the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The respondent burden for this collection is estimated to be as follow:

Respondents/affected entities: (1) All persons filing reports required by Part 4 for, and (2) all principals of such persons.

Estimated number of respondents: 49,083.

Estimated number of exempt pools/reports per respondent: 8.8.

Estimated total annual burden on respondents: 432,325 hours.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: July 7, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–14773 Filed 7–11–23; 8:45 am]

BILLING CODE P

CONSUMER FINANCIAL PROTECTION BUREAU

[Docket No. CFPB–2023–0038]

DEPARTMENT OF HEATH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Docket No. CMS–2023–0106]

DEPARTMENT OF THE TREASURY

[Docket No. TREAS–DO–2023–0008]

Request for Information Regarding Medical Payment Products

AGENCY: Consumer Financial Protection Bureau (CFPB), Centers for Medicare & Medicaid Services, Department of Health and Human Services (HHS), and Department of the Treasury (Treasury).

ACTION: Request for information.

SUMMARY: The CFPB, an independent agency, HHS, and the Treasury (collectively, the agencies), are soliciting comments from the public and interested parties on medical credit cards, loans, and other financial products used to pay for health care. The agencies seek to understand the prevalence, nature, and impact of these products, including disparities across different demographic groups. The agencies also seek to understand the effects these products may have on patients and on the health care system. In particular, the agencies seek comment on whether these products may allow health care providers to operate outside of a broad range of patient and consumer protections. The agencies also seek comment on whether these products may contribute to health care cost inflation, displace hospitals' provision of financial assistance, lead patients to pay inaccurate or inflated medical bills, increase the amount patients must pay due to financing costs, or otherwise harm patients' mental, physical, and financial well-being, including through downstream credit reporting and debt collection practices. In line with the agencies' work to lower health care costs and reduce the burden of medical debt, the agencies also seek comment on policy options to protect consumers from harm.

DATES: To be assured consideration, comments must be received at one of the addresses provided below by September 11, 2023.

ADDRESSES: Interested parties are encouraged to submit written comments to any and all agencies listed below. Comments submitted to the Federal eRulemaking Portal will be shared with all agencies for consideration. Comments should be directed to:

CFPB: You may submit responsive information and other comments, identified by Docket No. CFPB–2023–0038, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: MedicalDebtRFI_2023@cfpb.gov.* Include Docket No. CFPB–2023–0038 in the subject line of the message.
- *Mail/Hand Delivery/Courier:* Comment Intake—Request for Information Regarding Medical Payment Products, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically.

HHS: You may submit responsive information and other comments, identified by Docket No. CMS–2023–0106, by any of the following methods:

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: Docket No. CMS–2023–0106, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: Docket No. CMS–2023–0106, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Treasury: You may submit responsive information and other comments, identified by Docket No. TREAS–DO–2023–0008, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: The agencies encourage the early submission of comments. All submissions must include the document title and docket number. Please note the number of the topic on which you are commenting at the top of each response (you do not need to address all topics). In general, all comments received will be posted without change to *https://www.regulations.gov.* All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT:

CFPB: Octavian Carare, Supervisory Economist, Consumer Financial Protection Bureau, at *Octavian.Carare@cfpb.gov* or (202) 435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

HHS: Czarina Biton, Centers for Medicare & Medicaid Services, at *Czarina.Biton@cms.hhs.gov* or 301–276–1770.

Treasury: Thomas West, Deputy Assistant Secretary, U.S. Department of the Treasury at *Thomas.West2@treasury.gov* or 202–622–2000.

SUPPLEMENTARY INFORMATION:

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I. Background

a. Overview

Many people have difficulty paying for medical care. Although insurance coverage has expanded over the last two decades and the uninsured rate has recently reached historic lows, the cost of medical care, and particularly the out-of-pocket cost for patients and families, has grown faster than inflation.[1] For many patients, the financial challenges associated with paying for medical care are compounded by the complexities of health care coverage determinations as well as by medical billing and payment systems that can result in inaccuracies and errors that only increase the financial and psychological burden on patients.

Although patients have many options to pay for care, health care providers may encourage patients and their families to use commercial medical payment products, including medical credit cards and installment loans, to finance care.[2] Health care providers may promote medical payment products because the use of these products allows providers to avoid the administrative burden of slow and complex insurance reimbursement, outsource servicing and collections costs, get paid faster, and receive payment from people who otherwise would not pay the full price for care.[3] However, for patients, using these products can complicate insurance coverage, interfere with the availability of financial assistance, make it difficult to dispute inaccurate or inflated medical bills, and increase the total cost of care through interest and fees. It is also possible that some people who pay for care using medical payment products are charged higher prices for their care than they otherwise would have been asked to pay, such as gross charges (also known as chargemaster prices).[4]

Patients may use risky and expensive commercial medical payment products rather than low- or no-cost alternatives because they do not know alternatives exist, they do not understand the risks and costs of medical payment products, or they feel pressured or coerced into signing up for these products.[5] In some cases, medical payment products may allow patients to access care they would otherwise have to forgo. However, these payment products can also lead to patients paying more out of pocket if patients use medical payment products to pay bills that should have been covered by insurance or financial assistance, to pay inaccurate bills which they then have difficulty disputing post-payment, or to pay bills in full whose balances they would otherwise have been able to negotiate pre-payment.

Health care providers and financial companies may also use these payment products to attempt to avoid restrictions on credit reporting and debt collection practices that otherwise apply to medical debt, including restrictions imposed by national credit reporting companies and restrictions imposed by Federal law.[6] Specifically, the three national credit reporting companies voluntarily do not report medical debt collections items with original balances under $500 or which are less than one year old, but they have not restricted the reporting of debt collections items reported with classification codes indicating that they are ''credit card'' or ''installment loan'' collections. Additionally, section 501(r) of the Internal Revenue Code (IRC) prohibits tax-exempt hospital organizations from engaging in extraordinary collection actions, including reporting the patient's debt to credit reporting companies or sending the patient's debt to a third-party debt collector, before the organization has made reasonable efforts to determine whether the individual is eligible for assistance under the hospital's financial assistance policy.[7] However, the agencies believe that tax-exempt hospitals and the financial companies that partner with them may not be making reasonable efforts to determine whether an individual is eligible for financial assistance before offering the individual a medical payment product or taking extraordinary collection actions to attempt to collect an overdue medical payment product balance.

In this Request for Information (RFI), CFPB, HHS, and Treasury seek comment on the prevalence, nature, and impact of medical payment products on consumers and on the health care system. The agencies also seek comment on policy options to address practices by health care providers, health insurance issuers, employer-sponsored health plans, and financial companies that result in consumers paying excess costs.

