



April 24, 2023

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Via email only: 2023-009_ConsumerCreditCardMarketRFI@cfpb.gov

**Re: Request for Information Regarding Consumer Credit Card Market
Docket No. CFPB-2023-0009**

Dear Director Chopra:

Thank you for the opportunity to submit comments regarding the consumer credit card market. We write to express our concerns with the use of deferred interest credit cards by medical and dental patients.

Community Catalyst is a leading non-profit national health advocacy organization dedicated to advancing a movement for health equity and justice. We partner with local, state, and national advocates to leverage and build power so all people can influence decisions that affect their health. Health systems will not be accountable to people without a fully engaged and organized community voice. That's why we work every day to ensure people's interests are represented wherever important decisions about health and health care are made: in communities, state houses, and on Capitol Hill.

We appreciate the CFPB's work to highlight the risks of deferred interest credit cards and the inherent difficulties in adequately disclosing the key terms of these cards. Ultimately, however, the CFPB's individual enforcement actions and requests for voluntary change by the credit industry have been inadequate to protect medical and dental patients who use deferred interest products to pay for care. **We respectfully request that the CFPB prohibit the promotion and offering of deferred interest credit cards in health care settings.**

Background

In 2009, Congress passed the Credit Card, Accountability, Responsibility and Disclosures (CARD) Act in order to "establish fair and transparent practices relating to the extension of credit."¹ As the CFPB has acknowledged, "Deferred interest products...remain the most glaring exception to the

¹ Pub. L. 111-24.

general post-CARD Act trend toward upfront credit pricing.”² Many financially vulnerable medical and dental patients are harmed by these products.

Deferred interest credit cards advertise “no interest” or “0% interest” for a specified period, often 12 or 18 months. If the full balance is paid off during the specified period, no interest is charged. If *any* balance remains after this period, however, interest is charged retroactively to the date of the purchase – including interest on amounts already paid. For instance, if a patient makes a \$2,500 purchase using a one-year 24% deferred interest credit card, then pays off all but \$100 by the end of the year, the lender will retroactively charge nearly \$400 interest on the entire purchase.³

We explain below how deferred interest credit cards harm medical and dental patients, particularly patients who are already financially vulnerable.

I. Terms of Credit Card Agreements and Practices of Credit Card Issuers

a. What practices of credit card issuers may uniquely affect special populations?

i. Deferred interest credit cards worsen the impact of medical debt, particularly for the most financially vulnerable patients.

Many medical and dental providers offer patients deferred interest credit cards to pay for care. These products are risky for patients without savings. For such patients, an unexpected job loss or health care expense can prevent them from paying off the balance on their deferred interest credit card before the end of the promotional period – resulting in a vicious cycle of significant interest charges and even higher levels of debt. In sum, deferred interest credit cards can increase the level of debt for financially vulnerable patients.

Medical and dental patients who cannot pay off the full balance before the end of the promotional period are worse off than if they had used a different credit product. This is because the interest rate on deferred interest credit cards is significantly higher than the interest rate on standard general purpose credit cards. For instance, one of the leading medical and dental credit cards, CareCredit, has an interest rate of 26.99% on its deferred interest cards, compared to the average credit card rate of 16.27%.⁴

Moreover, health and dental care are often not optional purchases. As the CFPB has recognized, “Unlike many other consumer debts, people rarely plan to take on medical debt.”⁵ Dental

² CFPB, “Consumer Credit Card Market Report,” at 10 (December 2015).

³ National Consumer Law Center, “Deceptive Bargain: The Hidden Time Bomb of Deferred Interest Cards,” at 1, December 2015.

⁴ Letter from Senators Elizabeth Warren, Edward Markey, et al. to Synchrony Financial and Wells Fargo, Dec. 29, 2022.

⁵ CFPB, “Medical Debt Burden in the United States,” at 3, February 2022.

care is also a major source of debt. For example, about 76.5 million adults do not have dental insurance,⁶ and cost barriers to dental care are significant.⁷ Medical and dental patients should not be offered risky promotional financing to obtain the care they need.

