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Agency-Client Engagement Under New Federal Regulations

Reg F and No Surprises Act bring medical debt collections into new focus this year.

With Reg F and a new federal law on consumer protections for medical bills—the No Surprises Act—in effect, the Consumer Financial Protection Bureau has increased its focus on medical debt collections this year.

In January, the bureau released a medical debt [compliance bulletin and policy guidance](#) with reminders for debt collectors and credit bureaus on the requirements of the No Surprises Act, which took effect Jan. 1.

The bulletin emphasizes that when collecting, reporting, and furnishing information about medical debts covered by the No Surprises Act, debt collectors must comply with the prohibitions set forth in the Fair Debt Collection Practices Act on (1) false, deceptive, or misleading representations or means in connection with the collection of any debt and (2) the use of unfair or unconscionable means to collect or attempt to collect any debt.

In addition, the bulletin highlights that information furnishers—including debt collectors that furnish data to any consumer reporting agency (CRA)—must comply with the provisions of the Fair Credit Reporting Act regarding accuracy and dispute resolution when collecting, reporting, and furnishing information about medical debts covered by the No Surprises Act.

The bulletin describes acts or practices related to the collection of medical debts that may violate the FDCPA or FCRA and provides examples of potential violations that could arise from the collection of such debts. In January, ACA International submitted a letter to the CFPB supporting the intent of the No Surprises Act, but noting the bulletin attempts to create new requirements for the debt collection industry outside of the Administrative Procedure Act.

Keeping the Conversation Going

In the meantime, Reg F requirements should be part of an ongoing conversation between agencies and their health care clients.

Health care providers can help their debt collection partners manage communication with patients after an account has been placed in collections by understanding that consumer preference and consent management are especially important under Reg F.

Provide a training refresher for any patient-facing employees, reminding them to identify and note patient communication preferences, consent revocations, and other communication changes requested by patients and guarantors.

Critically, health care providers should immediately communicate to

their third-party collection agency any post-placement changes in patient or guarantor communication preferences and especially any revocations of consent to call, text or email.

Reg F Credit Reporting Requirements

Credit reporting of medical debt has long been a part of the health care collections toolkit, but the practice has come under the scrutiny in recent years. Reg F requires that before a debt collector may furnish information about a debt to

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a CRA, it must speak to the consumer about the debt by telephone or in person; *or* place a letter about the debt in the mail (e.g., a validation letter) and wait a “reasonable period of time” to receive a notice of undeliverability before credit reporting.

If the debt collector receives a notice of undeliverability (i.e., a letter returned as undeliverable) within a reasonable period of time—defined in Reg F as at least 14 days—it must not furnish information about the debt to a CRA unless and until it has satisfied the requirement to communicate with the consumer about the debt, either in person or by telephone, email, or a subsequent letter not returned as undeliverable within a reasonable period of time.

This means that third-party collections partners can no longer furnish data about a debt to a CRA unless and until they have communicated with the consumer about the debt.

In addition to the Reg F requirements, third-party collections partners must, as always, comply with the relevant provisions of the FCRA as well as any applicable limitations imposed on data furnishers by the National Consumer Assistance Program provisions set forth by the major CRAs.

Reg F Communications Requirements

Reg F clarifies certain communications prohibitions that have long applied to debt collectors under the

FDCPA, but additionally provides new regulatory opportunities to improve the patient communication experience even after delinquent accounts are placed with a debt collector.

One new opportunity Reg F creates for debt collectors is the possibility of increased electronic communications with consumers.

In theory, these channels of communication have long been available to debt collectors. But the potential risks of prohibited third-party communications—e.g., from a text message inadvertently directed to a resubscribed wireless number or an email directed to an account that can be accessed by individuals other than the patient—have kept many collection agencies from using these communication channels.

Now, however, under Reg F’s electronic communications “safe harbor procedures,” a debt collector may receive a limited safe harbor if it implements email or texting policies set forth in the rule.

For the most part, the new communications restrictions and opportunities set forth in Reg F speak to the debt collector’s operations and do not implicate health care providers. But one of the safe harbor email policies in Reg F relies on email communications that have occurred between the creditor (here, the provider) and the patient.

Itemization Date

Collection agencies need itemization

information from their health care provider clients under Reg F.

Reg F requires debt collectors to make more detailed disclosures about a consumer’s debt than ever before, including itemization information.

The itemization date must be provided to consumers in the first written collection notice. For most creditors, this will be one of four dates specified by the rule: the date of the last statement sent to the consumer; the charge-off date; the date of the last payment on the account; or the transaction or service date.

Health care providers should continue to work with collections partners to ensure that policies and procedures—as well as the data and records provided when placing accounts—enable the debt collector to identify a permissible itemization date.

By communicating with your debt collections partners about these requirements, health care providers can ensure that you’re providing them with the right data and account-level information to facilitate collections and you can help ensure that your recoveries match your goals.

ACA members can read more about the CFPB bulletin and compliance considerations [here](#) and visit the [Reg F Resource Center](#) for more compliance information.

Most Americans Facing Medical Debt Owe Over \$2,000

Annual survey reveals Americans are choosing to delay health care services and financial commitments due to medical debt.

A new survey from Discover Personal Loans revealed most consumers face medical debt of more than \$2,000, impacting their financial ability to access medical care and pay for other necessary expenses.