This RFI builds upon recent work by CFPB, HHS, Treasury, and other Federal agencies to assist consumers with managing health care costs and medical bills, and to protect patients and consumers from paying inaccurate or inflated medical bills.[8] That work includes CFPB research into the extent and impact of medical debt and the accuracy of those debts,[9] as well as CFPB guidance to prevent unlawful medical debt collection and reporting.[10] It also includes actions by HHS and other agencies to implement surprise

[1] Peterson-KFF, Shameek Rakshit, Emma Wager, Paul Hughes-Cromwick, Cynthia Cox, and Krutika Amin, ''How does medical inflation compare to inflation in the rest of the economy?'' (March 2023), *available at https://www.healthsystemtracker.org/brief/how-does-medical-inflation-compare-to-inflation-in-the-rest-of-the-economy/.*

[2] CFPB, ''Medical Credit Cards and Financing Plans'' (May 2023), *available at https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf.*

[3] *Id.* at 8.

[4] ''Gross charge'' and ''chargemaster'' here refer to the definitions provided in 45 CFR 180.20, namely, ''Chargemaster means the list of all individual items and services maintained by a hospital for which the hospital has established a charge,'' and ''Gross charge means the charge for an individual item or service that is reflected on a hospital's chargemaster, absent any discounts.''

[5] *Id.* at 10.

[6] CFPB, ''Debt collectors re-evaluate medical debt furnishing in light of data integrity issues,'' *available at https://www.consumerfinance.gov/about-us/blog/debt-collectors-re-evaluate-medical-debt-furnishing-in-light-of-data-integrity-issues/.*

[7] Internal Revenue Service, ''Billing and Collections—Section 501(r)(6),'' *available at https://www.irs.gov/charities-non-profits/billing-and-collections-section-501r6.*

[8] The White House, ''FACT SHEET: New Data Show 8.2 Million Fewer Americans Struggling with Medical Debt Under the Biden-Harris Administration'' (Feb. 2023), *https://www.whitehouse.gov/briefing-room/statements-releases/2023/02/14/fact-sheet-new-data-show-8-2-million-fewer-americans-struggling-with-medical-debt-under-the-biden-harris-administration/,* and The White House, ''FACT SHEET: The Biden Administration Announces New Actions to Lessen the Burden of Medical Debt and Increase Consumer Protection'' (Apr. 2022), *available at https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/11/fact-sheet-the-biden-administration-announces-new-actions-to-lessen-the-burden-of-medical-debt-and-increase-consumer-protection/.*

[9] CFPB, ''Medical debt burden in the United States,'' *available at https://www.consumerfinance.gov/data-research/research-reports/medical-debt-burden-in-the-united-states/;* CFPB, ''Debt collectors re-evaluate medical debt furnishing in light of data integrity issues,'' *available at https://www.consumerfinance.gov/about-us/blog/debt-collectors-re-evaluate-medical-debt-furnishing-in-light-of-data-integrity-issues/;* and CFPB, ''Medical Billing and Collections Among Older Americans,'' *available at https://www.consumerfinance.gov/data-research/research-reports/issue-spotlight-medical-billing-and-collections-among-older-americans/full-report/.*

[10] CFPB ''Bulletin 2022–01: Medical Debt Collection and Consumer Reporting Requirements in Connection with the No Surprises Act,'' *available at https://www.consumerfinance.gov/compliance/supervisory-guidance/cfpb-bulletin-2022-01-medical-debt-collection-consumer-reporting-requirements-in-connection-with-no-surprises-act/.*

billing protections,[11] enforce price transparency measures,[12] lower health care costs,[13] and increase access to affordable, quality health care.[14] Additionally, it includes policy development by Treasury on surprise billing protections and on requirements that specifically apply to tax-exempt hospitals, including those relating to billing and collection, financial assistance policies, and community benefits.

Patients' use of medical payment products occurs within the larger context of medical billing and collections as well as health insurance practices, and affects access to health care, implicating the jurisdictions of CFPB, HHS, and Treasury. Given these overlapping equities, the agencies are committed to working together to understand and address the harms medical payment products may cause, as part of their work more generally on health care costs, medical billing, and medical collections.

b. The Medical Payment Product Market

Commercial medical payment products include medical credit cards and installment loans used to help patients cover the cost of medical treatments. Charges to these products are limited to medical procedures, items, or services at participating medical service providers, including primary and specialty care, labs and diagnostics, inpatient and outpatient services, dental, vision, and pharmacy care.[15]

Medical payment products are administered by financial services companies, who manage the billing and collections process for these products and earn revenue through interest and fees. Medical credit card companies include CareCredit, a subsidiary of Synchrony Financial; Wells Fargo; and Comenity, a subsidiary of Bread Financial. The medical installment loan market includes a large number of companies, among which some of the most prominent are AccessOne, Prosper, PayZen, Walnut, and Scratchpay.[16] Many medical installment loan companies, including the five previously mentioned, are backed by private equity firms.[17]

Medical payment products were once used primarily to pay for care not traditionally covered by health insurance plans, such as dental and vision care, fertility services, and cosmetic surgery. However, medical payment products are now also used to pay for a broader set of services, including emergency room visits and primary and specialty care. Available data, although limited, show significant growth in the medical payment product industry over the last several years. For example, CareCredit grew from 4.4 million cardholders and 177,000 participating providers in 2013 to 11.7 million cardholders and over 250,000 participating health care providers in 2023.[18] Available data also suggest that medical payment products often have significantly higher interest rates than general purpose credit products; a recent CFPB report found that the typical annual percentage rate (APR) for medical credit cards was 27 percent, compared to a mean APR of 16 percent for general purpose credit cards.[19]

Patients who use medical payment products may additionally find themselves facing high fees, deferred interest charges, and other adverse financial impacts.[20] Additionally, as with other credit cards and installment loans, applying for and opening a medical payment product account may have negative implications for consumers' credit scores and access to credit through factors like hard credit checks, increased credit line utilization, decreased average account age, or eventual account closure.

c. Patient Experience and Downstream Consequences

The agencies seek additional information regarding the patient experience with medical payment products, including potential issues with the marketing, application, and enrollment processes as well as the impacts these products have on patients' financial, physical, and mental health.

In general, coupling the sale of financial products to consumers with the provision of medical care may create consumer harm. In some cases, patients who trust their health care providers and their staff to give expert health care advice may place similar trust in the financing products offered by those providers and their staff. This may influence patients to sign up for products that are not in their best financial interest, especially when seeking or receiving medical care, a time when patients may be particularly vulnerable.[21] Some patients have told the CFPB that they felt pressured to make quick financial decisions in a health care provider's office while under physical and emotional stress. Additionally, health care provider staff may not have the information, or the expertise needed to answer patients' questions about the terms and conditions of the financial products they offer. Staff may fail to inform patients of alternative payment options, including financial assistance.[22] Staff

[11] *See* HHS, ''HHS Kicks Off New Year with New Protections from Surprise Medical Bills,'' *available at https://www.hhs.gov/about/news/2022/01/03/hhs-kicks-off-new-year-with-new-protections-from-surprise-medical-bills.html.*

[12] *See* CMS, ''Hospital Price Transparency Enforcement Updates,'' *available at https://www.cms.gov/newsroom/fact-sheets/hospital-price-transparency-enforcement-updates.*