Ultimately, the high interest rates and retroactive interest charges on deferred interest cards are worsening the impact of medical and dental debt. Indeed, a recent analysis of bankruptcy filings in Oregon found that CareCredit was the largest holder of medical debt in the state.⁸ Medical and dental debt is already widespread in the United States, affecting around 41 percent of U.S. adults.⁹ For patients who are already behind on their medical and dental bills, the high interest rates and retroactive interest charges from deferred interest credit cards only worsen their financial difficulties.

The use of deferred interest cards to pay medical and dental bills is also likely to exacerbate existing inequalities in this country. As the CFPB has recognized, Black and Latino adults are more likely to carry medical debt than white adults.¹⁰ Further, Black and Latino households also have, on average, significantly less wealth than white households,¹¹ making it more difficult to pay bills when they experience unforeseen financial difficulties, such as medical expenses or job loss.

Notably, the CFPB has recognized the risks of deferred interest cards for financially vulnerable consumers:

Consumers with urgent needs but limited cash flow may be attracted to these offers precisely because the deferral of interest charges can mean lower monthly minimum payments during the promotional period. For such consumers, however, the size of the accrued interest charges that result from failing to repay the promotional balance in full during the promotional period may create a significant post-promotional risk of default...

⁶ CareQuest Institute for Oral Health, A Snapshot of the 76.5 Million Americans Without Dental Insurance, Sept. 2021, https://www.carequest.org/system/files/CareQuest_Institute_A%20Snapshot%20of%20the%2076.5%20Million%20Americans%20Without%20Dental%20Insurance_Visual%20Report.pdf.

⁷ American Dental Association Health Policy Institute, “Cost Barriers to Dental Care Among the U.S. Population, by Race and Ethnicity,” 2021, https://www.ada.org/-/media/project/ada-organization/ada/ada-org/files/resources/research/hpi/hpigraphic_0421_3.pdf?rev=413e25b4271940139d303e02b6bdf78&hash=A314EDFAD1AD7B409D471C6C5E33BC5E.

⁸ Oregon State Public Interest Research Group (OSPIRG), “Unhealthy Debt,” at 13, Fall 2021, https://publicinterestnetwork.org/wp-content/uploads/2021/09/OSPIRG_Unhealthy-Debt-FINAL-1.pdf.

⁹ Kaiser Health News, “Diagnosis: Debt: 100 Million People in America Are Saddled with Health Care Debt,” June 16, 2022.

¹⁰ CFPB, “Medical Debt Burden in the United States,” at 3, February 2022.

¹¹ Federal Reserve Bank of St. Louis, “Racial and Ethnic Household Wealth Trends and Wealth Inequality,” Nov. 2022, <https://www.stlouisfed.org/institute-for-economic-equity/the-real-state-of-family-wealth/racial-and-ethnic-household-wealth#:~:text=This%20bar%20chart%20shows%20the,on%20average%2C%20than%20white%20families.>

Moreover, consumers who pay only the minimum payment during a deferred interest promotional period can end the promotional period with debt that exceeds the amount of the promotional purchase, even if the card has not been used for any other purchases.¹²

Patients who are already struggling to pay their medical or dental bills should not be subjected to significant and often unexpected retroactive interest charges. We urge the CFPB to protect financially vulnerable patients by prohibiting medical and dental providers from promoting and offering deferred interest credit cards to finance care.

ii. Patients may not realize the risks of these deferred interest products when they are offered in the office of a trusted health care provider.

Patients often do not recognize the risks of these credit products when they are offered in the office of their medical or dental provider. For instance, the government has long recognized: “[H]ealth care providers are in a position of trust and may exert undue influence when recommending health-care related items or services, particularly to their own patients.”¹³ Recently, some healthcare providers have expressed similar concerns about the marketing of deferred interest cards by physician offices, noting: “Patients are inherently influenced by the power dynamic in the physician-patient relationship and their need for care.”¹⁴

Notably, CareCredit encourages providers to aggressively promote its financing for *optional* procedures, even when patients express cost concerns. For example, CareCredit provides the following scripts for dental offices to promote clear aligners:¹⁵

¹² CFPB, “The Consumer Credit Card Market,” at 15, December 2015 (emphasis added).

