



March 13, 2023

Senate Business Labor & Technology Committee
Colorado General Assembly
200 E. Colfax Ave. OSCC
Denver, Colorado 80203

Re: HB23-1126 Consumer Reports Not Include Medical Debt Information

Dear Mr. Chair, Madam Vice Chair, and Committee Members:

Thank you for the opportunity for the Colorado Center on Law and Policy (“CCLP”) to submit written testimony in strong support of House Bill 23-1126, Consumer Reports Not Include Medical Debt Information. CCLP is an anti-poverty organization dedicated to advocacy, litigation, and research on affordable housing, employment, and access to healthcare and food. Because medical debt exacerbates inequities and creates barriers to housing and wealth building, decreasing such harms is a priority for CCLP. HB23-1126, which removes medical debt from consumer reports, will have a positive impact on hundreds of thousands of Coloradans.

Nonetheless, you may hear testimony that claims Colorado cannot legally pass this policy because it is preempted by the federal Fair Credit Reporting Act (“FCRA”).¹ This argument has recently been rejected by a [federal court of appeals](#) and the [Consumer Financial Protection Bureau \(“CFPB”\)](#).

While FCRA does restrict states’ authority to legislate on matters involving credit reporting to a certain extent, it does not do so to the degree that those opposed to this bill might argue. As relevant here, FCRA provides that no “requirement or prohibition may be imposed under the laws of any State . . . with respect to any subject matter regulated under . . . section 1681c of [FCRA], relating to information contained in consumer reports.” 15 U.S.C. § 1681t(b)(1)(E). In turn, section 1681c includes requirements for consumer reporting agencies regarding:

- (1) the amount of time some information, such as bankruptcy and paid tax liens, may continue to appear on consumer reports;
- (2) certain contact information about medical information furnishers;
- (3) certain information relating to veterans’ medical debt; and
- (4) specific information – like Title 11 or disputed information – that must be included in a consumer report.

See 15 U.S.C. § 1681c.

¹ Federal preemption stems from the Supremacy Clause of the U.S. Constitution, which provides that federal law is the “supreme Law of the land” and will thus displace any state law that is in conflict with it.



Two important phrases in section 1681t that narrow the scope of preemption are “with respect to” and “relating to” because the clauses that follow describe the limited circumstances in which a state is prohibited from acting. *See Dan’s City Used Cars, Inc. v. Pelkey*, 569 U.S. 251, 261 (2013) (noting that the phrase “with respect to” served to “massively limit[] the scope of preemption”). These two phrases are vastly different than preemption provisions in other statutes that clearly indicate Congress’s intent to broadly limit state authority. The Employee Retirement Income Security Act, for example, provides that the Act “supersede[s] *any* and *all* State laws insofar as they may now or hereafter relate to any employee benefit plan.” 29 U.S.C. § 1144(a) (emphasis added); *see Consumer Data Indus. Ass’n v. Frey*, 26 F.4th 1, 11 (1st Cir. 2022), *cert. denied* 598 U.S. ---, No. 22-471 (rejecting a broad interpretation of section 1681t because it would not only “render the references to the statutory provisions [meaningless] but it would also disregard the care and specificity with which Congress drafted those provisions”). Had Congress intended to broadly restrict a state’s ability to control what types of information appears on credit reports, it would have explicitly said so.

Congress instead specified *only* that states are preempted from imposing requirements or prohibitions with respect to subject matter regulated under 1681c as that section relates to information contained in consumer reports. Notably, while section 1681c describes *how long* specific types of information may continue to appear on a consumer report, it does not include provisions about what items may or may not be *initially* included on a consumer report. Section 1681c thus does not provide any general restrictions on the content of a consumer report, including whether medical debt may initially appear in the report.

In other words, FCRA, initially enacted to provide federal protections for consumers, serves as the floor for what types of obsolete information must be excluded from a consumer report. As the [CFPB noted](#), states “retain substantial flexibility to pass laws involving consumer reporting to reflect emerging problems affecting their local economies and citizens.” Colorado is therefore well within its right to ensure that its citizens do not continue to face insurmountable challenges to finding a home or starting a business as a result of their often unforeseen medical debt.

For these reasons, CCLP emphatically urges the House Business Affairs and Labor Committee to vote yes on HB23-1126. Thank you for your time and attention.

