



Testimony of

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(on behalf of its low income clients)

On

“Economic Impact of the Growing Burden of Medical Debt”

Before the

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Senate Committee on Banking, Housing, and Urban Affairs

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I. Summary

Chairman Brown, Ranking Member Toomey, and Members of the Subcommittee, thank you for inviting me to testify today regarding consumer medical debt. I offer my testimony here on behalf of the low-income clients of the National Consumer Law Center.¹

The National Consumer Law Center is a nonprofit organization working for economic justice for low-income consumers and other vulnerable populations. We work with thousands of legal services, government and private attorneys, as well as community groups and non-profit organizations, from all states who represent low-income and older adults on consumer issues. As a result of our daily contact with these advocates, we have seen many examples of the damage wrought by medical debt. It is from this vantage point that we supply these comments.

An alarming number of consumers struggle with medical bills in the United States, with medical debt representing more than half of all debts in collection.² Black and Latinè consumers, who are more likely to be uninsured and underinsured, carry significant medical debt.³ Among Black households, 27.9% carry medical debt, compared to 17.2% of white non-Hispanic households.⁴ Households in the South, the region with the highest concentration of Black people, carry more medical debt than households in the Midwest, West, and Northeast. Racial inequality underlies these disparities in medical debt.

Recently, the Big Three credit bureaus (Equifax, Experian, and TransUnion) announced changes to how they will report medical debt; the changes will result in the removal of nearly 70% of medical bills from credit reports.⁵ When medical bills go unpaid and end up reported to

¹ This testimony was written by Berneta L. Haynes, with editorial review by Lauren Saunders, Carolyn Carter, April Kuehnhoff, and Jenifer Bosco. For further discussion and policy solutions, see Berneta Haynes, “The Racial Health and Wealth Gap: Impact of Medical Debt on Black Families,” *National Consumer Law Center* (March 2022), available at <https://www.nclc.org/images/pdf/medical-debt/RacialHealth-Rpt-2022.pdf>.

² “Medical Debt Burden in the United States,” *Consumer Financial Protection Bureau* (February 2022), available at https://files.consumerfinance.gov/f/documents/cfpb_medical-debt-burden-in-the-united-states_report_2022-03.pdf.

³ Andre M. Perry, Joia Crear-Perry, Carl Romer, and Nana Adjeiwaa-Manu. “The racial implications of medical debt: How moving toward universal health care and other reforms can address them.” *Brookings Institution* (Oct. 2021), available at <https://www.brookings.edu/research/the-racial-implications-of-medical-debt-how-moving-toward-universal-health-care-and-other-reforms-can-address-them/>. See also Neil Bennett, Jonathan Eggleston, Laryssa Mykyta, and Briana Sullivan, “19% of U.S. Households Could Not Afford to Pay for Medical Care Right Away.” *United States Census Bureau*, 2021, available at <https://www.census.gov/library/stories/2021/04/who-had-medical-debt-in-united-states.html>.

⁴ Neil Bennett, Jonathan Eggleston, Laryssa Mykyta, and Briana Sullivan. “19% of U.S. Households Could Not Afford to Pay for Medical Care Right Away.” *United States Census Bureau*, 2021, available at <https://www.census.gov/library/stories/2021/04/who-had-medical-debt-in-united-states.html>. Households in the South, the region with the highest concentration of black people, also carry more debt than households in the Midwest, West, and Northeast.

⁵ On March 18, 2022, the Big Three credit bureaus (Equifax, Experian, and TransUnion) announced changes to how they report medical debt; the changes will result in the removal of nearly 70% of medical bills from credit reports. See Anna Maria Andriotis, “Most Medical Debts to Be Removed From Consumers’ Credit Reports,” *Wall Street*

credit bureaus, it harms consumer credit scores⁶ that increasingly have become important for obtaining employment, housing, and other financial products. As a result, medical debt can lead to long-term financial insecurity. For this reason, more work is necessary to remove *all* medical debts from credit reports.

Because medical debt brings with it the threat of aggressive collection practices, many individuals take risky measures to avoid medical debt collection. Individuals often drain their short-term savings, increase their credit card debt,⁷ or dip into long-term savings accounts (retirement or college funds) to pay off burdensome medical bills.⁸ Families sometimes turn to deceptive financial products, such as medical credit cards⁹ and risky high-interest small dollar loans to pay medical bills.¹⁰ In a recent survey by the American Cancer Society, 7% of respondents reported taking out a loan to pay their medical debt.¹¹ As such, medical debt can show up as other types of debt in individual credit histories.

Hospitals and other medical providers frequently place accounts with third-party collectors, who may use frequent calls and other communications to pressure consumers to pay. Black people in particular are more likely to be contacted by debt collectors over medical debt. In fact, debt collectors contact Black households at twice the rate of white households, according to the Urban Institute.¹² The Federal Trade Commission found that areas where the Black population is

Journal (March 18, 2022), available at https://www.wsj.com/articles/most-medical-debts-to-be-removed-from-consumers-credit-reports-11647604803?reflink=desktopwebshare_permalink.