[13] *See* CMS, ''Hospital Price Transparency Enforcement Updates,'' *available at https://www.cms.gov/newsroom/fact-sheets/hospital-price-transparency-enforcement-updates.*

[14] *See* The White House, ''Executive Order on Continuing to Strengthen Americans' Access to Affordable, Quality Health Coverage,'' *available at https://www.whitehouse.gov/briefing-room/presidential-actions/2022/04/05/executive-order-on-continuing-to-strengthen-americans-access-to-affordable-quality-health-coverage/.*

[15] Medical payment products may also include Buy Now Pay Later (BNPL) products, an emerging product category sometimes referred to as ''Care Now Pay Later.'' *See, e.g.,* Stuart Condie, '' 'Buy Now, Pay Later' Looks to Healthcare for Shot in the Arm,'' *Wall Street Journal* (July 22, 2022), *available at https://www.wsj.com/articles/buy-now-pay-later-looks-to-healthcare-for-shot-in-the-arm-11658491200.* Certain other payment methods that are marketed for use to cover medical costs do not restrict charges to medical items and services; the agencies are interested in hearing more about these products and their similarities to or differences from medical-only payment products.

[16] The number of medical installment loan providers is much greater than the number of medical credit card lenders, and these products vary in many ways. Appendix A in ''Medical Credit Cards and Financing Plans'' includes a sample of installment loans and publicly available information on their terms and conditions. CFPB, ''Medical Credit Cards and Financing Plans,'' at 18, *available at https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf.*

[17] *See, e.g.,* KFF, ''How Banks and Private Equity Cash In When Patients Can't Pay Their Medical Bills'' (Nov. 2022), *available at https://kffhealthnews.org/news/article/how-banks-and-private-equity-cash-in-when-patients-cant-pay-their-medical-bills/.*

[18] This number, as publicized by CareCredit, includes also veterinary service providers and cardholders that use their card to finance veterinary care. CFPB, ''Medical Credit Cards and Financing Plans'' at 7, *available at https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf.*

[19] CFPB, ''Medical Credit Cards and Financing Plans,'' *available at https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf.*

[20] CFPB, ''Medical Credit Cards and Financing Plans,'' *available at https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf.*

[21] Jim Hawkins, ''Doctors as Bankers: Evidence from Fertility Markets'' *Tulane Law Review* (July 2010), *available at https://www.tulanelawreview.org/pub/volume84/issue4/doctors-as-bankers.*

[22] CFPB, ''Complaint Bulletin,'' *available at https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf;* and CFPB, ''Medical Credit Cards and Financing Plans'' at 8, *available at https://files.consumerfinance.gov/f/documents/*

Continued

might also fail to provide information about the potential insurance coverage implications of using a medical payment product, or may encourage use of medical payment products instead of assisting the patient with filing an insurance claim. The CFPB has also received reports of some patients—particularly patients with limited English proficiency—allegedly being signed up for medical payment products without their knowledge or consent.

Given these risks, the agencies seek additional information on medical payment product marketing, application, and enrollment processes, including how and when patients are offered these products, what information patients are given about these products, and how patients make decisions about utilizing these products. The agencies are interested in how promotion of these products may interfere with patients' health insurance coverage, undermine the provision of financial assistance, and reduce the availability and utilization of traditional provider-offered payment plans. The agencies are also interested in providers' and financial companies' disclosure practices and the information that is shared with patients about these products. Additionally, the agencies are interested in patients' experiences with medical payment products, including their overall satisfaction or dissatisfaction with these products as well as information on how these products were marketed to them, whether they understood the terms and conditions of the products, whether they felt pressured into signing up, or whether they were signed up for a medical payment product without their knowledge or consent.

Secondly, the agencies seek to understand the impacts of these products on patients' financial health, including through high interest rates and fees, credit scoring or other scoring products, credit reporting practices, and debt collection practices. Many medical payment products charge interest and fees, including deferred interest, which may significantly increase the amount patients owe for their care.[23] Patients with lower credit scores may be offered less favorable interest rates and terms, including shorter billing cycles (less than 30 days) that may increase the odds that these patients will incur late fees. Patients with lower credit scores may also be offered shorter deferred interest periods, increasing the likelihood that these patients will incur interest. Additionally, some financial services companies offer health care scoring products designed for health care providers, such as financial clearance scores and propensity-to-pay scores, which can be used to restrict access to care and promote payment products rather than financial assistance for those eligible.[24] In some cases, patients with low financial clearance scores may be denied care unless they can pay up front, increasing the pressure on these patients to sign up for medical payment products. In other cases, patients whose predicted income and household size would qualify them for financial assistance, but who have a higher predicted propensity to pay, are channeled to medical payment products instead of being offered financial assistance.

Since medical credit cards have unique features such as shorter deferred interest periods and shorter billing cycles compared to other lines of credit, those with medical payment products may be at heightened risk of being sent to collections and reported to credit reporting companies. When past-due medical payment product balances are reported to credit reporting companies, this can lower patients' credit scores, even though medical debts generally are less predictive of creditworthiness than other debts.[25] Lower credit scores can make it harder for consumers to get a loan, rent or buy a home, or find a job.[26] Medical credit card or loan collections may be reported to consumer reporting agencies even when other medical bills could not appear on consumer reports, such as because of the restrictions on extraordinary collections actions placed by Congress [27] or the national credit reporting companies' voluntary decision not to report medical collections that are paid, under $500, or less than a year old.[28] Moreover, the incidence of referral to collections may be increased if patients paying for care with medical payment products are charged higher prices, if the costs of patients' medical services are inflated by interest and fees, or if paying via a medical payment product leads to the failure to file a timely and accurate insurance claim. Patients may also be sued for alleged medical payment product debts, which can lead to financial consequences like wage garnishment, bank attachments, seizure of personal property, and liens against patients' homes. Many people file bankruptcy in order to resolve large outstanding medical bills;[29] it is possible that medical payment products contribute disproportionately to bankruptcy filings by people facing significant health challenges. Given these potential financial health impacts, the agencies are interested in information on the interest charges, default rates, credit reporting practices, and collections practices associated with medical payment products.

Thirdly, the agencies seek to understand the impacts of these products on patients' physical and mental health. Studies show that people often delay or avoid medical care out of concern about high costs or medical debt or because they believe they will be turned away due to their unpaid medical bills.[30] Fifteen percent of adults

cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf.