Sincerely,

Ellen K. Giarratana
Interim Legal Director
Colorado Center on Law and Policy



**STATEMENT FOR THE RECORD BEFORE THE SENATE BUSINESS, LABOR &
TECHNOLOGY COMMITTEE ON HB 23-1126: MEDICAL DEBT CREDIT REPORTING
CREDIT PROTECTIONS**

February 22, 2023
Lindsey Vigoda, Colorado Director
Small Business Majority

Thank you Chairman Rodriguez and Members of the Committee:

My name is Lindsey Vigoda and I'm the Colorado Director for Small Business Majority, a small business organization with offices nationwide, including here in Colorado. Our mission is to empower America's diverse entrepreneurs to build a thriving and equitable economy. I am here to share our support for HB 23-126, legislation that would remove medical debt from credit reporting and protect marginalized communities across Colorado, including small employers and their employees.

Currently, when someone cannot afford a medical expense in Colorado and their bill is sent to collections, this debt may be included on their credit report. This reporting hurts individuals and their credit score, an issue that affects 1 in 8 Coloradans or 700,000 individuals. This is a concerning number given the importance of credit scores and their ability to dictate whether people can fairly access credit, housing, insurance, economic stability and employment opportunities to live a decent life. This is an issue of particular concern for small business owners because their personal finances and credit are typically intertwined with their business finances.

As you know, access to medical care often carries exorbitant costs, leaving those seeking care strapped with debt for years to come. We are emerging from a public health crisis, and we know that many of those who have sought lifesaving measures in the last few years, including small business owners and their employees, are riddled with financial stress that could eventually lead to bankruptcies. This would further hamper entrepreneurs in accessing capital, which is already challenging for businesses in Colorado. According to a recent Small Business Majority survey, an overwhelming majority of small businesses (75%) are being impacted by challenges in accessing capital. An inability to access capital hinders their ability to grow their businesses and hire employees, which is a major indicator of the health of our local economies.

As a representative of small businesses in our state, I can tell you that this will continue to affect our small businesses unless you make a definitive decision today to support this legislation. Credit reporting of medical debt is an issue that exacerbates inequities in our communities, and one that frequently impacts marginalized communities. This is why this bill is key to protecting Coloradans' ability to access credit and other basic necessities like housing and economic stability. After all, [data shows](#) that medical debt isn't a good indicator of creditworthiness, and it is therefore a factor that should be removed from being reported on matters related to creditworthiness.

We urge you to pass HB 23-1126 to ensure Coloradans and small businesses have a level playing field in accessing basic necessities on their way to recovery.

Thank you,
Lindsey Vigoda
Colorado Director, Small Business Majority

March 14, 2023

The Honorable Robert Rodriguez
Chair, Senate Committee on Business, Labor, & Technology
200 E Colfax
RM 346
Denver, CO 80203
United States

Re: HB 1126 – Medical Debt

Dear Chairman Rodriguez:

I write on behalf of the American Financial Services Association (AFSA)¹ to express our serious concerns with House Bill 1126, which would make drastic changes to Colorado’s laws related to medical debts. While we recognize the bill’s purpose of protecting consumers from harms that may be associated with unexpected medical debt, as drafted, HB 1126’s broad definition of “medical debt” would create significant compliance challenges resulting in unintended negative consequences for Colorado borrowers.

HB 1126 would prohibit a consumer reporting agency from making a consumer report containing any information concerning medical debt, which is broadly defined to include: debt arising from health-care services...or health-care goods, including products, devices, durable medical equipment, and prescription medications.” On its face, this exclusion may seem simple enough, but in practice, isolating “medical debt” from other debt may not be feasible depending on how the debt was incurred, particularly for medical debt paid by credit card or other revolving credit like a home equity line of credit (HELOC) where medical expenses may be comingled with other spending. Outlined below are several examples of possible “medical debt” that would create such challenges.

Example 1

Noah goes to Urgent Care and pays her \$50 co-pay on a credit card. That \$50 transaction is part of a \$1000 statement balance for the month. Would the entire statement balance be “medical debt” and prohibited from being reported? Would \$950 be allowed to be reported and \$50 not? If Noah pays half the balance, what portion of the payment would be attributable to \$50 co-pay? Could the remaining \$500 be included in the consumer report? Would any portion of the remaining \$500 be “medical debt”?

Example 2

Jane pays her insurance co-pay of \$5 on a prescription at Target pharmacy while also buying other items. Her entire purchase at Target is \$150, and includes a new outfit, a frozen pizza, Tylenol, gift

¹ Founded in 1916, the American Financial Services Association (AFSA), based in Washington, D.C., is the primary trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including direct and indirect vehicle financing, traditional installment loans, mortgages, payment cards, and retail sales finance. AFSA members do not provide payday or vehicle title loans.

wrap, and nail polish. Is part, or even all, of this transaction “medical debt” despite largely being made up of items that aren’t medical? Card issuers do not have the ability to distinguish between these two portions of a single transaction, and the resulting statement would reflect the total balance. Even if split into two separate lines, the account would still create the problem outlined in Example 1.