⁶ Michael Best, Jenifer Bosco, and Chi Chi Wu. “Don’t Add Insult to Injury: Medical Debt and Credit Reports,” *NCLC* (November 2019), available at https://www.nclc.org/images/pdf/debt_collection/report-dont-add-insult-nov2019.pdf.

⁷ “The median credit card balance from health expenditures among African American middle class households that carry the expense on their credit card is \$933. The median indebted African American household with medical debt on their credit cards carries 11 percent of their total credit card debt due to medical expenses.” See Catherine Ruetschlin and Dedrick Asante-Muhammad. “The Challenge of Credit Card Debt for the African American Middle Class.” *Demos* and *NAACP* (Dec. 2013), available at http://www.demos.org/sites/default/files/publications/CreditCardDebt-Demos_NAACP_0.pdf.

⁸ This is true for uninsured and insured individuals alike. See Hamel, Liz, et. al. “The Burden of Medical Debt: Results from the Kaiser Family Foundation/New York Times Medical Bills Survey.” *Kaiser Family Foundation* (Jan. 2016), available at <https://www.kff.org/report-section/the-burden-of-medical-debt-section-1-who-has-medical-bill-problems-and-what-are-the-contributing-factors/>.

⁹ National Consumer Law Center, *Collection Actions* (5th ed. 2020), 9.4.4.1, updated at <https://library.nclc.org/node/2436706?s=care%20credit>. In 2021, the Consumer Financial Protection Bureau received complaints against medical credit card companies for a variety of reasons, including overcharge of interest and lack of notice of fees, conditions or contract terms.

¹⁰ Hamel, Liz, et. al. “The Burden of Medical Debt: Results from the Kaiser Family Foundation/New York Times Medical Bills Survey.” *Kaiser Family Foundation* (Jan. 2016), available at <https://www.kff.org/report-section/the-burden-of-medical-debt-section-1-who-has-medical-bill-problems-and-what-are-the-contributing-factors/>.

¹¹ 4% of respondents indicated they took out a payday loan or refinanced their home to pay medical bills. See “Survivor Views: Cancer and Medical Debt,” *American Cancer Society* (Feb. 2022), available at https://www.fightcancer.org/sites/default/files/national_documents/survivor_views_cancer_debt_0.pdf.

¹² Michael Karpman, et al. “The Well Being and Basic Needs Survey: A New Data Source for Monitoring the Health and Well-Being of Individuals and Families,” *Urban Institute* (Aug. 28, 2018), available at https://www.urban.org/sites/default/files/publication/98919/the_well-being_and_basic_needs_survey_1.pdf. See also National Consumer Law Center, *Fair Debt Collection* (10th ed. 2022), 1.3.1.5, updated at <https://library.nclc.org/fdc/01030105-0>.

50% or more have a higher rate of debt collection complaints compared to areas that are majority nonblack.¹³ Despite the credit and collection protections under the Affordable Care Act (ACA), the Fair Debt Collection Practices Act (FDCPA), and various state-based protections, aggressive debt collection remains a looming problem, and medical debt is one of the leading triggers of experiences with debt collectors.

In some cases, medical providers file collection lawsuits on alleged medical debts. Once they obtain a judgment, providers may be able to use a variety of collection tools (depending on state law), including: seeking liens on homes, wage garnishment, tax refund garnishment, attachment and seizure of bank accounts, and even going so far as to seek civil arrest warrants when debtors fail to show up for court proceedings. For example, a recent investigation by Kaiser Health News revealed that the University of Virginia Hospital system has a history of relying on property liens to collect unpaid medical bills.¹⁴ As a result of the investigation, the system announced in 2021 that it would cancel decades of liens placed on low-income patients for unpaid medical bills.¹⁵ Between 2009 and 2018, hospitals in Maryland filed nearly 40,000 lawsuits that resulted in wage garnishment, often from their own employees.¹⁶ Furthermore, the ACLU documented cases of arrests for medical debts in several states, including Maryland, Arkansas, and Tennessee.¹⁷

II. Recommendations

To address the epidemic of medical debt, policy advocates and lawmakers should focus on ways to prevent medical debt at the outset, not after the fact, to protect consumers from harmful debt collection practices and long-term impacts on their financial wellbeing. Policymakers also should provide consumer protections that address the racial disparities in medical debt. The following solutions would go a long way toward addressing the medical debt crisis:

- ***Strengthen Protections Against Aggressive Debt Collection.*** Prohibit aggressive debt collection by banning wage garnishment, bank account seizure, property liens,

¹³ Despite similar rates of default and late payments, 71% of Black middle-income households received calls from debt collectors compared to 50% of white middle-income households. See Catherine Ruetschlin and Dedrick Asante-Muhammad. “The Challenge of Credit Card Debt for the African American Middle Class.” *Demos* and *NAACP* (Dec. 2013), available at http://www.demos.org/sites/default/files/publications/CreditCardDebt-Demos_NAACP_0.pdf. See also Raval Devesh. “Which Communities Complain to Policymakers? Evidence from Consumer Sentinel.” *Federal Trade Commission* (July 2018), 20, available at https://www.ftc.gov/system/files/documents/reports/which-communities-complain-policymakers-evidence-consumer-sentinel/working_paper_336.pdf.

