clear: it is essential that consumers have a full opportunity to correct their files.

Using our supervision and enforcement authorities, we have already brought significant improvements to the credit reporting system – and we are only getting

started. Credit reporting companies are now making investments to ensure that they are following the law. Some are doing this for the first time ever. We have also directed credit reporting companies to improve the way they handle consumer complaints. We have directed them to replace their outdated, paper-based processes that often did not lead anywhere with modern, online dispute processes that convey information appropriately to get a dispute resolved. And the credit reporting companies are building comprehensive quality assurance programs to provide feedback to each furnisher on the quality of its data. Some are now building programs to field test the accuracy of their reports. And we have required them to be data-driven in upgrading their processes for tracking disputes and complaints and resolving them in a timely manner.

As part of our ongoing efforts to improve the credit reporting system, today we are announcing a major new development. We will now require the largest credit reporting companies to provide us with regular, standardized accuracy reports as part of our ongoing examinations about key risk areas for consumers. We posted the template for these regular reports today on our website. Most notably, these reports will specify the number of times consumers dispute information on their credit reports during that period. It will also list furnishers with the most disputes, industries with the most disputes, and furnishers with particularly high dispute rates relative to their peers. We will also see how those disputes get resolved.

This is fundamental because disputes are an important indicator of risk. If a credit reporting company has a furnisher that continuously experiences an outsized rate of consumer disputes relative to its peers, we expect the company to do something about it. We expect it to investigate the source of the disputes, identify any problems, and take necessary action. This may include declining to accept information from the troubled furnisher where that step is justified. Access to this required reporting information on a regular basis will help us prioritize our work, and it will help us protect consumers even more effectively in this field.

The white paper we put out today notes that the system of collecting people's medical debts and reporting their collections items introduces multiple points where error can creep into the system and harm consumers. So we will continue to maintain our intense focus on the accuracy of the credit reporting system,

which the law specifies must achieve maximum possible accuracy. We are pleased to see the recent efforts that some in the industry are making to differentiate medical debt from non-medical collections when generating consumer credit scores. Consistent with the research we have made public, this improves the true predictive quality of credit scores.

We support the Internal Revenue Service's recent proposal that, among other things, requires nonprofit hospitals to give the consumer 120 days before beginning extraordinary debt collection methods, including reporting medical debts as collection items to credit reporting agencies. In our view, consumers would benefit if for-profit hospitals and all other medical providers adopted the same approach.

So we are working hard to make a difference on these important issues for consumers. We also applaud a number of state attorneys general who are pursuing their own investigations of credit reporting practices and developing further ideas about changes that benefit consumers. Together, we can put consumers first and make sure they are treated fairly in the difficult area where debt collection meets credit reporting. As for medical debt, in particular, the basic principle is that getting medical care should not make your credit report sick. As William Osler, a father of modern medicine, once observed, "Soap and water and common sense are the best disinfectants." We can and we will make it a point to apply more common sense to improve life for consumers. Thank you.

###

The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.