Example 3

Jack has a house worth \$1 million with a \$500,000 mortgage. Jack takes out a \$100,000 line of credit and uses \$15,000 of it for a nose job, \$800 for Botox and \$4,000 for a new porch. Is the \$15,000 nose job “medical debt” and thus not reportable? What about the \$800 Botox? Is the entire balance prohibited from being reported? If Jack pays part of the HELOC off, but not all of it, which part of the payment is attributable to the porch and which part of the payment is attributable to Jack’s cosmetic procedures?

Example 4

Olivia carries a \$1500 balance between statements on a credit card. While working to pay down the balance and improve her credit score, Olivia uses her credit card to pay for a prescription with a \$15 co-pay. Would the entire balance of this credit card, which existed before the “medical debt” was incurred, now be “medical debt” and require removal of the entire trade line from Olivia’s credit report?

The federal Fair Credit Reporting Act (FCRA) requires reporting of only accurate information. This duty for accurate reporting does not distinguish between negative or positive consumer information, meaning all accurate information must be reported, whether positive or negative. Because of this duty, compliance with a wholesale prohibition on reporting a category of debt that cannot be isolated from other debt would necessarily require the suspension of all credit reporting related to revolving credit where “medical debt” could be comingled. The harm from such a suspension would be felt by all consumers across Colorado now unable to reap the benefits of favorable credit reporting. Borrowers who make on-time payments and don’t carry a balance, despite doing everything right to protect their own credit profiles, would be harmed by the bill’s restrictions.

Importantly, the credit underwriting process assesses a prospective borrower based on a number of different factors, including their overall credit profile, income, and ability to repay the loan. To the extent that any information related to “medical debt” provides an indication of the borrower’s ability to repay new credit, requiring such information be omitted from consumer reports could create safety and soundness concerns for the new loan by interfering with creditors’ means of fully assessing the borrower’s ability to repay the loan. In addition to the direct harm to borrowers losing out on the benefits of positive credit reporting, these restrictions could limit the ability of creditors to use consumer reports overall and thus affect the overall availability of credit for all Colorado consumers.

In order to preserve the integrity of the credit reporting system, while maintaining the bill’s protections for isolated “medical debt,” we respectfully request you amend the bill’s definition of “medical debt” to exclude debt charged to a credit card or incurred by other revolving lines of credit that could be comingled with non-medical expenses and further clarify that it does not include elective cosmetic procedures.

We urge you to consider the effects these restrictions will have on Colorado’s credit markets and not move forward with the legislation without amendments. Thank you for your consideration of our

comments and proposed amendments. If you have any questions or would like to discuss this further, please do not hesitate to contact me at (202) 469-3181 or mkownacki@afsamail.org.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Kownacki". The signature is written in a cursive style with a period at the end.

Matthew Kownacki
Director, State Research and Policy
American Financial Services Association
919 Eighteenth Street, NW, Suite 300
Washington, DC 20006-5517

Testimony as Submitted in support of HB23-1126: Consumer Reports Not Include Medical Debt Information by Hunter Nelson, Policy Analyst at the Colorado Children's Campaign

Senate Business, Labor, & Technology Committee

Mar. 14, 2023, 2:00 p.m.

Old Supreme Court

Dear Mr. Chairman and Members of the Business, Labor, & Technology Committee,

My name is Hunter Nelson and I am a Policy Analyst at the Colorado Children's Campaign. Together with our partner organizations and communities across the state, we advocate for the development and implementation of data-driven public policy that improves child and family well-being. We fight for a world in which, without exception, public policies and investments remove barriers for most impacted children and families and improve well-being for every child and every family. The Children's Campaign is in strong support of HB23-1126: Consumer Reports Not Include Medical Debt Information.

Medical debt is a major problem in Colorado. According to the Consumer Financial Protection Bureau (2022), approximately 1 in 8 Coloradans hold medical debt in collections, amounting to a total sum of more than \$1.3 million.ⁱ Medical debt also disproportionately impacts households with children – according to the Census Bureau, households with children under the age of 18 (24.7%) were more likely to have medical debt than households without children (16.5%).ⁱⁱ Birthing people are also more likely to have medical debt. Women are more likely to report having medical debt than men, and 1 in 8 American households report that pregnancy and/or birth costs contributed to their medical debt.ⁱⁱⁱ

Medical debt can have crippling impacts on families with children, causing families to forgo essential needs such as food, clothing and rental payments, spending down their savings to pay for medical bills, borrowing money from family members or friends, and taking on additional debts.^{iv} When medical debt is included in consumer reports, this can negatively impact a family's credit score, which can have rippling effects on subsequent employment and housing opportunities.