Additionally, the survey found 58% of Americans took steps to address an unexpected expense since the beginning of the COVID-19 pandemic. Regarding medical expenses specifically, over 40% said they don’t feel prepared to handle these

surprise costs, according to the survey.

The survey was commissioned by Discover and conducted by Dynata between Sept. 23 and Sept. 27, 2021, and consisted of 1,515 U.S. residents aged 18 and up.

Americans with medical debt were found to be more anxious about the cost of medical services than the state of their health, according to the survey. Of the total respondents, 63% reported they were anxious about paying their medical

debt, while 37% stated they worry about getting healthy.

“People should be more focused on getting and staying well, rather than feeling held back by medical bills,” said Matt Lattman, vice president of personal loans at Discover.

In addition to the reported anxiety, 80% of people with medical debt reported delaying their medical care due to cost. Within that group, 44% of Americans with medical debt put off

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routine care, 39% avoided purchasing medicine, 38% put off receiving preventative testing, 33% put off being seen for an illness, and 27% put off surgery.

Additionally, medical debt has caused Americans to delay financial commitments. The survey revealed that 37% of Americans with medical debt stopped paying their bills, 32% skipped saving for retirement, 28% skipped adding to their emergency savings, and 20% stopped saving for their child's college—all in order to prioritize medical debt payments.

“For many, unplanned costs during the past year created roadblocks in financial journeys, especially for people who were already feeling the strain from other areas of debt and expenses,” Lattman said.

The survey found that 41% of people with medical debt reported using their credit cards instead of using their health insurance to pay for care. Additionally, 27% paid for their care by leveraging a payment plan through the hospital, 22% used personal loans to cover the cost of care, and 38% used their health insurance to cover the cost of care.

The COVID-19 pandemic caused 58% of Americans to address an unexpected expense such as auto or home repairs. Of those, 32% had to cover emergency medical expenses. According to the survey, 53% of Americans with existing medical expenses stated the pandemic caused them to take on new medical debt.

Overall, with the rise of the omicron variant and the continuation of the COVID-19 pandemic, Americans are having to choose their financial commitments to medical debt over seeking necessary medical care.

“If people do find themselves in one of these situations, the important thing to know is that there are options available, like personal loans, to help bridge gaps in savings while simplifying multiple payments with a fixed payment amount,” Lattman said.

Read the full report here: <https://bit.ly/33sYsJH>

NEWS & NOTES

Patients Turn to DIY Health Care

In the wake of pandemic-related difficulties in scheduling medical appointments, patients are increasingly turning to do-it-yourself care to monitor their health, according to [Becker's Hospital Review](#).

One nurse practitioner based in New Hampshire noted her patient waiting list had more than 100 people, and encouraged her patients to monitor their blood pressure and electrocardiograms if health risks are pressing.

While some physicians support patients taking responsibility for their own health in light of recent difficulties, others advise against relying solely on self-monitoring and caution the reliability and accuracy of certain devices.

Insurers to Cover Home COVID-19 Tests

A [news release](#) from the U.S. Department of Health & Human Services revealed private insurers and group health plans must cover the cost of up to eight at-home COVID-19 tests per person, per month. This requirement is part of ongoing efforts from the Biden administration to combat the spread of COVID-19, and aims to incentivize insurers to cover costs up front and ensure individuals do not need an order from their health care provider to access free tests.

Under the new guidance, there is no limit on how many tests an insurer must cover if the test is administered by a provider following a clinical assessment.

We Want to Hear From You

For more health care collections news, visit ACA's Health Care Collections page at <https://www.acainternational.org/pulse-newsletters-archive/>



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is a monthly bulletin that contains information important to health care credit and collection personnel. Readers are invited to send comments and contributions to:

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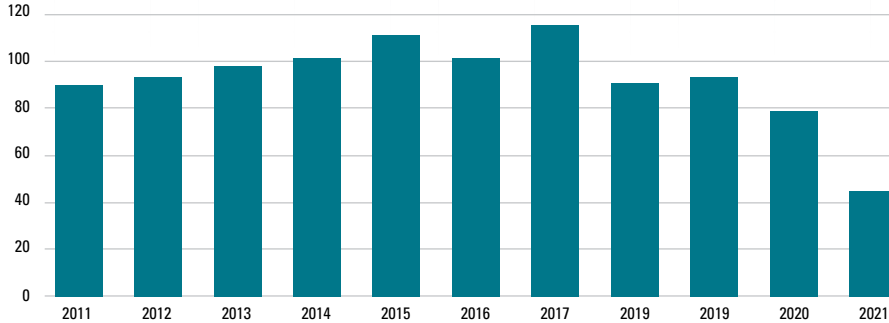


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Health Care M&A Transactions Continue to Drop

Research from Kaufman Hall shows a consistent trend in mergers and acquisitions for 2021: the number of transactions was down, but the size of the transactions has increased. There were 49 transactions announced by hospitals and health systems last year, down significantly from the record low of 79 transactions in 2020. In prior years, the number of transactions was close to or exceeded 100.

NUMBER OF ANNOUNCED TRANSACTIONS, 2011-2021



Source: Kaufman, Hall & Associates, LLC

2021 M&A in Review: A New Phase in Healthcare Partnerships. <https://bit.ly/3FFiKww>