The Healthcare Business Management Association (HBMA) is supportive of efforts and actions that ease the burden of medical debt on consumers. However, we believe that the CFPB's proposed rule regarding medical debt's impact on credit reports goes too far. If enacted, this rule would effectively allow anyone to avoid paying off their medical debt without any repercussions.

Medical practices, just like any business, have a right to seek payment for services rendered. The proposed rule ignores the root causes of medical debt which include unaffordable health insurance cost-sharing, which medical practices have no control over. Additionally, the Administration has already taken many actions to protect consumers such as the No Surprises Act and an executive order on "junk fees" for medical financial products.

The CFPB should not finalize this proposed rule as written. We hope that the CFPB will reconsider aspects of this proposed rule to focus on the root causes of medical debt and to target these policies to patients who need financial assistance.

Prior Actions

Congress and the Biden-Harris Administration have already taken actions to protect consumers from unfair medical debt and surprise billing. The No Surprises Act has already protected millions of Americans from large out-of-network hospital bills by limiting what patients pay in these scenarios to their health plan's in-network cost-sharing benefit. The Administration is also exploring harms related to medical credit cards. Due to recent actions by Congress and the Administration, ACA health insurance has become more accessible than ever. As a result, we now have one of the highest rates of health insurance coverage in history.

These federal actions are in addition to standard industry practice for most medical practices to work with patients to set up payment plans for medical bills. Additionally, the three largest credit reporting companies have already announced major reforms to how they treat medical debt on credit reports. This voluntary action includes not reporting any medical debt that is less than $500. Many medical bills fall below this threshold. Essentially every copay would be subject to this limit. Some specialties rarely bill patients for amounts that exceed this threshold and therefore are already dealing with the effects of this policy.

While medical debt is an issue for many people, the CFPB's proposed actions related to medical debt and credit reporting extend beyond the scope of preventing unfair medical debt and will have unintended effects on practices and providers. What's more, this proposed rule does not address the root cause of the medical debt.

Problems with Proposed Rule

HBMA is concerned with how the proposed rule would impact collection efforts for practices and providers. Currently, reporting medical debt to credit bureaus has been one of the main ways

to incentivize payment from consumers. By taking this option away, there is essentially no penalty for non-payment of medical bills.

Not all medical debt is reported to collection agencies and not all collection agencies report medical debt to credit reporting companies.

Medical practices have very few options to collect unpaid medical bills. First, practices typically try to work with patients to set up payment plans for bills that cannot be paid at once. Unpaid bills may be sent to collections where collection agencies attempt to contact the patient to receive payment. Generally, medical debt is only sent to collections if a patient is completely unresponsive to attempts to find a solution to unpaid bills. Collection companies can report unpaid medical debt to collections companies. There is no penalty for ignoring a debt collection company. However, having a medical debt on a credit report is a serious incentive to avoid debt.

We understand there is a need to help patients who cannot afford their bills. However, the CFPB's proposed rule assumes that all people cannot (and should not) have to pay medical bills they cannot afford. The broad application of the rule to everyone and the lack of collection mechanisms effectively allows almost anyone to ignore payment obligations. If enacted in its current form, a patient who makes millions of dollars a year and shows up to doctors' appointments in their Ferrari could ignore medical debt of any size, despite an obvious ability to pay the debt. Practices would have little to no ability to coerce payment with the available mechanisms if debt cannot be reported to credit bureaus.

This will likely result in practices changing their billing practices to collect as much of a patient's cost sharing as they can when delivering care. However, this would likely be limited to copays in certain settings. Providers cannot fully know how much a patient owes from their deductible until after a claim is submitted and adjudicated. Further, some services such as emergency or urgent care cannot be scheduled in advance.

Additionally, this proposed rule will cause confusion about how it will interact with various state laws on patient medical debt.

Remaining Issues

The proposed rule ignores the root causes of unaffordable medical debt, which is that many Americans are unable to afford private insurance cost sharing. A 2022 study by Peterson-KFF

found that most households do not have enough savings to afford the typical out-of-pocket limit in private insurance plans.[1]

According to the study, "45% of single-person non-elderly households could not pay $2,000 from their liquid assets (the typical employer plan single deductible), and 62% could not pay $6,000 (a very high single deductible)." Further, "Among multi-person households, 42% could not pay $4,000 from their liquid assets (the typical employer plan family deductible), and 61% could pay $12,000 (a very high family deductible)."

People access the healthcare system through their health insurance. Their plan dictates which providers are in-network and how much a patient will pay for medical services. Physician practices have no control over a patient's insurance benefit.

The Administration should be targeting health plan cost-sharing and broader policies that impact people's ability to afford any type of large bill. New reports are showing that health insurance will continue to get more expensive for people.[2] However, health plans are profiting billions of dollars each year by paying doctors lower rates and charging consumers more. UnitedHealth Group, the largest healthcare conglomerate in the country, profited $23 billion in 2023 even though their job is to pay for healthcare services.[3] We urge the Administration to direct its energy to the root causes of healthcare expenses which is commercial health insurance benefit design.

Conclusion

While HBMA supports efforts to ease the burden of medical debt on Americans with financial challenges, this proposed rule goes too far and ignores the root causes of the problem and allows patients to completely ignore their debts. Without the ability to report debt to credit bureaus, collection agencies will be hampered from collecting payment beyond extreme means such as lawsuits.

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[1] https://www.healthsystemtracker.org/brief/many-households-do-not-have-enough-money-to-pay-cost-sharing-in-typical-private-health-plans/#Share%20of%20households%20without%20enough%20liquid%20assets%20to%20pay%20typical%20private%20plan%20cost-sharing%20amounts,%202019

[2] https://www.healthcarefinancenews.com/news/healthcare-costs-pace-rise-8-over-next-year

[3] https://www.forbes.com/sites/brucejapsen/2024/01/12/unitedhealth-group-profits-hit-23-billion-in-2023/