¹³ Office of Inspector General (OIG) Advisory Opinion 02-12 at 11.

¹⁴ Park, Benjamin C. BS; Drolet, Brian C. MD., “CareCredit: Profiting off Medical Debt,” *Annals of Surgery* 277(2), e252-e253, February 2023.

¹⁵ <https://www.carecredit.com/providers/insights/scripts-resources-clear-aligners/>.

Presenting a Clear Aligner Promotion

OFFICE “Amanda, have you ever considered clear aligners to straighten your smile?”

PATIENT “No...well maybe a while ago. I’m not sure if I can afford it.”

OFFICE “Many of our patients have felt the same way until they found out about our convenient payment option. We are having an aligner promotion the week/month of X. Our schedule is filling up quickly, so let’s get a date and time reserved for you. Would X or X work best for you?”

New Patient Practice Tour

OFFICE “Mrs. Jones, thank you for completing your new patient forms. Doctor is running on time and it will be only a few minutes. I see here that you’re new to the area. Again, thank you for choosing our practice. We will work hard to make you feel at home here. I also see you indicated that you were only somewhat satisfied with the appearance of your smile. The Doctor will go over all of the ways we can help you have a healthy beautiful smile.”

PATIENT “I guess. But I’m not sure that’s something I’m interested in right now.”

OFFICE “I understand. We just want you to know what’s available to you, so you have all the information and can decide if and when it’s something you’d like to do. Is it okay for the Doctor to spend just a few minutes reviewing these treatments?”

We urge the CFPB to protect medical and dental patients by prohibiting the promotion and offering of deferred interest credit cards in health care settings.

b. How are the terms of, and practices related to, partnerships between credit card issuers and merchant partners evolving?

Synchrony Bank's CareCredit card is one of the most common deferred interest cards offered to medical and dental patients.¹⁶ Patients generally have two options for CareCredit cards: (1) deferred interest; and (2) monthly payments with a fixed Annual Percentage Rate (APR) interest.¹⁷ These comments address only deferred interest credit cards.

According to Synchrony Bank, the "vast majority" of CareCredit partners are independent healthcare providers.¹⁸ Synchrony Bank also partners with professional organizations like the American Dental Association, many of which are "paid endorsements linked to member enrollment in, and volume under, the relevant program."¹⁹ The terms of these paid endorsements are not public.

CareCredit offers an attractive financing solution for health and dental providers because it reimburses the provider within two days.²⁰ CareCredit assumes the full risk of the patient's delay or default in payment.²¹ In contrast, health care providers have traditionally offered long-term payment plans when patients cannot afford the cost of their treatment.²² These payment plans generally do not include interest, and the provider's office assumes the risk of the patient not paying the full cost for treatment already rendered.²³

One medical journal article recently described the CareCredit model as follows:

Physician offices and health care organizations that enter agreements with CareCredit present these [health care credit cards] to their patients and benefit from faster payments directly from CareCredit. For physicians frustrated with billing and collection, this may seem to be a good alternative. However, this turns health care into a marketplace for credit card sales, offering high-risk, credit-based financial solutions that harm many patients' financial well-being.²⁴

¹⁶ Letter from Sen. Elizabeth Warren, Edward Markey et al. to Synchrony Financial and Wells Fargo, at p. 2, Dec. 29, 2022.

¹⁷ <https://www.carecredit.com/providers/how-it-works/>.

¹⁸ SEC, Financial Form 10-K for Synchrony Bank for the fiscal year ending Dec. 31, 2022, https://synchronyannualreport.com/downloads/synchrony_2022_10k.pdf.

