Banking and Finance Law Daily Wrap Up, DEBT COLLECTION—CFPB issues guidance on new compliance requirements for medical debt, (Jan. 14, 2022)

Banking and Finance Law Daily Wrap Up

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By Jacob Bielanski

The Bureau has informed insurance companies, reporting agencies and debt collectors of new FDCPA and FCRA compliance requirements for various out-of-network medical costs that were passed as part of the previous spending bill.

The medical billing industry will be subject to new limitations this year if it is to avoid running afoul of federal credit reporting and debt collection laws, according to a January 13 compliance bulletin and policy guidance from the Consumer Financial Protection Bureau. The CFPB guidance has reminded debt collectors that they must comply with the Fair Debt Collection Practices Act's (FDCPA's) prohibition on false, deceptive, or misleading representations or means in connection with the collection of any debt and unfair or unconscionable means to collect or attempt to collect any debt. The Bureau also reminded consumer reporting agencies and information furnishers to comply with the Fair Credit Reporting Act's (FCRA's) accuracy and dispute resolution requirements, including when collecting, furnishing information about, and reporting medical debts covered by the No Surprises Act

"Companies that try to collect on medical bills that are prohibited by the No Surprises Act, or who furnish information to credit bureaus about such invalid debts, may face significant legal liability" under the FDCPA and the FCRA the CFPB said in a release announcing the bulletin.

The "No Surprises Act" was incorporated into the 2020 spending bill, with those provisions having mostly gone into effect at the beginning of 2022. The No Surprises Act, which went into effect Jan. 1, 2022, is intended to protect participants, beneficiaries, and enrollees in group health plans and group and individual health insurance coverage from surprise medical bills when they receive, under certain circumstances, emergency services, non-emergency services from nonparticipating providers at participating health care facilities, and air ambulance services from nonparticipating providers of air ambulance services.

The Act also requires certain health care facilities and providers to disclose federal and state patient protections against balance billing and sets forth complaint processes with respect to potential violations of the protections against balance billing and out-of-network cost sharing. The No Surprises Act also includes certain protections for uninsured (or self-pay) individuals from surprise medical bills.

Companies submitting medical bills to credit reporting agencies would now also be subject to limitation under FDCPA and FCRA. The bulletin describes certain acts or practices related to the collection of medical debts that may violate the FDCPA or the FCRA, but the CFPB noted that the examples described in this bulletin are "not exhaustive of all potential violations" of the FDCPA and FCRA that could arise from the collection of such debts. The Bureau offered as an example a debt collector claiming an out-of-network balance owed for emergency services may now violate the FCRA and Regulation V if it exceeds allowable amounts or if the collector does not meet "dispute obligations."

The Bureau noted that the bulletin does not revise or impose new requirements beyond the No Surprises Act text, and was thus not subject to the rulemaking process.

RegulatoryActivity: CFPB DebtCollection FairCreditReporting

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