HB23-1126 aims to stop the flow of medical debt information on credit reports and takes important steps to protect Colorado individuals and families from the detrimental impacts that reports containing medical debt information can have on financial outcomes. This bill would positively impact Colorado families in the following ways:

- **Stops medical debt from being included on credit reports.** HB23-1126 prohibits a consumer reporting agency from producing a report containing medical debt information. These reports are frequently pulled by employers and landlords and can significantly impact the decision on whether to offer employment or housing to an applicant. Medical debt is very personal information, and the prohibition of including this on consumer reports provides a sense of security for Colorado families and has the potential to lead to better employment and housing outcomes.

- **Ensures more Coloradans' personal information is protected.** HB23-1126 repeals the two exceptions to prohibitions on reporting medical debt on consumer reports, which allow reporting on credit transactions or the underwriting of life insurance involving a transaction of \$150,000 or more. Many Colorado families with medical debt fall into one or both of these exceptions; therefore, repealing the allowance of this information to be reported will positively impact the credit scores and financial outcomes of families with children in the state.
- **Informs impacted consumers about their new rights.** HB23-1126 requires debt collectors to inform Coloradans with medical debt that medical debt can no longer be included on credit reports, except under narrow circumstances. According to a 2020 AIMS Public Health report, people with medical debt are three times more likely to have mental health symptoms such as depression, anxiety and stress.^v Not having to worry about medical debt impacting a credit score has the potential to reduce some of these symptoms and ensures that Colorado families with medical debt can have peace of mind that it will not impact their credit score.

The Children's Campaign believes that every family with children in Colorado should have the resources and opportunities to achieve economic prosperity, and limiting the impact of medical debt on consumer reports is a steppingstone to achieving this for many. **Please vote yes on HB23-1126.**

Thank you,

Hunter Nelson

Hunter Nelson
Policy Analyst
Hunter@coloradokids.org

ⁱ [Medical Debt Burden in the United States \(consumerfinance.gov\)](https://www.consumerfinance.gov)

ⁱⁱ [Who Had Medical Debt in the United States? \(census.gov\)](https://www.census.gov)

ⁱⁱⁱ [The burden of medical debt in the United States - Peterson-KFF Health System Tracker](https://www.kff.org)

^{iv} Ibid.

^v [Problems paying medical bills and mental health symptoms post-Affordable Care Act - PMC \(nih.gov\)](https://pubmed.ncbi.nlm.nih.gov)



Support of HB23-1126: Consumer Reports Not Included in Medical Debt Information
Senate Business, Labor, & Technology; Tuesday, March 14th, 2023

Mr. Chair, Vice Chair, and Members of the Business, Labor and Technology Committee,

Thank you for allowing me to submit testimony in support of HB23-1126 regarding medical debt being excluded from consumer reports. My name is Alexis Alltop, and I am a policy manager at Healthier Colorado. In Colorado, 1 in 8 individuals¹ have medical debt, and I am not ashamed that I am among the hundreds of thousands of Coloradans who have been personally impacted by medical debt.

Data shows that young adults are disproportionately impacted by past-due medical debt being included in consumer reports. Although medical spending increases with age, young adults see their medical debt go to collections more frequently and, on average, have higher-balance medical debts in collections when compared to older adults². Due to their position in life, adults between the ages of 18 and 24 are less likely to be adequately insured, are more likely to be low-income, and often have less savings when compared to older adults³.

At age nineteen, I was a student pursuing my degree at the University of Colorado Boulder. A medical emergency that required an ambulance ride to the ER put me into over \$6,000 of medical debt. Like many other students, I moved residences over the summer and unfortunately missed the medical bill that was sent to my former address, resulting in my debts being turned over to collections. I was just beginning to build my credit and savings, and navigating through the collections process took an extreme toll on my mental health and financial well-being. Individuals with debt, including medical debt, are three times more likely to have mental health conditions like anxiety, depression, or suicidal ideation⁴ and this effect is more pronounced with

¹ Martinchek et al. "Credit Health during the COVID-19 Pandemic" Urban Institute. March 8, 2022.

<https://apps.urban.org/features/credit-health-during-pandemic/>

² Batty, Michael, Christa Gibbs and Benedic Ippolito. "Unlike Medical Spending, Medical Bills in Collections Decrease with Patients' Age." Health Affairs. July 25, 2018. <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2018.0349>

³ Conway, Douglas. "Adults Age 26 Had Highest Uninsured Rate Among All Ages, Followed By 27-Year-Olds." U.S. Census Bureau. October 26, 2020. <https://www.census.gov/library/stories/2020/10/uninsured-rates-highest-for-young-adults-aged-19-to-34.html>.