[23] Many medical payment products offer complex deferred interest promotions, which consumers often do not understand fully, and which can significantly increase the cost of their care if they do not pay in full during the promotional period. About 1 in 5 consumers who use a deferred interest product to pay for care will ultimately pay interest. Borrowers with subprime credit scores are more likely to pay interest, perhaps in part because they are generally given less time to pay in full before being charged interest. CFPB, ''Medical Credit Cards and Financing Plans'' at 13, *available at https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf.*

[24] *See, e.g.,* Experian, ''Patient Financial Clearance,'' *https://www.experian.com/healthcare/products/payment-tools/patient-collections-and-financial-clearance;* TransUnion, ''TransUnion Healthcare and VisitPay: A Patient Financial Engagement Solution,'' *https://www.transunion.com/resources/transunion/doc/healthcare/transunion-healthcare-and-visitpay-a-patient-financial-engagement-solution-aite-brief.pdf.*

[25] Kenneth P. Brevoort & Michelle Kambara, ''Data point: Medical debt and credit scores'' (May 2014), *available at https://files.consumerfinance.gov/f/201405_cfpb_report_data-point_medical-debt-credit-scores.pdf.*

[26] Alyssa Brown & Eric Wilson, ''Data Point: Consumer Credit and the Removal of Medical Collections from Credit Reports'' (Apr. 2023), *available at https://files.consumerfinance.gov/f/documents/cfpb_consumer-credit-removal-medical-collections-from-credit-reports_2023-04.pdf.*

[27] Internal Revenue Service, ''Billing and Collections—Section 501(r)(6),'' *available at https://www.irs.gov/charities-non-profits/billing-and-collections-section-501r6.*

[28] The three national credit reporting companies forbid credit reporting of medical debt collections items with original balances under $500 or which are less than one year old, but these restrictions do not apply to debt collections items reported with classification codes indicating that they are ''credit card'' or ''installment loan'' collections. *See* CFPB, ''Have medical debt? Anything already paid or under $500 should no longer be on your credit report,'' *available at https://www.consumerfinance.gov/about-us/blog/medical-debt-anything-already-paid-or-under-500-should-no-longer-be-on-your-credit-report/.*

[29] David Himmelstein *et al.,* ''Medical Bankruptcy: Still Common Despite the Affordable Care Act,'' *American Journal of Public Health* (Mar. 2019), *https://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2018.304901.*

[30] *See, e.g.,* Alyce Adams *et al.,* ''The Impact of Financial Assistance Programs on Health Care Utilization: Evidence from Kaiser Permanente,'' *American Economic Review: Insights,* (Sept. 2022), *available at https://www.aeaweb.org/articles?id=10.1257/aeri.20210515;* Audrey Kearney *et al.,* ''Americans' Challenges with Health Care Costs,'' KFF (July 14, 2021), *https://www.kff.org/*

with medical debt say they have been denied health care because of their unpaid medical bills.[31] To the extent that medical payment products contribute to higher health care costs and medical debts, these products may increase health care denial, delay, and avoidance, contributing to worse health outcomes and higher eventual health care costs due to forgone preventive and early intervention services. Higher costs and increased debt can also increase stress on consumers, contributing to negative physical and mental health outcomes.[32] Given the risks to patients' health, the agencies seek comment on medical payment products' contribution to care avoidance and their impact on consumers' physical and mental health. The agencies are also interested in understanding if and when health care providers may deny or alter patients' care if they refuse to sign up for or fall behind on payments for a medical payment product.

The agencies welcome comment on the above and on medical payment products' broader impacts on consumers' financial wellness, health care access, and physical and mental health.

d. Risk of Exacerbating Billing and Financial Assistance Issues

Medical credit cards and loans may exacerbate existing issues in health care billing and collections by making it more difficult to resolve billing inaccuracies and allowing certain patients to be upcharged for services. For example, uninsured and self-pay patients,[33] as well as patients receiving care from out-of-network providers,[34] are often charged higher prices than those negotiated by health insurance issuers and group health plans for the same care furnished by an in-network provider[35] (provided these patients are not determined eligible for financial assistance by a tax-exempt hospital).[36] The availability of medical payment products may enable health care providers to charge higher prices to uninsured, self-pay, or out-of-network patients who would otherwise be unable to pay such prices and might instead seek more affordable care. In some cases, health care providers might offer medical payment products to uninsured patients instead of helping these patients determine their eligibility for health insurance coverage through Medicaid, Medicare, or subsidized Marketplace plans. Out-of-network health care providers might also offer medical payment products to patients instead of referring those patients to an in-network provider.

Promotion of medical payment products may also undermine hospitals' provision of financial assistance. Section 501(r) of the Internal Revenue Code, which resulted from section 9007(a) of the Affordable Care Act, requires tax-exempt hospitals to establish a financial assistance policy for low-income patients, and many non-tax-exempt hospitals also voluntarily offer financial assistance to patients who meet criteria established by these hospitals. However, studies show that, in practice, many patients who are likely eligible for financial assistance under their hospitals' policies do not receive free or discounted care.[37] In some instances, patients eligible for financial assistance are instead being steered to medical payment products, which are more profitable for providers.[38] One way in which these products may be advantageous to health care providers, particularly tax-exempt hospitals, is by using these products in support of their non-profit status. For example, one medical installment loan company advertises to hospitals that its interest-charging loan product is a ''community benefit that makes care affordable'' and ''supports your organization's compliance with IRS regulation 501(r).'' [39]

Finally, utilizing medical payment products may undermine patients' medical billing rights, including their No Surprises Act rights to dispute surprise bills and their Affordable Care Act rights to insurance appeals and reviews. Consumers report that errors in medical bills are common; among those with medical debt, more than four in ten say they received an inaccurate bill, and nearly seven in ten say they were asked to pay a bill that should have been covered by insurance.[40] However, some consumers report being told that they had no right to dispute inaccurate bills placed on a medical payment product, even if they discovered after enrolling in the payment product that they were billed in error or that their bill should have been covered by insurance—or even if they never received the service at all.

e. Potential Distortion of Health Care Provider Incentives

Several factors may incentivize health care providers to promote medical payment products even when these products are not in patients' best

health-costs/issue-brief/americans-challenges-with-health-care-costs/.

[31] Lunna Lopes *et al.,* ''Health Care Debt in the U.S.: The Broad Consequences Of Medical And Dental Bills,'' KFF (June 16, 2022), *available at https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/.*

[32] CFPB, ''Medical debt burden in the United States,'' at 32–35, *available at https://www.consumerfinance.gov/data-research/research-reports/medical-debt-burden-in-the-united-states/.*

[33] ''Self-pay patients'' here refers to the definition provided in 45 CFR 149.610(a)(2)(xiii)(B), which defines a self-pay individual as ''an individual who has benefits for such item or service under a group health plan, or individual or group health insurance coverage offered by a health insurance issuer, or a health benefits plan under chapter 89 of title 5, United States Code but who does not seek to have a claim for such item or service submitted to such plan or coverage.''

