

Seeing medical debt in a new light, credit reporting agencies announce major change in how they will treat, report medical debt

By Shannon P. Miller, Esq., Maurice Wutscher LLP*

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In a year that is still quite young, medical debt continues to find its way into the headlines of the receivables management industry. Continuing the trend, this past Friday, March 18, saw the three major credit reporting agencies Equifax, Experian and TransUnion issue a joint statement regarding how medical debt will be treated and reported on consumer credit reports.

Significantly, starting July 1, 2022, defaulted medical debt placed for collections and which has subsequently been paid will no longer be included in a consumer credit report issued by the three nationwide consumer reporting agencies ("NCRAs"), diverging from what is permitted under the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c, which allows for delinquent accounts to be reported for up to seven years, whether it has been paid or not.

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In this regard, unpaid medical debt will also not be reflected in an individual's credit report for one year after becoming delinquent and placed for collections, a significant change from the NCRAs' prior policy of reporting such debt six months after being placed for collections.

Further down the road, starting in 2023 the NCRAs will also stop including medical debt in consumer credit reports where the amount of the debt being furnished is below \$500.

The changes announced by the NCRAs are no doubt in part a reflexive response to the CFPB's particular interest in medical debt.

Citing the aftermath/ongoing nature of the COVID-19 pandemic which has resulted in record hospitalizations for consumers, and

relatedly the unexpected medical expenses that oftentimes results, the NCRAs said the changes were to "help people to focus on their personal wellbeing and recovery."

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In this regard, the purpose of some of these changes, as opined by the NCRAs, is to allow consumers additional opportunity to resolve medical bills with their insurance carriers and health care providers before being subject to potentially negative credit reporting.

However, the changes announced by the NCRAs are no doubt in part a reflexive response to the CFPB's particular interest in medical debt as reflected by its February 2022 report highlighting what it identified as the complicated and burdensome nature of the medical billing system in the United States.

Not coincidentally, the CFBP reported an estimated \$88 billion in medical debt reflected on consumer credit reports as of June 2021, the majority of which are debts under \$500. A particular focus of the CFPB as a result of its report is holding the NCRAs and other reporting companies accountable for the accurate reporting of medical debt, including a duty to take action against abusive furnishers who routinely report inaccurate information regarding medical debt.

Medical debt can already be a tricky receivable, especially with the instability of account balances due to adjustments made by insurance and health care providers as a result of untimely or improperly submitted claims or incomplete claim materials, which may result in an insurance provider changing its position on whether a particular service will be covered, and the health care provider compensated.

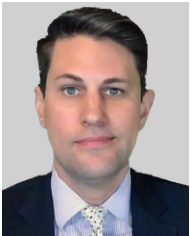
Many times, these issues are the result of human error and lead to an account balance being adjusted after it has been placed for

collections, leading to exposure for entities that service medical debt and those that acquire it, particularly as it relates to furnishing data to the NCRAs regarding such debt.

As the NCRAs have changed their policies and procedures, so too must the industry. Be sure that your compliance team is adjusting

your policies and procedures regarding how medical debt is treated and data thereon furnished to be consistent with the NCRAs and their new expectations. The compliance experts at Maurice Wutscher will continue to monitor the spotlighted issue of medical debt and will be prepared to provide guidance as the landscape changes regarding how medical debt is being regulated.

About the author



Shannon P. Miller is a principal attorney in **Maurice Wutscher's** Media, Pennsylvania, office, where he focuses his practice on various aspects of financial services law with an emphasis on consumer financial services litigation. He has successfully represented financial institutions and law firms across the country for claims filed under the Fair Debt Collection Practices Act, Fair Credit Reporting Act, and various state consumer protection statutes. He can be reached at smiller@MauriceWutscher.com. This article was originally published March 21, 2022, on the firm's website. Republished with permission.

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