¹⁹ Synchrony Bank 10-K for the fiscal year ending Dec. 31, 2020, <https://www.sec.gov/ix?doc=/Archives/edgar/data/0001601712/000160171221000057/syf-20201231.htm>.

²⁰ <https://www.carecredit.com/providers/how-it-works/>.

²¹ *Id.*

²² Allison J. Zimmon, Rx for Costly Credit: Deferred Interest Medical Credit Cards Do More Harm Than Good, 35 B.C. J.L. & Soc. Just. 319, 326 (2015).

²³ *Id.*

²⁴ Park, Benjamin C. BS; Drolet, Brian C. MD., "CareCredit: Profiting off Medical Debt," *Annals of Surgery* 277(2), e252-e253, February 2023.

Recently, five U.S. Senators raised concerns about CareCredit financing of medical and dental treatments. The Senators noted that: (1) patients who use CareCredit may be paying the “chargemaster” rates for services (list prices that virtually no payor reimburses), rather than lower negotiated amounts; and (2) patients might be offered CareCredit financing even if they would otherwise qualify for charity care or financial assistance.²⁵ While CareCredit payments to providers are not public, it is certainly possible that providers have an incentive to steer patients to CareCredit cards rather than offering negotiated rates or financial assistance.

Medicaid patients may be at particular risk for being directed to CareCredit cards even when Medicaid would cover their treatment. Specifically, providers might prefer CareCredit payments to Medicaid reimbursement rates, which are “notably low.”²⁶ Indeed, news articles have documented cases of dentists in California steering Medicaid patients to CareCredit cards instead of submitting claims to Medicaid.²⁷ California responded by prohibiting health and dental providers from submitting applications for deferred interest credit cards on behalf of their patients.²⁸

To ensure consistent protections for patients across the country, federal action is necessary. We urge the CFPB to prohibit medical and dental providers from offering and promoting deferred interest credit cards in their offices.

II. The effectiveness of disclosure of terms, fees, and other expenses of credit card plans

a. How effective are current disclosures of rates, fees, and other cost terms of credit card accounts in conveying to consumers the costs of credit card plans?

Current disclosures concerning deferred interest credit cards for medical and dental services are not effective. Following are some recent examples of patients who did not understand the deferred interest terms when they signed up for these products at their medical or dental provider’s office.

I opened this account back in XXXX at my doctor 's office through their receptionist. The terms that the woman described when I opened the account and the actual terms were completely different....No one ever showed to me or told me that if I didn't pay off the full balance before the end of the deferred interest rate period, that

²⁵ Letter from Sen. Elizabeth Warren, Edward Markey et al. to Synchrony Financial and Wells Fargo, at p. 2, Dec. 29, 2022.

²⁶ Commonwealth Fund, “Medicaid Reimbursement Rates Are A Racial Justice Issue,” June 16, 2022.

²⁷ The Sacramento Bee, “Dental Patients Face Years of Debt, Inflated Bills with ‘Out-of-Pocket’ Credit Cards,” Dec. 9, 2019; *see also* Cal Matters, “Californians fall prey to high interest credit card loans while in exam chairs. Here’s a fix,” July 8, 2019.

²⁸ *Id.*

my percentage rate would go up an exorbitant rate; this is criminal and should not be allowed.

Case in point: my balance went up by {\$2600.00} on XX/XX/XXXX, and I never even purchased that amount of charges in XXXX...I called the Care Credit XXXX owned by Symphony Bank and they said these are valid interest charges... since I did not pay the entire balance before the special interest charge deferment period ended. Therefore, they added {\$2600.00} to my TOTAL BALANCE on XX/XX/XXXX saying that is what I owe now; which has made my minimum payment double and I am currently on unemployment since I lost my job in XXXX. THIS IS DECEPTIVE and wrong! I never agreed to this!! This terminology used by the doctor 's office is misleading, and when the receptionist opened my account, this stipulation on the interest free period was NEVER given to me or relayed to me; therefore, I had no idea about this until I received this huge bill all of a sudden from Care Credit....²⁹

I signed up for Synchrony 's CareCredit card at my XXXX XXXXs office in XX/XX/2020. It was marketed to me as the interest-free 24-month install payment that can help me afford XXXX XXXX for less than {\$100.00} a month. So I set up an automatic payment online as advised. Two years later this XXXX, I was charged over {\$1400.00} in interest. I called CareCredit and found out it was a deferred interest rate card. Even though I've made monthly automatic payments on my account, as long as I have any balance on my account by XXXX, I'd be charged a 26.99 % interest rate on the whole medical bill of {\$2700.00}.

