DREHER TOMKIES LLP

ALERT

FOR CLIENTS AND FRIENDS OF DREHER TOMKIES LLP

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CFPB PUBLISHES REPORT ON MEDICAL CREDIT CARDS, HINTING AT MORE ATTENTION IN THE FUTURE

On May 4, the Consumer Financial Protection Bureau ("CFPB") published a report on medical credit cards and installment loans, highlighting the Bureau's continued interest in the effect of medical debt on consumers. *See* our ALERTS of Feb. 15, 2022 and March 22, 2022. The report briefly details the history of medical credit cards and loans and highlights the problems and consumer risks the CFPB believes to be inherent in such specialty financing products, such as the expanded uses of medical credit cards and "confusing" product structures and advertising.

According to the CFPB, specialty financing (via medical credit cards or installment loans from finance companies) has shifted from being used almost exclusive for elective procedures to being used to pay for basic medical or emergency treatment. Relatedly, the financing companies behind medical credit cards and loans are marketing those products through healthcare providers, who hold a position of trust with patients. The combination of marketing from a person in position of trust and the increased use of medical credit cards has drawn the focus of the CFPB, which argues that medical credit cards and loans increase the financial burden on patients who may pay more than they otherwise would pay for medical services if financial assistance, charity care, insurance claims, low to no-cost payment plans or negotiated medical fees and costs were pursued.

The report notes that, generally, the cost of healthcare has increased in the last two decades, which has led to consumers seeking out alternative financing to cover the difference in cost. While previously, according to the CFPB, medical procedures could be financed by no-cost or low cost payment plans offered by the healthcare provider, now, medical credit cards and loans have become more desirable options for providers because they reduce or avoid billing and collection costs that providers would otherwise be obligated to cover themselves. However, the CFPB reports receiving consumer complaints alleging that the healthcare providers marketing such specialty financing options know little about the product they are advertising and may not fully disclose the terms and conditions of financing to their patients, causing confusion for consumers in a potentially vulnerable position.

The CFPB specifically singles out deferred interest as a term that surprises consumers, who complain that they were not adequately informed that interest would be charged on the full purchase amount if the balance was not paid within the promotional period. According to responses from a CFPB information request on deferred interest, 76% of overall healthcare purchases with deferred interest were paid off during the promotional period. Payoff rates were lower for consumers with near-prime (70%) and subprime (69%) credit. If a consumer does not pay off the debt within the promotional period, argues the CFPB, they may be subject to higher costs, as the typical APR for a medical credit card is 26.99% while the mean APR for all general purpose credit cards is 16%. Thus, the 20% of consumers who do not pay off their medical credit card or loan within the promotional period may be subject to higher-cost credit.

The report's focus on the cost of credit and the potential confusion associated with deferred interest is not new. These themes are common throughout the CFPB's agenda, from its focus on "junk fees" to its reimagined credit card survey. By explicitly extending these concerns into medical credit cards and loans, the CFPB identifies an area in which it may take a particular interest moving forward. The report states that the CFPB will continue to look at (i) how medical credit cards and loans are marketed to providers, (ii) the reach of such products and (iii) how the use of such products, particularly for patients with limited access to credit, impacts patient's finances and health outcomes.

Despite the CFPB's increased attention on such products, special purpose medical credit cards and installment loans, when properly structured and disclosed, remain an important tool that help consumers finance medical procedures that they may otherwise find difficult to finance. As the CFPB notes, the cost of healthcare is increasing and alternative methods of payment are a necessary consequence of the increased cost. We can advise on how to properly structure and disclose medical credit cards, loans and deferred interest promotions, and will continue to monitor the CFPB's action in this space. ❑

✧ *Mike Tomkies and Mercedes Ramsey*

Darrell L. Dreher
ddreher@dltlaw.com

Elizabeth L. Anstaett
eanstaett@dltlaw.com

Mercedes C. Ramsey
mramsey@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

Michael C. Tomkies
mtomkies@dltlaw.com

Judith M. Scheiderer
jscheiderer@dltlaw.com

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