

MEMORANDUM IN SUPPORT OF LD 2174

NAME OF BILL: An Act to Protect Consumers from Predatory Medical Credit Card Providers

INTRODUCED BY: Senate President Troy Jackson

STATEMENT OF SUPPORT: Consumer Reports strongly supports LD 2174, legislation to provide new consumer financial protections for medical credit cards that are designed specifically for the payment of health care services. The protections will help ensure consumers are not inappropriately signed up for medical credit cards by staff in medical provider's offices; charged in advance for medical services that have not been delivered yet; and put at risk of high costs for retroactive interest charges that kick in after a grace period. The protections would also ensure that medical providers screen consumers for eligibility for charity care prior to accepting payments on medical credit cards; and any efforts to collect unpaid payments for medical credit cards will be subject to consumer protections provided under Maine Fair Debt Collection Act provisions in Title 32, chapter 109-A.

LD 2174 contains common sense protections to help protect consumers from being harmed by the aggressive marketing of high-cost medical credit cards, many of which have risky deferred interest features that expose consumers to incurring sharply higher levels of debt. As outlined above, the bill addresses priority issues that have been raised by consumer and legal services organizations that where stronger protections and guardrails are needed to prevent patients from incurring high levels of debt when lower-cost repayment options may be available.

Consumer and legal services organizations have received many complaints from customers who were signed up and enrolled in medical credit cards without fully understanding the terms and costs, and their alternative payment options for medical services.¹ For example, many clients stated they were not screened or informed of alternative payment options, or offered an affordable payment plan as an alternative to a medical credit card. Others said that the staff described the terms of the medical credit card incorrectly, emphasizing that it carried 0% interest when in fact it charges deferred interest, and that interest charges are retroactive after a 6-24 month grace period.² In addition, while some customers understand provisions relating to deferred interest, many others do not, and this segment of the public is often surprised and greatly disappointed to find out that retroactive interest will be charged when the grace period expires.

Medical credit cards and payment plans can be helpful in some circumstances to help patients pay for medical expenses not covered by other sources of payment. But the aggressive expansion and marketing of high-cost credit products for use at the point of treatment raises many serious concerns,

¹ Kuenhoff, April, and Wu, Chi Chi, *Health Care Plastic: The Risks of Medical Credit Cards*, National Consumer Law Center, April 2023, available at: https://www.nclc.org/wp-content/uploads/2023/04/Report_Health-Care-Plastic.pdf

² Ibid.

given the very large number of Americans who are already carrying high levels of medical debt. These concerns include:

- higher overall costs for receiving care, because of added financing charges and fees;
- potential substitution of high-cost credit products for payments that could be covered by insurance, hospital financial assistance, public programs and/or lower-cost payment plans;
- inadequate public and private insurance coverage for vital medical benefits such as dental, hearing and vision;
- increases in medical billing and payment complexity for consumers;
- patient challenges in understanding the full range of alternative payment options, when offered high-cost credit products at the point of service and during the treatment process;
- potential risks from debt collection, adverse credit reporting, and medical debt lawsuits and garnishments;
- promotion of more expensive care options driven by provider financial incentives; and
- promotion of questionable or unnecessary treatments by providers, who receive direct payment from consumers using medical credit cards.

As documented by research by the Kaiser Family Foundation (KFF), medical debt is already a serious national problem afflicting 100 million Americans (41% of the population). It is one of the most prevalent forms of personal debt, with one in five Americans being contacted by a debt collector over an unpaid healthcare bill.³ According to the Consumer Financial Protection Bureau, twenty percent of Americans also have at least one medical debt collection item in their credit reports, and over half of collection items on credit reports are for medical debts.⁴ The problem disproportionately affects people of color: 28% of African Americans and 22% of Latinx people carry medical debt versus 17% of White people.⁵

According to a national KFF survey, two-thirds of adults with medical debt said that they or a member of their household have put off getting needed medical care because of costs.⁶ The personal and collective impact of healthcare debt on individuals and families is staggering in its scope and severity:

- Sixty-three percent of respondents with current or recent medical debt said it caused them to cut spending on food, clothing, utilities, and other basics.
- Forty-eight percent of people with medical debt said that they had used up all or most of their savings to pay it off.
- Two-thirds of adults with medical debt said that they or a member of their household have put off getting needed medical care because of costs.

³ Sara R. Collins et al., The Commonwealth Fund, *Insuring the Future: Current Trends in Health Coverage and the Effects of Implementing the Affordable Care Act* 6 (Apr. 2013).

⁴ Consumer Financial Protection Bureau, *Consumer credit reports: A study of medical and non-medical collections* (Dec. 11, 2014).

