DREHER TOMKIES LLP

ALERT

FOR CLIENTS AND FRIENDS OF DREHER TOMKIES LLP

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CFPB SAYS NEW VA MEDICAL DEBT REPORTING RULE IS FUTURE INDUSTRY STANDARD

The U.S. Department of Veterans Affairs ("VA") has published a final rule amending the VA's procedures for reporting debt to consumer reporting agencies. Under the final rule, the VA will only report a delinquent debt owed to the VA if it meets three criteria: (i) the VA has exhausted all available collection efforts, including enforced collection; (ii) the debt is not owed by an individual who is determined by VA to be catastrophically disabled or has reported to VA a gross household income below the threshold for cost-free health care; and (iii) the outstanding debt is over $25. Through this new rule, the VA expects a 99% reduction in adversely reported debt.

The Consumer Financial Protection Bureau ("CFPB") has touted the new rule as a future standard for medical debt reporting. "This action by the Department of Veterans Affairs sets an important new standard to halt the financial distress many families face when medical debt unfairly hits their credit report," said CFPB Director Rohit Chopra in a press release announcing the new rule. Director Chopra continued, "I expect that many in the health care industry will seek to follow Secretary [of Veterans Affairs] McDonough's lead to end the practice of forcing patients to pay up through aggressive credit report coercion." The CFPB later put out its own press release that touted the VA rule as "a clear and important precedent for the health care industry." The CFPB has come out against consumer credit reports including medical debt before, finding that medical debt is by its nature not a good predictor of future creditworthiness.

The CFPB's characterization of the VA's action as a "precedent for the health care industry" and Director Chopra's reference to the VA's action "as an important new standard" suggests that health care providers or their collectors should review their procedures regarding medical debt. Those that report medical debt before exhausting available collection efforts could be targeted by the CFPB under its authority to address unfair, deceptive and abusive acts and practices. ❑

✧ *Mike Tomkies and Ben Hurford*

Darrell L. Dreher
ddreher@dltlaw.com

Elizabeth L. Anstaett
eanstaett@dltlaw.com

Nathan D. Copeland
ncopeland@dltlaw.com

Susan L. Ostrander
sostrander@dltlaw.com

2750 HUNTINGTON CENTER
41 S. HIGH STREET
COLUMBUS, OHIO 43215
TELEPHONE: (614) 628-8000 FACSIMILE: (614) 628-1600
WWW.DLTLAW.COM

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Michael C. Tomkies
mtomkies@dltlaw.com

Benjamin J. Hurford
bhurford@dltlaw.com

Mercedes C. Ramsey
mramsey@dltlaw.com

Judith M. Scheiderer
jscheiderer@dltlaw.com

Robin R. De Leo
robin@deher-la.com