⁴ Wiltshire et al. "Problems paying medical bills and mental health symptoms post-Affordable Care Act." AIMS Public Health. May 6, 2020. <http://www.aimspress.com/article/10.3934/publichealth.2020023>



some sub-populations like young adults. Allowing medical debt to be included in consumer reports increases the stress experienced by individuals with medical debt, exacerbating these mental health conditions.

Even after I settled my bill, having medical debt turned over to collections continues to impact me, and I have had to live with the compounding effects of medical debt on my financial, physical, and mental health. A Stanford study found that 46% of people with medical debt purposefully avoid needed medical care, which can increase morbidity and mortality of health conditions⁵. Out of fear that I will incur medical debt that debilitates me again, I now avoid going to the emergency room or calling an ambulance for my loved ones, even when emergency care is vitally needed.

HB23-1126 would be a massive step towards Colorado being a more equitable, healthy state. Limiting medical debt from being included on credit reports, and increasing awareness of consumer protections would help me and 700,000+ Colorado residents who currently have medical debt and live in fear that this debt can affect their credit score and financial opportunities.

Thank you for your time and consideration. I strongly urge you to vote yes on HB23-1126: Consumer Reports Not Include Medical Debt Information.

In health,

A handwritten signature in black ink that reads "Alexis Alltop". The signature is written in a cursive, flowing style.

Alexis Alltop, Policy Manager

⁵ Adams, Alyce et al. "The Impact of Financial Assistance Programs on Health Care Utilization." National Bureau of Economic Research. August 31, 2021. https://nmahoney.people.stanford.edu/sites/g/files/sbiybj16971/f/kaiser_20210831.pdf

Testimony to the Colorado Senate Business, Labor, & Technology Committee

In support of House Bill No. 1126

3/13/2023

I am writing in support of H.B. No. 1126 CONSUMER REPORTS NOT INCLUDE DEBT INFORMATION – CONCERNING THE INCLUSION OF CERTAIN ITEMS OF INFORMATION IN CONSUMER REPORTS, AND, IN CONNECTION THEREWITH, PROHIBITING THE REPORTING OF MEDICAL DEBT INFORMATION BY CONSUMER REPORTING AGENCIES AND PROHIBITING DEBT COLLECTORS AND COLLECTION AGENCIES FROM FALSELY REPRESENTING THAT MEDICAL DEBT INFORMATION WILL BE INCLUDED IN A CONSUMER REPORT OR FAILING TO TIMELY DISCLOSE THAT, WITH CERTAIN EXCEPTIONS, MEDICAL DEBT WILL NOT BE INCLUDED IN A CONSUMER REPORT.

My name is Karly Kaufman, and am a resident in Littleton, Colorado. I am writing testimony in support for HB 23-1126 to stop medical debt from being included on credit reports, to ensure more Coloradans' personal information is protected, and to inform impacted consumers about their new rights. No Coloradan should face barriers to housing, economic stability, and opportunity simply because they needed medical care.

According to the Urban Institute¹, 1 in 8 Coloradans has medical debt in collections, making medical debt a significant problem in Colorado – that's over 700,000 Coloradans², to date! Medical debt harms Coloradans in many ways. When someone cannot afford a medical expense and their bill goes to collections, information about that medical debt can be included on their credit report. This, in turn, harms the person's credit score, creating barriers to getting a loan, renting an apartment, or even getting a job. But medical debt is not a choice. Nor is it a good predictor of "creditworthiness."

For personal context, I moved back Colorado in 2021, and have been staying with my best friend's parents to save money. I have known this family since I met their

¹ <https://apps.urban.org/features/credit-health-during-pandemic/>

² <https://demography.dola.colorado.gov/>

daughter in preschool at the age of four. About 14 years ago, the father of the family experienced his first seizure, which has since been 14 years of monitoring and medicating him to give him a semi-normal life compared to the one he lived before. But there is always the risk of him having another unexpected and unexplained seizure.

His entire body has been impacted physically, mentally, and emotionally. From diminished brain functions that affects his memory, causing a difficulty in communication, to not being able to have a job, as his disability doesn't allow him to work, to not being able to drive because the seizures have caused a loss of vision, to constantly needing rest from a lack of energy, as basic social interactions and physical activity can easily wear him out. And one of the most difficult things to understand about his situation is that medical professionals do not know what is wrong.

That is 14 years of never knowing the root of what is causing his seizures. 14 years of medical bills in the thousands raining in from every appointment and facility the father has been treated. 14 years of battling with consumer reporting agencies about their access to higher credit. 14 years of medical debt being put on credit cards. 14 years too long to suffer from unnecessary reporting that has caused barriers in their lives, all because of a medical issue **NO ONE** could have planned for, and obviously still do not know the entirety of his condition.