⁵ Lunna Lopes et al., "Health Care Debt in the U.S: The Broad Consequences of Medical And Dental Bills," Kaiser Family Foundation, June 16, 2022, [kff.org/health-costs/report/kff-health-care-debt-survey/](https://www.kff.org/health-costs/report/kff-health-care-debt-survey/). See, also, Noam N. Levey, "100 Million People in America Are Saddled With Health Care Debt," *Kaiser Health News*, June 16, 2022, [khn.org/news/article/diagnosis-debt-investigation-100million-americans-hidden-medical-debt/](https://www.khn.org/news/article/diagnosis-debt-investigation-100million-americans-hidden-medical-debt/); and Noam N. Levey et al., "Upended: How Medical Debt Changed Their Lives," *Kaiser Health News*, June 16, 2022; updated December 21, 2022, [khn.org/news/article/diagnosis-debt-investigation-faces-of-medicaldebt/](https://www.khn.org/news/article/diagnosis-debt-investigation-faces-of-medicaldebt/).

- One out of seven respondents said that they have been denied care by a medical provider because of unpaid bills.
- Eleven percent or so of adults with medical debt said that they had been forced to declare bankruptcy at some time in their life.
- Six percent of Americans with medical debt said that they have lost their home due to eviction or foreclosure at least in part because of that debt.

Medical debt undermines the ability of individuals and households to have stable incomes, avoid financial stress and poverty, and achieve economic stability. In addition, medical debt in itself can cause sickness. “Medical debt and associated financial hardship are likely to be associated with substantial adverse health effects,” wrote Dr. Carlos Mendes de Leon and Dr. Jennifer J. Griggs in a July 2021 recent editorial published in the *Journal of the American Medical Association*. “Medical debt may compromise seeking or receiving appropriate medical care that may lead to delayed diagnosis of health conditions or exacerbations in preexisting conditions and may potentially contribute to increased risk of premature mortality. There is also clear evidence for a link of personal debt and financial hardship with poor mental health, which in the case of medical debt could worsen the adverse effects of medical conditions on mental health or vice versa.”⁶

As noted by the National Consumer Law Center, “...Medical debt is different from many other types of consumer debt -- people do not plan to get sick or get hurt, and health care services are not only necessary, but can be a matter of life or death. Also, medical bills often end up in collections because of insurance or billing disputes, or other problems that arise from having a third party payor involved in the payment of bills.”⁷

In this context, it is important to understand that medical credit cards and payment plans are wrapping around a medical billing system that is already both highly confusing and difficult to navigate. Pricing is opaque and insurance payments are bewildering. Often, patients receive multiple bills and insurance forms for the same visit, which are hard to decipher and interpret, especially for speakers whose primary language is not English. Providers and insurers go back and forth over whether a particular treatment or service is covered by the patient’s insurance, and the patient is caught in the middle. Frequently, providers go ahead and send bills to collection even while they are still arguing with the insurance company as to whether the service is covered or not.

Consumer Reports collected a number of stories from users of medical credit cards in September 2023, which we shared with the Consumer Financial Protection Bureau.⁸ While a significant number of users found the cards to be helpful in paying for some medical and veterinary bills that are not covered by other sources of payment, many cautioned that the products had hidden risks and unexpected features that could cause their payments to be late, and to miss the deadline for retroactive deferred interest to be charged. Several of our story sharers advised other consumers to “do your own math” to

⁶ Carlos F. Mendes de Leon and Jennifer J. Griggs, *Medical Debt as a Social Determinant of Health*, *Journal of the American Medical Association* 326, no. 3 (July 20, 2021): 228–29.

⁷ Chi Chi Wu, Jenifer Bosco, and April Kuehnhoff, *Model Medical Debt Protection Act* (Boston, MA: National Consumer Law Center, September 2019), p.2, available at: <https://www.nclc.org/wp-content/uploads/2022/08/model-medical-debt-protection-act082017.pdf>

⁸ Bell. C., *Consumer Reports Calls of CFPB to Adopt Stronger Consumer Protections for Medical Credit Cards*, 9/11/23, available at: https://advocacy.consumerreports.org/press_release/consumer-reports-calls-on-cfpb-to-enact-stronger-consumer-protections-for-medical-credit-cards/

make sure all payments would be credited to the account to avoid the deadline for paying deferred interest. In addition, others who were signed up by staff in medical offices said they did not fully understand the terms and costs of the card.

High Interest Charges Due to Retroactive Deferred Interest

Several consumers told us that they had incurred very large interest charges after missing the deadline to make all payments by the end of the promotional period for medical credit cards.

Amanda from North Carolina said:

I needed a crown and my dentist office suggested credit card. I noticed that I had paid it down to around \$500 two different times, and before I knew it, it was back up to \$1000 again. This has been going on for three years now. It should have been paid off two years ago. It's like going to a pawnshop.

Paula from Florida told us:

I was under the impression that the dental insurance plan that I had through Medicaid would pay for a root canal and crown, was told that it was only for people under 26 years of age-I am a senior citizen and needed the procedure. The dentist recommended by my insurance company said that I could get Care Credit to pay and that I would have 18 months interest free to pay the bill. I faithfully paid the bill monthly with more than the requested amount was down to around \$700.00 and then the next month the bill rose to \$1400.00 because the interest was then charged. I called them and said that I would gladly pay the interest on the remaining \$700.00 and they said I had to pay the interest for the entire \$2300.00 which was what the dentist charged even though I had paid them more than the minimum amount on time every month. I feel that I have been charged excessively-have continued to pay them more than the minimum every month and am finally down to \$700.00 again.