[34] A provider network is a list of the doctors, other health care providers, and hospitals that a plan contracts with to provide medical care to its members. These providers are called ''network providers'' or ''in-network providers.'' A provider that isn't contracted with the plan is called an ''out-of-network provider.'' CMS, ''What You Should Know About Provider Networks,'' *available at https://marketplace.cms.gov/outreach-and-education/what-you-should-know-provider-networks.pdf.*

[35] *See* Gerard Anderson, ''From 'Soak the Rich' To 'Soak the Poor': Recent Trends In Hospital Pricing'' (June 2007), Health Affairs, *available at https://www.healthaffairs.org/doi/full/10.1377/hlthaff.26.3.780. See also* Ge Bai, & Gerard F. Anderson, ''US Hospitals Are Still Using Chargemaster Markups to Maximize Revenues'' (Sept. 2016), Health Affairs, *available at https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.2016.0093.*

[36] In the case of individuals who receive care at a tax-exempt hospital who are determined eligible for financial assistance under the hospital's financial assistance policy, section 501(r)(5) prohibits tax-exempt hospitals from using gross charges and requires them to limit amounts charged for emergency or other medically necessary care to not more than the amounts generally billed to individuals who have insurance covering such care. Internal Revenue Service, ''Limitation on Charges—Section 501(r)(5),'' *available at https://www.irs.gov/charities-non-profits/limitation-on-charges-section-501r5.*

[37] *See, e.g.,* Octavian Carare, *et al.,* ''Exploring the connection between financial assistance for medical care and medical collections'' (Aug. 2022), CFPB, *https://www.consumerfinance.gov/about-us/blog/exploring-connection-between-financial-assistance-for-medical-care-and-medical-collections/.*

[38] *See, e.g.,* Washington State Office of the Attorney General, ''AG Ferguson files lawsuit against Swedish, other Providence-affiliated hospitals, for failing to make charity care accessible to thousands of Washingtonians,'' *available at https://www.atg.wa.gov/news/news-releases/ag-ferguson-files-lawsuit-against-swedish-other-providence-affiliated-hospitals;* State of California Department of Justice, ''Attorney General Bonta Issues Consumer Alert Following Reports of Hospitals Failing to Inform Patients of Options for Free or Reduced-Price Medical Care,'' *available at https://oag.ca.gov/news/press-releases/attorney-general-bonta-issues-consumer-alert-following-reports-hospitals-failing;* and The Office of Minnesota Attorney General Keith Ellison, ''Attorney General Ellison secures relief from unfair bill collection for Hutchison Hospital patients,'' *available at https://www.ag.state.mn.us/Office/Communications/2020/10/29_HutchinsonHealth.asp.*

[39] ClearBalance HealthCare, ''Experience to Solve Patient Pay,'' *https://www.bokfinancial.com/-/media/Files/PDF/Commercial/Healthcare/CBHC_Overview.ashx.*

[40] KFF, ''Healthcare Debt in the US: The Broad Consequences of Medical and Dental Bills,'' *available at https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/.*

financial interest. First, changes to private health care coverage may incentivize providers to promote medical payment products. For example, providers may turn to medical payment products in response to growing deductibles, copayments, and coinsurance charged by private group health plans and health insurance issuers, which many patients cannot afford to pay in cash up front.[41] Slow insurance reimbursement and frequent insurance denials, downcoding,[42] or appeals may also make medical payment products an attractive alternative to insurance payment. Additionally, out-of-network providers may promote medical payment products to patients because group health plans and health insurance issuers may not directly reimburse out-of-network providers; having patients pay out-of-network providers up front using a medical payment product effectively transfers the risk of non-reimbursement or slow reimbursement from the out-of-network provider to the patient.

Secondly, health care providers may be incentivized to promote medical credit cards and loans because these products result in faster payment, lower administrative costs, and more revenue overall for the health care provider compared to alternatives like financial assistance or provider-administered payment plans. In their promotional materials, financial companies offering medical payment products emphasize their products' potential to deliver payments within a few days, minimize financial risk, and reduce the administrative burden associated with collecting debts or negotiating with group health plans or health insurance issuers. Traditionally, when a patient cannot pay their bill upfront, the health care provider would take on the costs of administering a payment plan, mailing statements, processing accounts receivable, handling disputes, and engaging debt collectors. When a patient instead pays for medical services out-of-pocket or via credit card or installment loan, the health care provider avoids many of these costs and generally receives payment immediately or within days. If the patient does not use their health insurance coverage, the health care provider may also be able to charge them higher rates, such as gross charges or a cash rate rather than a charge negotiated between the provider and third-party payers.[43] Additionally, easy access to credit may encourage patients to consume more health care from providers who offer medical credit products, resulting in more overall revenue for these providers. Indeed, some financial companies explicitly advertise that their products will help providers ''upsell'' patients on more expensive and potentially unnecessary care.[44]

Certain financial companies offer additional incentives to health care providers to promote medical payment products. In some cases, this may include a share of the revenue from these products. For example, one medical installment loan company advertises that providers who offer the product will ''share in interest revenue collected.'' [45] Other medical payment product companies offer lower processing or management fees to providers who enroll more consumers—giving those providers an incentive to enroll as many patients as possible.[46] Where financial companies incentivize the referral or recommendation of business reimbursable under Federal health care programs, it is possible that these practices may implicate Federal laws or regulations including the Federal anti-kickback statute, 42 U.S.C. 1320a–7b(b) and its implementing regulations, which provides for criminal penalties for whoever knowingly and willfully offers, pays, solicits, or receives anything of value to induce or reward the referral, recommendation, or arranging for the referral or recommendation of business reimbursable under Federal health care programs.

Some medical payment product companies advertise that their products allow health care providers, debt collectors, and credit reporting companies to attempt to avoid restrictions on extraordinary collection actions and on credit reporting of alleged bills. Under IRC 501(r) and the regulations thereunder, tax-exempt hospital organizations must make reasonable efforts to determine whether an individual is eligible for assistance under the hospital organization's financial assistance plan before engaging in extraordinary collection actions against that individual, such as credit reporting, third-party collections, and debt sale (except under certain special conditions).[47] However, the agencies believe financial companies may be engaging in credit reporting, debt sales, and other extraordinary collection actions on debts arising from an individual's care at a tax-exempt hospital without first making reasonable efforts to determine that individual's financial assistance eligibility.

Additionally, the three national credit reporting companies voluntarily refrain from reporting medical collections items that are less than $500 or under one year old to the credit reporting companies. However, these restrictions do not extend to debts reported with classification codes indicating that they are ''credit card'' or ''installment loan'' collections, even if the credit card or installment loan was used to pay medical bills.

f. Potential for Consumer Harm

The growing prevalence of medical payment products creates significant potential for consumer harm. Patients are often offered and enroll in medical payment products at a health care provider's location, meaning that health care providers and their staff are frequently the people who are directly marketing these products to their patients. People trust health care providers and their staff to provide sound and effective treatment options. When their health care providers and their staff also provide information or

[41] Fifty percent of U.S. adults say they would be unable to pay a $500 medical bill without going into debt; the average deductible for single person health coverage was $2,004 in 2021, up from $1,273 in 2013. KFF, ''Average Annual Deductible per Enrolled Employee in Employer-Based Health Insurance for Single and Family Coverage,'' *available at https://www.kff.org/other/state-indicator/average-annual-deductible-per-enrolled-employee-in-employer-based-health-insurance-for-single-and-family-coverage/;* and KFF, ''Health Care Debt In The U.S.: The Broad Consequences Of Medical And Dental Bills,'' *available at https://www.kff.org/report-section/kff-health-care-debt-survey-main-findings/.* Regarding the marketing of medical payment products to providers to address these rising health care costs, *see* Allison J. Zimmon, ''Rx for Costly Credit: Deferred Interest Medical Credit Cards Do More Harm than Good,'' 35 B.C.J. L & Soc. Just. 319 (2015).