The mother is the sole provider for the two of them and does everything she can to make his life easier. I am in awe of her patience and ability to handle his medical necessities without asking for help from anyone. This is an immense pressure for the mother to maintain, and I know she is not alone.

In the summer 2022, the Consumer Financial Protection Bureau (CFPB) issued an interpretive rule affirming states' abilities to protect their residents through their own fair credit reporting laws. Therefore, Colorado has every opportunity to continue leading consumer protections in medical debt (see Attorney General Phil Weiser's bill, [SB 23-093 – Increase Consumer Protections Medical Transactions](#), as another example.) Recently, even credit reporting agencies have stopped including medical debt on credit scores altogether (VantageScore),³ and the big-

³ <https://www.investopedia.com/vantagescore-excluding-medical-bills-from-credit-scores-6386300#:~:text=Key%20Takeaways,collections%20on%20consumer%20credit%20files.>

three credit reporting agencies, Equifax, Experian, and TransUnion, have already self-prompted to take medical debt below \$500 off of credit reports.⁴

House Bill 23-1126, Consumer Reports Not Include Debt Information, would stop medical debt from being included on Coloradans' credit reports and factored into their credit scores.

I urge the Senate Business, Labor, & Technology Committee to vote in support of HB23-1126, because, as I stated before, no Coloradan should face barriers to housing, economic stability, and opportunity simply because they needed medical care.

Thank you for your consideration,

Karly Kaufman
Littleton, CO 80127

⁴ <https://newsroom.transunion.com/equifax-experian-and-transunion-support-us-consumers-with-changes-to-medical-collection-debt-reporting/>

Written Statement of Chi Chi Wu,
National Consumer Law Center
Before the Senate Business, Labor, & Technology Committee
of the Colorado General Assembly
in support of HB23-1126: Excluding Medical Debt Information from Consumer Reports
March 14, 2023

The National Consumer Law Center¹ (NCLC) thanks you for holding this hearing on [HB23-1126](#), which would prohibit the reporting of medical debt information by consumer reporting agencies (CRAs). The bill would also inform consumers about their rights by requiring debt collectors to notify consumers with medical debt that such debt can no longer be included on credit reports, with narrow exceptions.

Medical debt information in consumer reports (also known as credit reports) from the nationwide CRAs (i.e., Equifax, Experian and TransUnion) wreaks havoc in the financial lives of millions of Americans, including those in Colorado. Just this month, the Consumer Financial Protection Bureau (CFPB) reported that 13.5 percent of consumers with a credit report had a medical debt collection on their report in 2022.² While this is a decrease from 16.4 percent in 2018, it still constitutes the largest source of debt collection blemishes on credit reports. Medical debts constituted 68.9% of accounts reported by contingency-fee-based debt collectors.³

Medical bills for life-saving or medically necessary care are often unexpected, and the expenses alone can throw a family into a financial crisis. This crisis is compounded when families cannot pay for these surprise expenses and the debt is reported to the nationwide CRAs. The blemishes on a credit report (which employers and landlords as well as creditors may see) and the resulting lower credit scores can compromise a family's long-term financial stability by making access to mainstream credit, housing, and even employment more difficult.

Medical debts often become past due and are reported to credit bureaus because of payment delays due to billing or insurance disputes, consumer confusion, and the generally dysfunctional nature of

¹ The National Consumer Law Center is a nonprofit organization specializing in consumer issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys, as well as community groups and organizations, from all states who represent low-income and elderly individuals on consumer issues. As a result of our daily contact with these advocates, we have seen many examples of the damage wrought by inaccurate credit reporting from every part of the nation. It is from this vantage point – many years of observing the problems created by incorrect credit reporting in our communities – that we supply these comments. *Fair Credit Reporting* (10th ed. 2022) is one of the twenty-one practice treatises that NCLC publishes and annually supplements. This testimony was written by Chi Chi Wu, lead author of that treatise.

² CFPB, *Market Snapshot: An Update on Third-Party Debt Collections Tradelines Reporting*, Feb. 2023, at 8, https://files.consumerfinance.gov/f/documents/cfpb_market-snapshot-third-party-debt-collections-tradelines-reporting_2023-02.pdf.

