

CFPB Bites of the Month - 2024 Annual Review - Debt Collection

February 7, 2025 | Anastasia Caton, Chuck Dodge, Eric Johnson, Justin Hosie, and Kristen Yarows

In this article, we share a timeline of our monthly "bites" for 2024 applicable to debt collection practices. Like 2023, the theme of 2024 was *medical debt collection*. The Bureau issued numerous reports and other guidance on medical debt collection issues and even went so far as to propose a controversial rule banning medical debt from consumer credit reports and banning creditors from considering medical debt information in underwriting. Traditionally, skepticism toward debt collection practices has been a bipartisan issue. With so much litigation swirling and a clear retreat by the agency, we can expect a slower year. But it's worth remembering that it was Director Kraninger's CFPB that issued final Regulation F, the rule interpreting the Fair Debt Collection Practices Act. In short, the change in the administration should make for an interesting year for the regulation of debt collection practices.

Bite 9: CFPB Issues Report on Medical Bills on Credit Reports

On April 29, 2024, the CFPB **announced** that it issued an updated report on the state of medical collections on consumer credit records. Back in March 2022, the three nationwide credit reporting agencies voluntarily announced that they would no longer report certain medical collections on consumer reports. According to the CFPB's updated report, as of June 2023, the share of consumers with medical collections on their credit records decreased by approximately 5% and that's reportedly down from around 14% from March 2022. The collective amount in outstanding medical bills in collections fell from an estimated \$88 billion in March 2022 to an estimated \$49 billion in June 2023.

Bite 8: CFPB Publishes Report on Medical and Rental Debt Collection

On September 5, 2024, the CFPB **released** its Annual Report to Congress on debt collection, focusing on medical and rental debt. In 2023, consumer complaints about medical debt in collections made up about 11% of all collections complaints to the CFPB. The CFPB stated that many of the same collection problems have persisted since last year's report. The CFPB's research and the complaints include claims that some debt collectors attempt to collect already paid medical bills or bills eligible for financial assistance programs. The CFPB claimed that consumers continued to complain about medical financing products, and that debt collectors pursue patients for these bills even when the bills should never have been incurred in the first place. The CFPB started

collecting complaints about rental debt collection in August 2023. From August 2023 through the end of 2023, the CFPB received more than 1,700 rental debt complaints. The CFPB's research and the complaints include claims that some debt collectors collected on bills that are inflated due to illegal price fixing and tacked on rental fees, such as rental "junk" fees imposed by servicers when processing payments (i.e., "convenience fees").

Bite 7: CFPB Sends Letters on Medical Debt to State Legislatures

On March 25, 2024, CFPB Director Chopra sent a letter to a California state senator in support of her proposed legislation to prohibit the inclusion of medical bills on credit reports. He stated that medical debt is categorically different from many types of consumer tradelines because consumers frequently incur medical bills in unique circumstances that differ from other forms of credit extension, and CFPB research has found that medical debt is less predictive of future consumer credit performance than other tradelines. Director Chopra also said that unpaid medical bills frequently contain unreliable data, that CFPB complaints indicate that more than 40% of consumers with medical debt have received inaccurate bills, and that nearly 70% of these consumers have been billed for costs that insurance should have covered. According to Director Chopra, the credit reporting system should assess credit risk, and it should not be used to coerce people into paying debts that they may not owe. Director Chopra said that the CFPB has initiated a rulemaking process on medical debt, and that strong state action like the proposed California law provides essential support for federal policymaking. On April 11, 2024, CFPB Assistant Director Brian Shearer sent a similar letter to Connecticut State Senator Matt Lesser in support of a Connecticut State Senate bill that would prohibit healthcare providers from reporting medical debt to consumer reporting agencies for use in a consumer report.

Bite 6: CFPB Publishes Summer 2024 Supervisory Highlights

On July 2, 2024, the CFPB published its Summer 2024 Supervisory Highlights. The report shared key findings from recent supervisory examinations of providers involved with auto finance servicing, student loan servicing, and debt collection. The CFPB examiners found that auto finance servicers engaged in unfair practices by failing to debit consumers' final payment via their autopay system while also failing to provide adequate notification to consumers enrolled in autopay that they needed to make their final payment manually. The CFPB examiners reportedly discovered that student loan servicers failed to provide adequate customer service due to excessive hold times, misrepresented which forms consumers should use to enroll in certain programs, and failed to notify consumers of preauthorized funds transfers that exceeded the previous transfer amount. The CFPB's examination of debt collectors identified alleged violations of the Fair Debt Collection Practices Act and Regulation F. Specifically, the CFPB claimed that debt collectors failed to re-send debt validation notices after learning that the notice was not delivered to the consumer and that they failed to provide the required mini-Miranda warning in communications with debtors. Examiners found that debt collectors failed to disclose their true company name in communications with debtors, in violation of the FDCPA. Examiners also found that debt collectors engaged in certain allegedly harassing conduct in violation of the FDCPA, including communicating with debtors at inconvenient times (which included sending emails before 8 am and making phone calls after the debtor told

the debt collector it was an inconvenient time), continuing to collect after the debtor told the debt collector they could not afford to pay, and communicating with debtors via a medium that the debtor requested the debt collector not use. The CFPB also claimed that it found that debt collectors had miscalculated the statute of limitations on certain debts as being significantly longer than it was and then sold those debts. The CFPB's examination of medical payment products, such as medical credit cards, revealed that consumers frequently complained of healthcare providers misrepresenting the specifics of "deferred interest" promotions and feeling pressured to open a credit card account while receiving treatment. The CFPB's examination of deposit and prepaid accounts revealed that entities allegedly engaged in unfair practices with respect to account freezes and observed issues related to failing to provide periodic statements for allotment accounts.

