

116TH CONGRESS  
2D SESSION

# S. 4037

To amend the Fair Credit Reporting Act to protect the credit of patients with substantial medical bills.

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IN THE SENATE OF THE UNITED STATES

JUNE 23, 2020

Mrs. LOEFFLER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Fair Credit Reporting Act to protect the credit of patients with substantial medical bills.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Patient Credit Protec-  
5       tion Act of 2020”.

6       **SEC. 2. CREDIT PROTECTION FOR PATIENTS.**

7       (a) INFORMATION EXCLUDED FROM CONSUMER RE-  
8       PORTS.—

1           (1) IN GENERAL.—Section 605(a) of the Fair  
2       Credit Reporting Act (15 U.S.C. 1681c(a)) is  
3       amended by adding at the end the following:

4           “(9) Debts incurred in a collection account with  
5       a medical industry code if, based on information fur-  
6       nished by the provider of medical treatment—

7           “(A) the consumer was covered by a health  
8       benefit plan at the time of the event giving rise  
9       to the collection; and

10          “(B) the collection is for an outstanding  
11       balance after the consumer’s share of copay-  
12       ments, deductibles, and coinsurance owed for  
13       medical treatment have been paid or are being  
14       paid as part of a payment plan.

15          “(10) Debts incurred by a consumer for pay-  
16       ment for unconscionably excessive medical expenses  
17       for health care items and services furnished at a  
18       participating hospital (as defined in section  
19       1867(e)(2) of the Social Security Act (42 U.S.C.  
20       1395dd(e)(2)))—

21          “(A) without the express written consent  
22       of the provider of the health care items and  
23       services; and

24          “(B) without providing a fair opportunity  
25       for the consumer to challenge or appeal, as de-

1            fined by the Secretary of Health and Human  
 2            Services, the cost of the medical bill or bills for  
 3            such health care items and services as uncon-  
 4            scionably excessive in the relevant, private  
 5            health care market (including in the individual  
 6            and group markets) and prevent such reporting  
 7            for costs to a consumer reporting agency by the  
 8            collector of the debt that the Secretary deter-  
 9            mines are unconscionably excessive in the rel-  
 10          evant, private health care market in accordance  
 11          with guidance issued by the Secretary pursuant  
 12          to section 2(a)(2) of the Patient Credit Protec-  
 13          tion Act of 2020.”.

14          (2) GUIDANCE.—

15            (A) DEFINITIONS.—In this paragraph—

16            (i) the terms “consumer”, “consumer  
 17            report”, “consumer reporting agency”, and  
 18            “Federal banking agency” have the mean-  
 19            ings given those terms in section 603 of  
 20            the Fair Credit Reporting Act (15 U.S.C.  
 21            1681a);

22            (ii) the term “participating hospital”  
 23            has the meaning given the term in section  
 24            1867(e)(2) of the Social Security Act (42  
 25            U.S.C. 1395dd(e)(2)); and

1 (iii) the term “Secretary” means the  
2 Secretary of Health and Human Services.

3 (B) ISSUANCE.—Not later than 180 days  
4 after the date of enactment of this Act, the Sec-  
5 retary, in consultation with the Director of the  
6 Bureau of Consumer Financial Protection, the  
7 Federal Trade Commission, the Federal bank-  
8 ing agencies, and the National Credit Union  
9 Administration, shall issue guidance to carry  
10 out paragraph (10) of section 605(a) of the  
11 Fair Credit Reporting Act (15 U.S.C.  
12 1681c(a)), as added by paragraph (1).

13 (C) CONTENTS.—The guidance issued  
14 under subparagraph (B) shall provide—

15 (i) the circumstances under which a  
16 consumer with an outstanding balance for  
17 copayments, deductibles, coinsurance, or  
18 other medical expenses for health care  
19 items or services furnished at a partici-  
20 pating hospital may, before the collector of  
21 the debt reports that balance to a con-  
22 sumer reporting agency, challenge or ap-  
23 peal the cost of the medical bill or bills for  
24 those health care items and services as un-  
25 conscionably excessive in the relevant, pri-

1 vate health care market, including in the  
2 individual and group markets;

3 (ii) that the determination of whether  
4 the costs described in clause (i) are uncon-  
5 scionably excessive shall be by the Sec-  
6 retary made by taking into consideration  
7 information made public by hospitals pur-  
8 suant to part 180 of title 45, Code of Fed-  
9 eral Regulations, or any successor regula-  
10 tion;

11 (iii) a framework for timely resolution  
12 if the costs described in clause (i) are de-  
13 termined to be unconscionably excessive;

14 (iv) that in no case shall a consumer  
15 reporting agency be held liable for report-  
16 ing information that violates paragraph  
17 (10) of section 605(a) of the Fair Credit  
18 Reporting Act (15 U.S.C. 1681c(a)), as  
19 added by paragraph (1), if they were not  
20 furnished with necessary information or  
21 did not have reason to know of such a vio-  
22 lation; and

23 (v) that debts incurred by a consumer  
24 for payment for unconscionably excessive  
25 medical expenses in the process to chal-

1           lenge or appeal the cost of the medical bill  
2           or bills described in clause (i) shall not be  
3           reported to a consumer reporting agency  
4           until after a determination of the challenge  
5           or appeal has been made, including if the  
6           process keeps medical debt from being re-  
7           ported to a consumer reporting agency be-  
8           yond the a 180-day waiting period before  
9           including medical debt on a consumer's  
10          credit report, at which time if the medical  
11          debt is determined to not be unconscion-  
12          ably excessive, the debt shall be imme-  
13          diately made available to the consumer re-  
14          porting agency.

15           (D) RULE OF CONSTRUCTION.—Nothing in  
16          this paragraph shall be interpreted to allow the  
17          Secretary to institute a price structure for the  
18          reimbursement of medical costs.

19          (b) REMOVAL OF IMPAIRMENT FROM MEDICAL  
20          DEBT.—Section 611 of the Fair Credit Reporting Act (15  
21          U.S.C. 1681i) is amended by adding at the end the fol-  
22          lowing:

23           “(h) REMOVAL OF IMPAIRMENT FROM MEDICAL  
24          DEBT.—When notified that a debt incurred by an indi-  
25          vidual for payment for medical expenses has been paid in

1 full or that such an individual is in regular compliance  
2 with a periodic payment plan between the provider and  
3 consumer to settle such debt, any impairment resulting  
4 from that debt must be removed within 30 days.”.