[42] Downcoding here refers to the practice of a plan or issuer reviewing a claim submitted by a health care provider or facility and altering the service code or modifier to another service code or modifier that the plan or issuer determines to be more appropriate, resulting in a lower reimbursement.

[43] Here, ''gross charges,'' ''cash rates,'' and ''charges negotiated between the provider and third-party payers'' refers to the definitions of those terms provided in section 2718(e) of the Public Health Service Act (Hospital Price Transparency).

[44] For example, ''Cherry can be used for consumers that want a product/service but don't want to pay the full amount upfront today. This gives you, the business owner, the power to upsell and increase your sales.'' CFPB, ''Medical Credit Cards and Financing Plans,'' at 9 n.29, *available at https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf.*

[45] Choice Payment Services, ''ChoicePays+,'' *available at https://choicepays.com/choicepays/.*

[46] CFPB, ''Medical Credit Cards and Financing Plans,'' at 10, *available at https://files.consumerfinance.gov/f/documents/cfpb_medical-credit-cards-and-financing-plans_2023-05.pdf.*

[47] Internal Revenue Service, ''Billing and Collections—Section 501(r)(6),'' *available at https://www.irs.gov/charities-non-profits/billing-and-collections-section-501r6.*

advice on payment options, patients might assume the health care provider or staff member is being transparent about the full set of options and not being driven by their own financial incentives.[48] Patients might also extend their trust in their health care providers to a referred financial services company. Additionally, financial decisions by patients in health care settings are compromised by the stress inherent in managing an illness or injury.

Incomplete, incorrect, or misleading information about the cost of their treatment, financing options offered, and the availability of low- or no-cost financing alternatives can also compromise financial decisions made at the point of care. As a result, patients may feel pressured or coerced into signing up for medical payment products that cause downstream financial or health problems, including through debt collection or credit reporting of medical bills that might have inaccurate information. Patients might also avoid or delay care if they are unaware of the availability of financial assistance and other affordable financing options or are concerned about their ability to pay their health care bills.

II. Request for Information

In this RFI, the CFPB, HHS, and Treasury seek data and comments on the scope, prevalence, terms, and impacts of medical payment products, including medical credit cards and loans. The agencies are also interested in the downstream consequences of these products and in potential actions to address any harms caused by these products.

To better understand the medical payment product market, the agencies seek data and comments on the interest and fee costs of these products (including both interest rates and total accrued interest), the application and approval process for these products, and trends of medical payment product use. The agencies also seek information as to the total outstanding consumer debt on medical credit cards, medical installment loans, and other medical payment products. Data regarding the characteristics and demographics of medical payment products users is also welcome, such as whether users are insured or uninsured, whether certain populations or income groups are more likely to use these products, and whether use is concentrated in certain geographies or for patients seeking particular kinds of care. The agencies also seek to better understand the level of concentration in the medical payment product market, the ownership of medical payment product companies (including ownership by health care providers, health insurance issuers, or private equity firms), and the implications of these factors for competition and consumer choice. To that end, the agencies seek specific information on the types of financial entities that offer medical credit cards and loans.

The agencies seek to understand to what extent medical credit cards and loans may hamper financial assistance and access to benefits, and any options for regulators to reduce such barriers. The agencies also seek to understand the extent to which health care providers, including tax-exempt hospitals, screen patients for public or private insurance eligibility, financial assistance eligibility, or other benefits before offering them medical credit cards or loans. The agencies additionally seek comment on how frequently patients discover billing errors after signing up for a medical payment product, the main sources of billing errors, and how paying medical bills via a medical payment product affects patients' ability to dispute those bills. The agencies seek comment on how to ensure that patients retain their rights to challenge inaccurate bills regardless of payment method.

The agencies also seek comment on incentives offered by financial companies to health care providers for their promotion of medical payment products, including revenue-sharing and other incentives. The agencies are also interested in any training or other support that medical payment product companies offer to providers. The agencies are interested in whether such incentives or support might implicate the Federal anti-kickback statute or other laws or regulations. The agencies also seek information regarding how plans and issuers' billing and reimbursement practices affect health care providers' decisions to offer and promote medical payment products.

The agencies seek additional information on the prices or versions of standard charges offered to patients who use these products, and whether these charges are adequately disclosed in accordance with hospital price transparency requirements and No Surprises Act good faith estimate requirements. The agencies seek information on whether medical payment product companies are operating outside of protections against credit reporting of medical collections items and against extraordinary collection actions by tax-exempt hospitals. Finally, the agencies seek to better understand how notice and consent requirements for post-stabilization and non-emergency health care items or services under the No Surprises Act intersect with providers' promotion of medical credit cards and loans to out-of-network patients.

In general, the agencies welcome any information that allows us to better understand the impact of medical payment products on patients' physical, mental, and financial health. The agencies also welcome suggestions of actions Federal agencies could take to address harms caused by medical payment products and related issues connected to medical billing and collections or medical debt more generally. The agencies welcome comment on these areas, including comments in response to any of the following specific questions:

a. General Questions

Market-Level Inquiries

1. What are the benefits, costs, and risks of medical payment products for consumers, health care providers, and companies offering these products?

2. What are the terms of medical payment products, including interest rates and fees?

3. How much debt do consumers carry on medical credit cards and loans in total, and what is the average individual debt level?

4. How concentrated is the medical payment product market, and what role do private equity firms play in this market?

5. Are there specific populations (*e.g.,* race, socioeconomic status, gender identity, sexual orientation, age, language, etc.) or geographic regions that experience disproportionately higher utilization of medical payment products?

6. What are the health equity impacts of medical payment products and related billing and collection policies and practices?

i. Do medical payment products affect members of specific underserved communities differently, including members of Tribal communities and geographically isolated communities?

ii. Do certain products or policies present opportunities to better serve members of underserved communities?

7. Patients can pay for care in many different ways, such as by medical credit card or loan, general purpose credit card, insurance, or through a zero-interest payment plan. What are

[48] Office of Inspector General (OIG) Advisory Opinion 02–12 at 11 (''[H]ealth care providers are in a position of trust and may exert undue influence when recommending health care related items or services, particularly to their own patients.'').

the costs and benefits for health care providers of offering each of these methods? Are there situations where one method of payment is more advantageous than another?

8. What incentives do financial services companies offer health care providers, including revenue-sharing or other financial or non-financial incentives?

9. How do medical payment products and health insurance coverage interact? Do group health plan or health insurance issuer practices contribute to uptake of medical payment products by patients and providers?

i. How many days do providers typically have to wait to be paid by plans or issuers versus by medical payment product companies or general purpose credit card companies? What factors, such as administrative requirements or clinical reviews, contribute to any differential resolution timelines?

ii. Does a patient's use of a medical payment product exempt them from certain consumer protections, provider requirements, or group health plan or health insurance issuer requirements? Are different types of health coverage treated differently?