Bite 5: CFPB Issues Statement about Medicare Beneficiaries Billing

On October 31, 2024, the CFPB issued a statement about Medicare beneficiaries billing, warning about improper billing and collection practices. Specifically, the CFPB and the Centers for Medicare & Medicaid Services issued a joint statement to remind providers of health plans of Qualified Medicare Beneficiaries ("QMBs") of billing protections and potential consequences of violating them. According to the statement, federal law generally prohibits healthcare providers who accept Medicare from billing QMBs for cost-sharing, such as co-pays or deductibles. The CFPB noted there is evidence that some Medicare providers and suppliers improperly seek payment from this population, which can turn into debt collection actions and negative credit reports. The statement explains that debt collectors may not collect on improper or inaccurate bills targeting Medicare beneficiaries and that debt collectors may not tarnish credit reports with improper and inaccurate bills. The statement requests that Medicare providers, billing agents, and debt collectors examine their practices to ensure compliance with laws and remediate any harm to consumers stemming from violations.

Bite 4: CFPB Publishes Supervisory Highlights for Auto Finance

On October 7, 2024, the CFPB released an Auto Finance Special Edition of its Supervisory Highlights that focuses on the auto finance market and addressed many auto servicing and collection practices. This edition covers select examinations that were completed between November 1, 2023 and August 30, 2024. According to the CFPB, consumers encountered difficulties with optional products like GAP and service contracts, including being charged for products they did not agree to purchase, had difficulty canceling these products, and did not receive refunds for early payment. Regarding unfair, deceptive, and abusive acts and practices related to add-on products, the CFPB noted a failure to ensure that consumers received refunds, miscalculation of refunds, and delays in applying refunds to account balances. According to the CFPB, examiners found that auto-loan servicers unfairly failed to timely deliver the titles to vehicles after a payoff or when consumers requested the title in connection with transferring vehicle registrations to a different state. The CFPB also indicated that servicers' policies generally required them to provide title documentation within two business days but that in practice delivery times significantly exceeded this timeline. The CFPB claimed that servicers engaged in both deception and unfairness by applying consumers' auto-contract

payments to post-maturity contracts in a different order than that disclosed to consumers on their websites, which resulted in consumers having to pay late fees. The CFPB claimed that creditors were otherwise improperly applying payments and wrongly repossessing automobiles. The CFPB examiners also claimed to find that creditors misled consumers about the chance to qualify for a low finance charge (interest) rate and noted that creditors were placing inaccurate account information on thousands of consumers' credit reports.

Bite 3: CFPB Issues a Consumer Advisory on Medical Debt Collection

On October 1, 2024, in addition to issuing an Advisory Opinion, addressed below, the CFPB issued a Consumer Advisory on medical debt collection. The advisory explained to consumers that under federal law, consumers have rights and protections when they deal with medical debt collectors. It also outlined various actions that consumers can take when they are unsure about a bill, including: asking the healthcare provider or debt collector for an itemized bill or superbill and review it for charges that cannot be legally collected; negotiating the amount owed; submitting a complaint if debt collectors are not complying with federal law; and getting legal help if it appears that a debt collector might be breaking the law. The advisory contained some examples of common billing mishaps the CFPB had observed, including costs for a healthcare service the consumer did not receive, amounts that are inflated beyond legal limits, and bills that were already paid by the consumer or their insurance. The advisory also noted that many states do not allow debt collectors to sue over debts that are several years old.

Bite 2: CFPB Proposes Rule to Ban Medical Bills from Credit Reports

On June 11, 2024, the CFPB proposed a rule that would stop creditors from obtaining and using information about medical debt in underwriting and prohibit credit reporting companies from including medical debt on credit reports sent to creditors. The proposal also sought comment about practices related to medical devices used as collateral. The proposal came a year after the three nationwide credit reporting agencies voluntarily removed medical bills from credit reports, and two major credit scoring companies decreased the impact of medical bills on consumer scores. Comments were to have been received on or before August 12, 2024.

Bite 1: CFPB Files Amicus Brief in Debt Collection Case

On January 2, 2024, the CFPB filed a friend-of-the-court brief in a debt collection case, responding to a debt collector's FDCPA argument. In that case a consumer filing for bankruptcy had received a letter from a debt collector during the bankruptcy process demanding payment and threatening a lawsuit. The individual sued the debt collector for this alleged misrepresentation. The debt collector argued that it was only responsible for intentional false statements, and that at the time it sent the letter, it was unaware that the consumer had filed for bankruptcy. According to the CFPB's brief, that argument is incorrect and a debt collector can be liable under the FDCPA even if they claim that they did not know that their statement was false; however, a debt collector will not be held responsible in a lawsuit brought by an individual if they can show that they didn't intend to make the false representation and that they had effective procedures in place

designed to prevent the mistake (in other words, if the debt collector can satisfy the FDCPA's bona fide error defense requirements).

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