¹⁴ Jay Hancock. “UVA Health Still Squeezing Money From Patients — By Seizing Their Home Equity,” *Kaiser Health News* (Oct. 19, 2020), available at <https://khn.org/news/uva-health-property-liens-patient-medical-debt/>.

¹⁵ Jay Hancock. “UVA Health Will Wipe Out Tens of Thousands of Lawsuits Against Patients,” *Kaiser Health News* (April 20, 2021), available at <https://khn.org/news/article/uva-health-will-wipe-out-tens-of-thousands-of-lawsuits-against-patients/>.

¹⁶ “Preying on Patients: Maryland’s Not-for-Profit Hospitals and Medical Debt Lawsuits.” *National Nurses United* (Feb. 2020), 9, 17, available at <https://www.nationalnursesunited.org/preying-on-patients>.

¹⁷ “A Pound of Flesh: The Criminalization of Private Debt.” *American Civil Liberties Union* (2018), 45, available at https://www.aclu.org/sites/default/files/field_document/022118-debtreport.pdf.

foreclosure of homes based on medical debt liens, and civil arrest warrants (also referred to as body attachments or *capias* warrants) for medical debt.

- ***Prohibit Collection of Medical Debt During Health Insurance Appeals.*** Require debt collectors to cease collection of alleged medical debts when they are advised that a health insurance appeal is pending or otherwise informed that the consumer is seeking to resolve the account with the insurer.
- ***Crack Down on Third-Party Debt Collection.*** End the practice of turning over medical debt to third-party collection agencies.
- ***Protect Patient Credit Reports.*** Prohibit providers and debt collectors from reporting *all* medical debt to credit reporting bureaus.¹⁸ Short of total prohibition, exclude disputed debt and require screening for financial assistance.
- ***Improve Protection of Funds Needed for Necessities for All Types of Debt.*** As medical debt is often converted into credit card and other types of debt, we sorely need to increase the federal protection against wage garnishment and to adopt a new federal protection for a base amount of funds in bank accounts.¹⁹ Currently, under federal law, only \$217.50/week in wages are fully protected – not even the poverty level, and there is no general federal protection for bank accounts; in many states, collectors can completely empty out bank accounts.²⁰

Please see the attached reports and materials for more policy recommendations to protect people from burdensome medical debt: *The Racial Health and Wealth Gap: Impact of Medical Debt on Black Families*²¹ and NCLC’s recent letter to the CFPB regarding medical debt.

III. Conclusion

Issues related to medical debt cut across a variety of areas of financial regulation (credit reporting, debt collection, and regulation of lending products, etc.), and thus the solutions must be broad and cross-cutting. Urgent policy solutions are needed to reduce consumer medical debt and ensure that healthcare never throws anyone into a cycle of financial insecurity.

Thank you for the opportunity to testify today. I would be happy to answer your questions.

¹⁸ To date, Minnesota is the only state that prohibits hospitals and debt collectors from reporting medical debts to credit bureaus. For a discussion, see Michael Best, Jenifer Bosco, and Chi Chi Wu. “Don’t Add Insult to Injury: Medical Debt and Credit Reports.” *National Consumer Law Center* (Nov. 2019), available at https://www.nclc.org/images/pdf/debt_collection/report-dont-add-insult-nov2019.pdf.

¹⁹ See NCLC, *A Free Stimulus to Support Struggling Families and the Economy: First Suspend, then Reform, Wage and Bank Account Garnishment* (Jan. 2021), <http://bit.ly/Wage-Garnish-Stimulus-2021>; Center for Responsible Lending, *Protect Against Abusive Debt Collection: Working Families Need Wage Protection and a Chance to Save* (Feb. 2021), <https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-garnishment-memo-feb2021.pdf>.

²⁰ See NCLC, *No Fresh Start in 2021: Will States Let Debt Collectors Push Families Into Poverty As Pandemic Protections Expire?* (Nov. 2021), <https://www.nclc.org/issues/report-still-no-fresh-start.html>.

²¹ Berneta Haynes, “The Racial Health and Wealth Gap: Impact of Medical Debt on Black Families,” *National Consumer Law Center* (March 2022), available at <https://www.nclc.org/images/pdf/medical-debt/RacialHealth-Rpt-2022.pdf>. See also Chi Chi Wu, Jenifer Bosco, and April Kuehnhoff. “Model Medical Debt Protection Act,” *National Consumer Law Center* (September 2019), available at <https://www.nclc.org/images/pdf/medical-debt/model-medical-debt-protection-act-082017.pdf>.