As a consumer, I wasn't offered the opportunity to be educated about what a deferred interest rate means given this is not the most common credit card in the market. Synchrony's online account portal doesn't highlight the fact, nor does it make recommendations for monthly payments that could help customers avoid the hefty interest at the end of the period. The first option of the monthly payment that I opted for was the minimum payment starting at {\$85.00} a month. The monthly statement from the company also didn't highlight what it meant. When the so-called promotion ended, it didn't state so until the second page of the statement, after lots of ads. Not to mention their website is buggy and statements often failed to load. Email communications from the bank including all the ads, but no mention ever of the promotion period, deferred interest rate, or the ending of it.

Synchrony signed up most of their new customers through partners like my dental

²⁹ CFPB Complaint 6401464, received Jan. 5, 2023.

office, which are not always forthcoming to customers about the punitive interest rate policy and simply don't have incentives to do so because they want people to sign up for XXXX XXXX.³⁰

My own experience with Care Credit started at XXXX XXXX XXXX XXXX. The office manager described Care Credit as insurance and created an account for me on her computer....She simply wrote down my account number on a sticky note and said I had 24 months to pay off all charges. I knew nothing else about Care Credit nor its policies and XXXX DXXXX simply used my Care Credit account number that was stored on their computer each time I visited. I thought Care Credit was connected to XXXX XXXX somehow.

I recently was informed about Care Credits schemes. I called the company and, for the first time, was told that I had nearly {\$700.00} of interest that had accumulated within 4 months during COVID-19. The {\$700.00} interest was based on one {\$2000.00} charge. I called the XXXX XXXX office manager and she insisted that every charge had 24 months deferred interest as she told me in the beginning. However, she was wrong and Care Credit has forced me to pay high interest. The employees at medical offices are selling a product they know little about without fully disclosing the terms and conditions to their patients. Again, these activities should be illegal.³¹

These complaints are not outliers. Indeed, the CFPB has acknowledged that many consumers are surprised by the deferred interest charges:

The costs of deferred-interest financing are typically less transparent ...Those who fail to pay off the balance in full, for example those with even a very small balance carried past the promotional expiration date, can end up owing much more in interest than the remaining balance due. **We have received many consumer complaints from people who have found that they have incurred this unexpected charge.**³²

The CFPB has ample evidence that current disclosures on deferred interest terms are not effective. Moreover, the complexity of deferred interest calculations makes it difficult to formulate short and understandable disclosures for any consumers, particularly for patients who are in urgent need of medical or dental care. To prevent future medical and dental patients from incurring these

³⁰ CFPB Complaint 6098379, received Oct. 18, 2022.

³¹ CFPB Complaint 3949387, received Nov. 12, 2020.

³² CFPB, Letter to Credit Card Companies, June 8, 2017 (emphasis added), files.consumerfinance.gov/f/documents/Deferred_Interest_Letter.pdf.

unexpected interest charges, we urge the CFPB to prohibit the offering and promotion of deferred interest credit cards in health care settings.

III. The adequacy of protections against unfair, deceptive, or abusive acts or practices relating to credit card plans

a. With regard to any unfair, deceptive, or abusive acts and practices that exist in the credit card market, how might any such conduct be prevented and at what cost?