³ *Id.* at 3.

healthcare financing in the United States.⁴ Medical debts are almost always reported as debt collection items. Commonly used credit scoring models treat unpaid medical debts negatively,⁵ even though medical debts are typically incurred involuntarily and may be riddled with problems such as billing errors and disputes with insurers over liability for accounts.⁶

While recent voluntary changes by the nationwide CRAs will reduce the amount of medical debt on credit reports, we believe the prohibition on all medical in HB HB23-1126 is ultimately necessary to protect consumers, particularly vulnerable consumers. The voluntary changes involve the removal of paid medical debts and medical debts under \$500 and a one-year delay in reporting other medical debts.⁷ These voluntary reforms will result in the removal of the majority of medical debt, but the debts that will remain are held by the most vulnerable consumers. These include consumers who may be facing catastrophic or chronic medical issues and thus have larger medical bills, and low-and-moderate income consumers who cannot afford to pay off the debts.

Another recent change is that the credit scoring modeler VantageScore has announced that it will no longer include medical debts in its two latest scoring models (VantageScore 3 and 4).⁸ This change unequivocally establishes that these debts are simply not necessary for credit scores to be predictive. And if they are not necessary to be predictive, they are not necessary to include in credit reports for the purposes of credit underwriting. However, it appears that FICO scoring models (the most commonly used scoring model) will continue to consider unpaid medical debt.

In addition to credit scoring harm, medical debts on credit reports create other risks, such as:

- The appearance of multiple medical debts, especially in larger dollar amounts, may indicate to an employer or housing provider that the consumer has a chronic health condition. This may result in rejections by less-than-upstanding employers worried that the consumer will require frequent sick leave or result in higher health insurance premiums. Housing providers may reject applicants they believe are sick and require some sort of accommodation.

⁴ CFPB, Consumer Credit Reports: A Study of Medical and Non-Medical Collections, Consumer Fin. Prot. Bureau (Dec. 2014), https://files.consumerfinance.gov/f/201412_cfpb_reports_consumer-credit-medical-and-non-medical-collections.pdf.

⁵ An explanation of FICO Scores versions is at <https://www.myfico.com/credit-education/credit-scores/fico-score-versions> (viewed Feb. 18, 2022). While FICO 9 and 10 do not factor in medical collections that have been paid and unpaid medical debt is weighted less heavily than other debt, many creditors still use FICO Score 8 which weighs medical debt the same as other debt. Fannie Mae and Freddie Mac use an older model that treats medical debt the same as other debt; their regulator (the Federal Home Finance Agency) made the decision to switch those enterprises to FICO 10 in October 2022, but implementation will be a multi-year effort. Press Release, FHFA Announces Validation of FICO 10T and VantageScore 4.0 for Use by Fannie Mae and Freddie Mac, October 24, 2022, <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Validation-of-FICO10T-and-VantageScore4-for-FNM-FRE.aspx>.

⁶ See Kenneth P. Brevoort & Michelle Kambara, Data Point: Medical Debt and Credit Scores, Consumer Fin. Prot. Bureau (May 2014).

⁷ Consumer Data Industry Association, National Credit Bureaus Support Consumers with Changes to Medical Collection Debt Reporting, Mar. 2022, available at <https://www.cdiaonline.org/news/2022/03/18/equifax-experian-and-transunion-support-u-s-consumers-with-changes-to-medical-collection-debt-reporting>.

⁸ See VantageScore, VantageScore Removes Medical Debt Collection Records from Latest Scoring Models (Aug. 2022) available at <https://www.vantagescore.com/major-credit-score-news-vantagescore-removes-medical-debt-collection-records-from-latest-scoring-models/>

- Consumers with a disability are disproportionately impacted by medical debt. According to the Kaiser Family Foundation’s Burden of Medical Debt report, adults with a disability are more than twice as likely than those without a disability to report owing over \$250 in medical debt (15% vs. 7%). Consumers with a disability already face significant barriers in obtaining employment and housing. Medical debts on a credit report might be what tips an already tentative employer or housing provider from hiring a disabled consumer or renting an apartment to them. While such actions violate federal and state anti-discrimination laws, illegal activity does happen. Removing medical debts from credit reports is one way to reduce the potential for such violations.

Colorado can protect its consumers from all of these negative effects of medical debt by adopting HB23-1126. The CFPB, the federal agency charged with interpreting the Fair Credit Reporting Act, made it clear in July 2022 that states have the authority to enact statutes like HB23-1126. The Bureau stated in an Interpretive Rule that: “For example, if a State law were to forbid consumer reporting agencies from including information about medical debt, evictions, arrest records, or rental arrears in a consumer report (or from including such information for a certain period of time), such a law would generally not be preempted.”⁹

For all the above reasons, we urge you to support HB23-1126.

⁹ CFPB, The Fair Credit Reporting Act’s Limited Preemption of State Laws, 87 Fed. Reg. 41,042 (July 11, 2022).

