

Fast Facts: Consumer Reporting of Medical Information Proposed Rule

Proposed Rule: The proposal would remove an existing Regulation V exception to the Fair Credit Reporting Act’s limitation on a creditor’s use of medical debt information, and amend existing exceptions for use of other medical information related to credit eligibility determinations. The proposed rule would also generally prohibit consumer reporting agencies from including medical debt information in consumer reports to creditors making credit determinations.

Proposed effective date: 60 days after the final rule is published in the Federal Register

Comments due: August 12, 2024

Available at: www.consumerfinance.gov/rules-policy/notice-opportunities-comment/open-notice/prohibition-on-creditors-and-consumer-reporting-agencies-concerning-medical-information-regulation-v/

About this document: The CFPB has issued a proposal to amend Regulation V. The proposal seeks public comment. This document generally provides a high-level overview of the topics covered in the proposal to remove medical debts from consumer reports and prohibit creditors from relying on medical debts for credit decisions.

New Definitions

Term	Proposed definition	Location in proposed rule
Medical Debt Information	Medical Debt Information would be defined as a subset of Medical Information, as currently defined in Regulation V. The new definition would include Medical Information related to debts in any status (current, past due, or fully paid) that are: <ul style="list-style-type: none">▪ Owed by a consumer;▪ Owed to a person whose primary business is providing medical services, products, or devices, or to such	1022.3(j)

Term	Proposed definition	Location in proposed rule
	<p>person's agent or assignee, including debts purchased by a debt buyer or collected by a debt collector; and</p> <ul style="list-style-type: none"> Incurred from the provision of such medical services, products, or devices for humans, including all human medical procedures, such as elective surgeries. <p>Medical Information, as defined in Regulation V, includes debt amounts, terms, and history, and the proposed definition would also include related information such as credit scores that had weighed the medical debt information.</p> <p>The definition would not include information about debts for medical care charged to credit cards (including medical credit cards offered specifically for the payment of medical services).</p>	

Creditor provisions

The Fair Credit Reporting Act generally prohibits creditor use of medical information subject to exceptions in Regulation V that permit use of consumer medical information under certain circumstances. The proposal would amend the exceptions as follows:

Topic	Proposal description	Location in proposed rule
Exception Removal	The proposal would remove the financial information exception provided in existing Regulation V, 1022.30(d), which permits creditors to obtain and use medical information, as it pertains to debts, expenses, assets, or collateral for credit eligibility determinations under certain conditions.	1022.30(d)
Revised Exception	<p>For medical information related to income (such as disability income information), benefits, or the purpose of the loan (such as loan proceed use), the proposal would continue to permit creditors to obtain or use that information for credit eligibility determinations if the following conditions are met:</p> <ul style="list-style-type: none"> The creditor uses the information in the same manner and to the same extent it would comparable non-medical information in the eligibility or continued eligibility credit determinations; and 	1022.30(e)(1)(x)

Topic	Proposal description	Location in proposed rule
	<ul style="list-style-type: none"> The creditor does not take the consumer's physical, mental, or behavioral health condition, history, treatment type, or prognosis into account for the eligibility or continued eligibility determination. 	
New Example – Medical Information to comply with local, state, or Federal laws	<p>The new example would illustrate how a creditor making credit eligibility determinations can use medical information to comply with local, state, or Federal law, as excepted under current Regulation V, 1022.30(e)(1)(ii).</p> <p>The example would illustrate how creditors and card issuers can make ability-to-repay determinations for mortgage or credit card products, as required by Regulation Z. The example would illustrate the use of medical information provided by a consumer. The example would highlight that a creditor or card issuer relying on this exception for compliance with other applicable laws would not be permitted to obtain or use medical information from a consumer report.</p>	1022.30(e)(6)
Moved Example – Medical Information relating to income and benefits	<p>The example, currently in Regulation V, would be retained but moved.</p> <p>The example highlights that a denial based on medical income is not a less favorable treatment if the denial reason was based on the income amount, regardless of the income source.</p>	1022.30(e)(7) (Existing 1022.30(d)(2)(ii) (B))

Consumer reporting agency provisions

The proposal would clarify the limitations on consumer reporting agencies furnishing consumer reports containing medical debt information.

Topic	Proposed requirement	Location in proposed rule
Limitation on furnishing consumer reports with	A consumer reporting agency would only be permitted to furnish a consumer report containing a consumer's medical debt information to a creditor (as that term is used in existing Regulation V) if both of the following are true:	1022.38(b)

Topic	Proposed requirement	Location in proposed rule
Medical Debt Information	<ul style="list-style-type: none"> ▪ The consumer reporting agency has reason to believe the creditor intends to use the medical debt information consistent with the exceptions to the creditor prohibition; and ▪ The consumer reporting agency is not otherwise prohibited, such as by state law, from furnishing information in a consumer report that would meet the proposed definition of medical debt information. 	

Additional resources

Find more implementation information and sign up for updates about the proposed rule at www.consumerfinance.gov/compliance/compliance-resources/other-applicable-requirements/fair-credit-reporting-act/.