We appreciate the CFPB's attention to the risks of deferred interest credit cards. We respectfully find, however, that the CFPB's individual enforcement actions and requests for voluntary change have been inadequate to protect medical and dental patients from significant and unexpected interest charges on deferred interest credit cards.

i. A decade after the CFPB's settlement with GE CareCredit, medical and dental patients continue to be misled about the terms of these deferred interest cards.

In 2013, the CFPB announced a settlement with GE Capital Retail Bank and its subsidiary, CareCredit, to refund over one million health care consumers who were "victims of deceptive credit card enrollment tactics."³³ Significantly, the CFPB highlighted not just the specific practices at issue but also the inherent risks of deferred interest credit cards in medical and dental settings:

Medical debt is already a big problem for many Americans. Poor credit card transparency should not be making the problem even worse. **Deferred-interest products can be risky for consumers in the best of circumstances...**The Bureau will not tolerate financial companies that take advantage of patients and their loved ones.³⁴

Nearly a decade after this settlement, however, medical and dental patients continue to be enrolled in deferred interest CareCredit cards without understanding the risk of retroactive interest charges. The CFPB complaints quoted above demonstrate that further action is needed to protect medical and dental patients. We urge the CFPB to ban the promotion and offering of deferred interest credit cards in health care settings.

³³ CFPB, "CFPB Orders GE CareCredit to Refund \$34.1 Million for Deceptive Health-Care Credit Card Enrollment," Dec. 10, 2013.

³⁴ *Id.* (emphasis added).

ii. The credit industry has not responded to requests for voluntary elimination of deferred interest promotions.

The CFPB has requested that retailers eliminate deferred interest promotions, but this has not led to significant change. Specifically, in 2017, the CFPB suggested that retailers could voluntarily switch from deferred interest lending to 0% interest promotions, explaining:

Last month, a major U.S. retailer...decided to end deferred-interest promotions on its credit card program. Instead, the retailer will now offer its customers a 0% interest promotion, which is more transparent and carries less risk for consumers....We commend this decision and want to bring it to your attention.

[...]

Although altering these promotional terms only benefits consumers who fail to pay their promotional balances in full by the deadline at the end of the promotional period, it is precisely these consumers who are likely to be most at risk. Our research shows that this group of consumers includes a disproportionate number of people with lower credit scores. **It also may include consumers who experience an adverse economic shock, such as an unexpected medical bill or job loss.** This change in promotional terms may assist customers who do not understand the full costs of failing to pay the deferred-interest promotional balances and make it easier for them to repay their debts following financial hardship.³⁵

Despite the CFPB's request for voluntary change, the use of deferred interest products may be increasing in the medical and dental care market. For instance, Synchrony Bank announced that the CareCredit network included over 266,000 locations in 2022.³⁶ Dental providers accounted for 53 percent of the fees and interest on loans in Synchrony Bank's Health and Wellness line.³⁷

Conclusion

We urge the CFPB to prohibit medical and dental providers from promoting and offering deferred interest credit cards to their patients. Deferred-interest credit cards particularly harm low-income patients and those who experience unexpected financial setbacks that prevent them from paying off the balance before the end of the promotional period. Moreover, medical and dental

³⁵ CFPB, Letter to Credit Card Companies, at 1 and 3, June 8, 2017 (emphasis added), files.consumerfinance.gov/f/documents/Deferred_Interest_Letter.pdf.

³⁶ Synchrony Bank 10-K for the fiscal year ending Dec. 31, 2022. Again, please note that CareCredit cards include both deferred interest credit cards and other credit cards that do not include deferred interest terms. Further, CareCredit cards can be used for "health and wellness" purchases other than medical or dental care, such as veterinary care.

³⁷ *Id.*



providers should not market complex financial products to their patients. We respectfully request that the CFPB prohibit the offering and promotion of deferred interest credit cards in these settings.

Thank you for your consideration of these comments. If you have any questions, please feel contact Mona Shah at mshah@communitycatalyst.org.

Sincerely,

A handwritten signature in cursive script that reads "Mona Shah".

Mona Shah
Senior Director of Policy and Strategy
Community Catalyst