10. Does health care provider organizational structure, including ownership by private equity, affect providers' decisions to offer and promote these products?

11. What are some best practices for health care providers who offer medical payment products in avoiding adverse financial and health impacts for patients?

i. Are there specific tactics or practices that are well tailored and adapted for use by health care professionals in and serving underserved communities, including Tribal communities and geographically isolated communities?

ii. What actions should the agencies take to develop and encourage uptake of these established best practices?

iii. Are there examples of actions or best practices at the State or local level to which the Federal government should look?

12. To what extent are patients using medical payment products to pay bills that are incorrect, or that could be covered or defrayed by lower-cost alternatives?

i. What billing errors may patients commonly encounter?

ii. How does using a medical payment product affect patients' rights to dispute incorrect bills?

iii. Are certain groups of patients, such as members of specific underserved communities, more likely to experience medical billing errors or issues resolving disputes over bills paid using medical payment products?

13. What actions should agencies consider taking to better understand the effects of medical payment products on consumers and the health care industry, educate consumers and providers about the risks of these products, and collect complaints?

i. What are some sources of data on medical payment products? What additional data are needed to understand the impact of medical payment products on patients and the health care industry?

ii. What data collection, data analysis, and research actions should agencies take?

iii. Are there different or other actions that agencies should consider for underserved communities, including Tribal communities and geographically isolated communities?

iv. What types of consumer complaints have States and localities received?

14. Where medical payment products are causing harm, what are some specific levers for regulatory oversight and enforcement by Federal agencies that regulate financial products or health care providers?

i. Are there specific areas for Federal enforcement actions?

ii. Are there examples of regulation or enforcement at the State or local level to which the Federal government should look?

iii. What complementary legislative actions are worth exploring? Where may additional statutory authority be needed?

Individual Inquiries

1. Have medical payment products ever been marketed to you, including by your health care provider? If so, please describe your experience and how the products were marketed to you. Were other options, such as financial assistance, marketed or explained at the same time?

2. If you have used a medical credit card or loan to pay for your care, what was your experience with the product?

a. What benefits or harms did you experience?

b. Was your health affected by your use of a medical credit card or loan?

c. How much did interest and fee charges add to the cost of your care?

d. How did using a medical credit card or loan affect your credit score and your ability to access credit?

e. Would you use a medical credit card or loan to cover medical expenses again? Why or why not?

3. Have you ever tried to dispute a medical bill you paid using a medical credit card or loan? If so, please describe your experience.

4. Have you ever had an overdue bill on a medical credit card or loan sent to collections? How quickly was the bill sent to collections? Did your experience with collections affect your credit score, your access to medical care, or your health?

5. Have you ever felt pressured to pay for care using a medical payment product or general purpose credit card when you believed that was not in your best interest? If so, please describe your experience.

6. Have you ever used or been pressured to use a medical credit card or loan to pay a bill that you believe should have been covered by your health insurance? If so, please describe your experience.

7. Have you ever used or been pressured to use a medical credit card or loan to pay a bill that you believe should have been covered by your health care provider's financial assistance policy? If so, please describe your experience.

8. Has your knowledge about the availability of medical credit cards or loans led you to believe that health insurance might not be necessary, or not acquire health insurance?

b. CFPB-Specific Questions

The CFPB implements and enforces Federal consumer financial law, including the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, the Equal Credit Opportunity Act, and the Consumer Financial Protection Act's prohibition on unfair, deceptive, or abusive acts or practices in connection with the offering or provision of consumer financial products or services. As such, the CFPB seeks to better understand consumer financial issues raised by medical payment products, including the credit practices of medical payment product companies as well as the debt collection and credit reporting practices utilized by both health care providers and medical payment product companies. The CFPB welcomes comment on these areas, including comments in response to any of the following specific questions:

1. What actions should the CFPB consider taking to address problematic practices related to medical credit cards or loans, including debt collection and credit reporting practices?

2. How do firms offering medical financial products typically market to providers?

3. How do creditors and their affiliates underwrite loans to patients? What specific factors (*e.g.,* age, type of

medical procedure, credit score, etc.) are considered in underwriting?

4. Do consumers understand the risks of paying medical bills via a medical credit card, installment loan, or other commercial payment product, including lowered ability to negotiate their bill with their provider?

5. To what extent are alleged debts placed on medical credit cards and loans sent to debt collectors? How do medical payment product companies' debt collection practices differ from those of health care providers, and are any issuer or provider debt collection practices posing risks to consumers?

6. How can the CFPB use its authorities to ensure people with medical bills in collections, including medical payment product debt, are screened for eligibility for financial assistance and other benefits?

7. How are health care providers and financial companies using credit or ''propensity to pay'' scores to determine patients' eligibility for financial assistance or medical payment products? What are the implications for compliance with the Fair Credit Reporting Act or other CFPB authorities?

8. When hospitals write off a patient's debt as uncollectible or ''bad debt'' and cease attempts to collect, do they notify patients that collection attempts will cease? Would patients benefit from such notifications, and would such notifications reduce hospital revenue?

c. HHS-Specific Questions

The Department of Health and Human Services shares jurisdiction with the Departments of Treasury and Labor over key health care consumer protections related to health coverage, including those enacted by the Affordable Care Act and the No Surprises Act. HHS is also responsible for regulation and oversight of Medicare, Medicaid and the Children's Health Insurance Program, and the Affordable Care Act Marketplaces, and shares responsibility for enforcement of Federal health care fraud and abuse laws, including the Federal anti-kickback statute. HHS works to enhance the health and well-being of all Americans by providing for effective health and human services and by understanding and addressing the barriers patients experience in accessing health care. HHS also includes the Indian Health Service (IHS), which administers and oversees health and human services programs for American Indians and Alaska Natives.

HHS seeks to better understand how medical payment products affect access to care and intersect with health care coverage, including Medicare, Medicaid, and the Children's Health Insurance Program, group and individual health insurance coverage (including Marketplace plans and employer-sponsored coverage), and non-comprehensive coverage products. HHS also seeks specific comments from all Indian Health Care Providers, including Indian Tribal Governments, Tribal Organizations, and Urban Indian Organizations about medical credit card and loans and the role they play in the Indian health care provider billing environment. HHS additionally seeks to understand how medical payment products interact with Affordable Care Act and No Surprises Act protections and the prohibitions set forth in the Federal anti-kickback statute.[49] Relevant Affordable Care Act protections include the right to seek an internal appeal and an external review of an insurance claim denial. Relevant No Surprises Act protections include surprise billing protections and good faith estimate rights for uninsured and self-pay patients (including the right to use a Federal dispute process to challenge a bill that is $400 or more higher than a patient's good faith estimate). Finally, HHS seeks to understand whether any financial institution or health care provider practices in connection with medical payment products may violate health care fraud and abuse laws, including the Federal anti-kickback statute.

HHS welcomes comment on the intersection of medical payment products with Federal health programs, Federal laws against health care fraud and abuse, and Affordable Care Act and No Surprises Act protections, including comments in response to any of the following specific questions:

1. What actions should HHS consider taking to address problematic practices related to medical credit cards or loans, particularly as they relate to patients eligible for or enrolled in Medicare, Medicaid, or the Children's Health Insurance Program, or patients enrolled in Affordable Care Act Marketplace plans?