I hope to get this paid off soon and I will never use this way to pay a bill again; I would rather be in pain and suffer rather than pay the exorbitant interest charged to me. I may be old, but when you pay faithfully and pay at least \$100. per month on a bill, you would think that even though the 18-month window had passed, that you would not be charged for interest on the original balance that is in my opinion most unfair.

Tamara from Arizona said her mother had experienced a "CareCredit nightmare" as expenses not covered by Medicare continued to be charged to her card:

My mom took out a Care Credit card after she went through treatment for breast cancer. Even though her Medicare insurance paid most of the expenses, it did not cover dental or the expensive medication she had to take for several years after the initial lumpectomy. Side effects from the medication caused bone loss, especially in her jaw. On top of this she fell and knocked her front teeth out. This past year she's needed over \$12,000 in dental work. Care Credit increased her interest rate from 22% to 29% which increased the monthly payment to over \$500.

When she contacted Care Credit about a way to lower the payments, she was told Care Credit does not offer a reduced monthly payment plan and there was nothing they could/would do.

Now I'm helping to pay her monthly payment and the dental work continues. I honestly don't see a way out of this.

David from Montana explained that he also was charged additional fees for “card security” on his medical credit card:

Some needed dental work [was] recently done in July, 2023 without any significant insurance coverage and no payment plan through my dentist other than the "Care Credit" credit card. This company touts no interest payments on procedures paid in full within an 18-month period but there is an underlying "card security" fee charged monthly based on outstanding balance. **On a \$9,300 balance and making more than the minimum payment in one billing cycle I was charged \$332 in card security fees and my balance was undiminished by any noticeable difference.** To retire this bill without paying any interest (which is false) I would have to pay more than twice the minimum payment each month for the 18-month period while all along having paid their hidden junk fees to the tune of a couple thousand dollars. This not a Caring Company!!

Use of Credit Cards to Finance Costs That Should Be Covered by Insurance

Relatively few of the stories we received discussed problems regarding payments the may have been covered by insurance coverage. However, Rebecca from Virginia described some hospital-related billing problems in a story she sent CR in 2022:

I had my second hand surgery on February 22nd of 2022 the hospital said that we would owe over \$2,500 after the insurance. We applied for a Care Credit Card that covered \$2,400 and they agreed to take two payments of \$83 and some change using my debit card on the 22nd of March and the 22nd of April.

As it turns out we were way over paying for the procedure I had done. The Care Credit Card was owed back \$1,255 and on March 7th there was a deduction of \$196 out of my bank twice the amount agreed upon in 2 weeks early. I called the surgical center talk to the business department they recognized the mistake said give me two weeks I'll have a check in the mail. Two weeks later they took out another \$83 from my account I called again still not having received the first payment that I was due. They said everything was recognized, unsure why it didn't go through, but you are going to get a check for the full amount by April 7th. On April 1st I got a letter from them in the mail saying that the money was put toward my CareCredit card, the credit card that we got to cover deductibles and co-pays for me to have the procedure to start with.

How is it legally or morally right to take money from someone and say, “oh I'm not going to give it back to you, I'm going to pay this business that helps us.” It's my money [and] I decide what to do with it. They refunded CareCredit but now they're also giving CareCredit money that they owe me, money that was Cash directly taken from me. How is that fair, how is that legal?

Another consumer, E__ from Missouri, reported that a dental provider set up a payment plan for them, even though the costs were later covered by insurance:

Had dental insurance, knew it would not cover everything needed, went to Aspen Dental for service. After consultation submitted insurance and paid copay. Returned for procedure and when finished set up payment plan through the office. After three months of on time payments they set me up with an installment plan through a third party with out my consent. I continued making my payments, on time, at the office where services were rendered. Two months later I received a notice from the third party that they were sending my account to collections. By this time my bill was paid in full. Upon investigation of my payments and insurance payment I discovered that I had over paid due to Aspen Dental resubmitting additional information to insurance company.

Conclusion

Given that the number of Americans facing medical debts in the U.S. is already at a crisis level of over 100 million, it is imperative to consider ways to prevent patients from taking on even greater levels of medical debt, through the routine operation of the medical care system, its provider networks, and their billing and payment collection arms. The expansion and aggressive marketing of medical credit cards should indeed be a cause for alarm, because it will mean that even more Americans will pay high financing charges for medical care that they will struggle to pay off, with many debts referred to debt collection, where it can ruin their credit standing and lead to lawsuits, liens, garnishment and even bankruptcy.

Consumer Reports strongly urges you and your colleagues to support LD 2174 to protect Maine consumers from unfair practices in the marketing and use of medical credit cards, which can potentially lead to consumers incurring high levels of medical debt for medical services. These common sense protections will help ensure that consumers will only sign up for medical credit cards that they themselves select and review, and that they will be better protected against making duplicative payments for services covered by other sources of payment.

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Following up on oral testimony, here is a written memo of support for LD 2174