Please support [HB23-1126](#) Consumer Reports Not Include Medical Debt Information

My name is Nicole Cappellino and I am a 22-year-old recent college graduate. I moved from Florida to Colorado 4 years ago in search of better education opportunities and I found them. Moving from Fl to Co completely alone as an 18-year-old was very difficult and I struggled for a long time. I did not have health insurance for 3 years and my health took a seat back when it came to my priorities. I have ADHD and Anxiety and Depression. This anxiety has caused physical damage to my body as I have a stressed induced Hiatal hernia. This hernia has led to the start of chronic stomach issues for me which included vomiting until I passed out on many different occasions. 99% of the time I was having severe flare-ups I never felt like going to the hospital was even an option because of the cost. I would always try to heal myself at home and hope for the best. My mom just happened to be visiting in town when I had a severe flare up and forced me to go to urgent care - I arrived and they took several tests and gave me a GI cocktail which helped stabilize me. When I left - a few hours later I got a call with my test results where I was told I needed to go to the hospital immediately. I arrived at the hospital borderline septic and experiencing acidosis but I was so used to holding back my pain I did not know how severe the situation truly was. I could have died.

I am so lucky she was there to help advocate for me. A stress-induced hernia is a hard illness to have because stressing about my pain makes it worse, and worrying about my pain and its effects - makes it worse. Being in a state of agony yet worrying about how much help can cost me literally makes my issue worse. I knew I would be in debt but my mom comforted me knowing we could work it out and the important thing was my health.

I was charged over \$4,000 for 5 hours in the hospital and after finally figuring out my insurance situation I was able to have them help me cover the costs. Time went by and I recently started the journey to purchase my first car. They were checking my financial history and reviewing my credit which I thought was good and it was much lower than expected. To my surprise because of my knowledge, I had no new, or derogatory credit uses. I stopped the process of purchasing my car to investigate my credit and learned my credit was dropping fast because of "the presence of derogatory public collection." Through my investigation, I learned it is from standing debt due to the urgent care visit that saved my life. Putting the process of purchasing my car on hold has derailed my career opportunities, and put more stress on my finances, mental and physical health. It is incredibly unfair for medical debt to affect someone's credit - please say YES to HB23-1126. It will help eliminate barriers for people who need financial relief, transportation relief, housing relief, and to access everything else that is affected by credit scores. People like me.



Mister Chair and members of the Committee, my name is Mar Galvez Seminario and I am the Policy Associate at the Colorado Organization for Latina Opportunity and Reproductive Rights. COLOR is a reproductive justice organization that works to engage and empower Latinxs in the state to speak out about the policies that impact our daily lives.

I am here to testify in support of HB1126 that would bring transparency to the complicated system of consumer reports and credit scores in regard to medical debt. As an organization advocating on behalf of the Latinx community in Colorado, I would like to highlight how it impacts our community.

According to a survey done by the United States Census in 2021, 27.9% of households with a Black householder and 21.7% of households with a Hispanic householder had medical debt compared to 17.2% of their white counterparts.¹ Not only are our communities more likely to have medical debt, we're also less likely to have access to adequate medical care. According to a 2021 Pew Research Center report on Hispanic Americans' experiences with healthcare, almost half of respondents said communication problems from language or cultural differences in navigating the system (44%) and access to medical care where they live (48%) are major reasons why Hispanic people have generally worse health outcomes than other adults in the country.² Fear that medical debt might impact their credit scores should not stand in the way of the health of our communities, especially from a lack of transparency with a system that is confusing and hard enough to understand as it is.

Something so out-of-your-control such as a medical emergency or needing medical attention shouldn't impact someone's ability to get approved for housing/rent, student loans, car loans, affordable insurance, and everything else a credit score impacts.

Even myself, and many others on our staff, who are salaried professionals and rather familiar with the system, have had bad experiences with this process. Just a few days ago, I received an intimidating call about an outstanding balance from an ER visit last year going to collections and impacting my credit score. I received and paid a few dozen separate bills for that visit, but this one was from the radiology department that didn't have my new address, so I never received the bill in the first place. I had a cardiac angina I had thought was a heart attack, and updating my address for every department and sub-department during that visit was the last thing on my mind.

¹ <https://www.census.gov/library/stories/2021/04/who-had-medical-debt-in-united-states.html>

² <https://www.pewresearch.org/science/2022/06/14/hispanic-americans-experiences-with-health-care/>



Our communities deserve access to adequate health care, transparency in the process, and for something as vital as medical attention to not further limit their opportunities and ability to lead successful lives. We know credit scores were designed to prevent explicit lending discrimination, but in practice, it codifies factors rooted in systemic racism into data, producing more discrimination as a result.³ This bill is a vital step in the right direction, and I urge you to vote yes on House Bill 1126.

³ <https://medium.com/commonfuture/why-credit-scores-are-racist-da109fcfb300>