2. What types of health insurance (Medicare, Medicaid, private insurance, etc.) are particularly associated with the likelihood that an individual is offered or makes use of medical credit cards and loans, and how does the type of health coverage affect relevant provider billing practices?

3. Are there particular health care provider types that are most associated with being offered or offering medical payment products, and are these providers receiving directed payments or other incentives through State Medicaid programs?

4. Has the No Surprises Act and its surprise billing protections affected the prevalence and use of medical credit cards and loans, and if so, how?

i. Has the notice and consent process been used to promote medical cards and loans to patients seeking health care items or services from out-of-network providers/facilities, and if so, how? For example, in instances where the No Surprises Act permits providers and facilities to seek notice and obtain consent from an insured patient to waive their balance billing and cost-sharing protections under the No Surprises Act, are providers and facilities impermissibly attaching or incorporating medical card or loan documents or information to the notice and consent forms, or giving them to the patient at the same time as the notice and consent forms?

ii. What steps are health care providers and facilities putting into place to ensure that bills paid through medical payment products do not violate surprise billing requirements and that patients who use medical payment products retain their No Surprises Act rights?

5. How does or might the use of medical credit cards and loans affect the amount and timing of cost sharing a patient covered through Medicare, Medicaid, and/or the Affordable Care Act Marketplace owes for a covered service?

i. Are there any observable differences in cost sharing among patients belonging to underserved communities, such as Tribal communities or geographically isolated communities?

6. Hospital Price Transparency: What prices or versions of standard charges (*e.g.,* cash prices) are offered to patients who sign up for a medical credit card or installment loan? What steps are taken by health care providers to ensure these charges are adequately disclosed in accordance with hospital price transparency requirements? Do these charges reflect and specifically identify facility fees?

7. How might HHS improve patient understanding of options for covering the cost of medical treatments? At what points in the care process could patients be provided with information about

[49] 42 U.S.C. 1320a–7b(b), the Federal anti-kickback statute, provides for criminal penalties for whoever knowingly and willfully offers, pays, solicits, or receives anything of value to induce or reward the referral, recommendation, or arranging for the referral or recommendation of business reimbursable under any of the Federal health care programs, including Medicare and Medicaid. To assess the application of the Federal anti-kickback statute requires an examination of all of the facts and circumstances of an arrangement.

their financial obligations and payment options?

Anti-Kickback Statute

HHS is interested in whether incentives offered to health care providers by financial companies may implicate the Federal anti-kickback statute. Specifically, HHS is interested in the following questions:

8. What financial relationships exist between medical payment product companies and health care providers? For example, do companies provide financial incentives to providers who enroll patients in medical payment products? Do providers pay financial companies to collect patients' overdue balances? Or, do providers have arrangements with financial companies to indemnify the company in whole or in part if the patient defaults, such as an arrangement that when patients default on their debt to the financial company, the debt reverts to the provider?

9. Do health care providers or financial institutions market or recommend medical credit cards or loans to Federal health care program beneficiaries (*e.g.,* Medicare, Medicaid, Affordable Care Act Marketplace, or Children's Health Insurance Program enrollees)? Is the use of these products limited to certain types of health care items or services, such as items and services that are not reimbursable by Medicare or another third-party payor?

10. Do medical payment product companies recommend certain health care providers to their users? Do companies limit where or how patients use medical credit cards?

11. Is the health care provider (or the medical payment product company) offsetting some of the patient's medical debt or providing any other incentives to the patient (*e.g.,* travel rewards for charges to the card)?

d. Treasury-Specific Questions

The Treasury Department oversees policy decisions relating to the Internal Revenue Code, including those provisions relating to tax-exempt hospitals found in section 501(r). Section 501(r)(4) and 26 CFR 1.501(r)–4 require tax-exempt hospital organizations to establish and widely publicize a written financial assistance policy that applies to all medically necessary care provided by the hospital organization. Section 501(r)(6) and 26 CFR 1.501(r)–6 require hospital organizations to make reasonable efforts to determine whether an individual is eligible for assistance under the hospital organization's financial assistance policy (FAP) before engaging in extraordinary collection actions against that individual. Extraordinary collection actions include credit reporting an unpaid medical bill, deferring or denying care to a patient due to their unpaid medical bills, taking legal or judicial action to recoup an alleged medical debt, or selling an alleged medical debt.

However, selling an alleged medical debt is not considered an extraordinary collection action if, prior to the sale, the hospital facility enters into a legally binding written agreement with the debt buyer that meets four conditions: (1) the buyer agrees not to engage in any extraordinary collection actions to obtain payment; (2) the buyer agrees not to charge interest in excess of the rate in effect under section 6621(a)(2) at the time the debt is sold (currently set at 7 percent through June 2023); (3) the debt is returnable to or recallable by the hospital facility upon a determination that the individual is financial assistance-eligible; and (4) if the individual is determined to be financial assistance-eligible and the debt is not returned or recalled, the buyer must adhere to specified procedures which ensure that the individual does not pay, and has no obligation to pay, the buyer and the hospital facility together more than that individual is personally responsible for paying under the financial assistance policy.

Treasury welcomes comment on the interplay between the requirements that apply to tax-exempt hospitals and medical payment products, including comments in response to any of the following specific questions:

1. What policy actions should Treasury consider taking to address problematic practices related to medical credit cards or loans, including debt collection and credit reporting practices, to conform with the existing tax laws and regulations pertaining to tax-exempt hospitals?

2. Should a tax-exempt hospital's signing patients up for medical payment products be considered similar to a tax-exempt hospital's selling medical debt, such that the special rules that only exclude debt sales from being extraordinary collection actions if certain requirements are met would be applied to these payment products?

3. How would applying the debt sale special rules to payment products change hospitals' and payment product providers' current practices, especially those related to financial assistance eligibility screening, extraordinary collection actions, interest rates, and recall or return of balances owed by FAP-eligible individuals?

4. How do tax-exempt hospitals' promotion of medical payment products compare to their operationalization of the requirement that their financial assistance policies be widely publicized?

5. What are best practices for hospitals publishing and making patients aware of financial assistance programs (beyond compliance with the widely publicized requirements found in the section 501(r) regulations)?

6. Are medical payment product companies advertising their products as delivering community benefits or as a form of financial assistance?

7. Are tax-exempt hospitals claiming that their promotion of medical payment products delivers community benefits or provides financial assistance, including in their filings of Form 990, Schedule H?

8. Does the availability of medical payment products generally benefit the community or assist patients financially?

Signing Authority for HHS

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Vanessa Garcia, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

Thomas C. West Jr.,

Deputy Assistant Secretary for Tax Policy, Department of the Treasury.

Vanessa Garcia,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Package for AmeriCorps Seniors Application Instructions, Progress Reporting, Independent Living and Respite Surveys

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service, operating as AmeriCorps, has submitted a public