United States Senate

WASHINGTON, DC 20510

December 19, 2013

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580

Dear Chairwoman Ramirez:

We are writing to respectfully request the Federal Trade Commission's (FTC) review of financing companies and health care providers who may be utilizing unfair or deceptive practices to persuade consumers to sign up for medical credit cards, loans or other financial products to pay for expensive medical procedures not covered by health insurance. We encourage the Commission to investigate these practices and, where appropriate, take action to protect consumers.

As indicated in a recent *New York Times* article[1], several financial products on the market, including medical credit cards and medical loans, have high interest rates and questionable financing terms that disadvantage consumers. These products are typically offered to consumers by their physicians or health care providers immediately following or in anticipation of expensive medical care. In an example cited in the *New York Times* report, a dentist who marketed a medical loan to his patient was paid in full immediately as a result of the patient's use of the credit line, while the patient was charged a 23% annual interest rate (or 33% if she missed a payment) by the financial company issuing the loan. This same patient was then directed to obtain a secondary form of financing, a medical credit card, to cover the costs of additional dental work she required. Her monthly payments for these various financial products now add up to one third of her monthly Social Security benefits.

Consumers use these medical financial products and services to pay for medical procedures ranging from elective cosmetic surgeries to necessary and life-saving medical treatments. Others consumers have used these financing instruments for services like veterinary care. The entities offering the product or service are typically a trusted practitioner or health care facility. In many cases, the financial products are tied to deferred interest plans, meaning that if payments are late or if the debt is not paid in full by the due date, high interest rates are retroactively applied to the patient's original balances, rather than to the amount still owed. The interest on deferred plans is typically substantially higher than the rate on standard general purpose credit cards.

Some financial service companies also appear to provide payments, rebates or other economic incentives to medical providers based on the use of these medical financing products

[1]Jessica Silver-Greenberg, October 13, 2013 'Patients Mired in Costly Credit From Doctors', *The New York Times*.

by their patients, providing incentives for these providers to get patients to sign up for these products.[2] It is unclear whether patients are made aware of this financial relationship prior to agreeing to the terms of the financial product or whether consumers fully understand that they are entering into an agreement with a third party lender.

We are concerned that rather than alleviating the pressure of medical costs, some of the products available in the current market may actually drive consumers further into debt. The consumers targeted for these financial products may be in vulnerable positions: patients who are in pain or seriously ill but without the financial resources to pay for care; underinsured or uninsured patients; and seniors. Predatory health care lending practices could exacerbate the problem of medical debt and bankruptcy, misleading consumers into signing up for health care credit cards or other medical financing arrangements that they may not need or whose terms they do not fully understand. The Consumer Financial Protection Bureau (CFPB) has recently expressed concern that consumers preparing to pay for medical care "may not be given accurate or complete information about these cards when they sign up at their medical provider's office"[3]

The havoc that medical debt wreaks on consumers is devastating and long-lasting. *The American Journal of Medicine* published an updated national survey in 2009 of bankruptcy filings, which found that illness or medical bills contributed to a staggering 62 percent of all bankruptcies.[4] In a growing number of cases, medical debt is the driving force behind the decision to file for personal bankruptcy. A recent analysis of data at a major credit-counseling agency conducted by the *New York Times* found that nearly 20 percent of individuals seeking financial counseling "cited medical debt as the primary cause of their decision to seek bankruptcy protection."[5]

As medical debt continues to place a heavy burden on millions of Americans, it is imperative that financial products being offered as seemingly quick fixes to cover the costs of medical procedures are not unfairly or deceptively affecting consumers. Accordingly, we believe an investigátion of the claims made by these companies would fall within the Federal Trade Commission's (FTC) mandate as stipulated in Section 5 of the Federal Trade Commission Act (FTCA) with respect to protecting Americans from "unfair or deceptive acts or practices in or affecting commerce." In turn, we request the agency's analysis and response to the following questions:

1. Has the Commission received complaints from consumers regarding medical financial products? If so, please describe the nature of these complaints including the type of product and any action the Commission took relating to such complaints.

---

[2] Attorney General Cuomo Launches Industry-wide Investigation Into Predatory Health Care Lending That Is Pushing Consumers Nationwide Into Debt http://www.ag.ny.gov/press-release/attorney-general-cuomo-launches-industry-wide-investigation-predatory-health-care

[3] November 18, 2013 letter from CFPB Director Richard Cordray to Senator Edward J. Markey

[4] Himmelstein, David U., Deborah Thorne, Elizabeth Warren, and Steffie Woolhandler. "Medical Bankruptcy in the United States, 2007: Results of a National Study." *The American Journal of Medicine* 122.8 (2009): 741-46. Print.

[5] Carrns, Ann. "Medical Debt Cited More Often in Bankruptcies." *The New York Times* [New York] 18 Aug. 2011: Print.

2. Please describe any research, investigations or closed enforcement actions taken by the Commission related to medical credit cards, loans or other financial products over the last 5 years.

3. Has the Commission reviewed any scripts or training information provided to health care providers who offer these products? Does the Commission believe that the information provided to consumers when offered these medical financial products should be sufficient to ensure that consumers can understand the repayment terms, fees, and general nature of these financial products? What measures should financial institutions and lenders take to improve the clarity and transparency of the terms surrounding these financial products?

4. Has the Commission been made aware of cases in which medical providers receive any financial incentives or other benefits for encouraging patients to sign up for these medical financial products? Do these benefits change based on the amount their patients charge on their medical credit cards or on balances held on those accounts?

5. Under the terms of the Stark Law (42 U.S.C. § 1395nn), physicians are not allowed to refer customers to an entity for health services in which the physician has an ownership interest (or cannot do so absent notification in some circumstances). This prohibition exists so that physicians may not directly profit from their own referrals. Does the Commission have information indicating that medical professionals may be referring patients to specific third-party financing entities in which the medical professional stands to profit from such referral? If so, please provide this information. If not, we hope that the Commission will examine this further.

We appreciate the Commission's assistance and cooperation in this matter and the agency's goal of protecting consumers and curbing predatory business practices. We request that you respond to this letter by February 7, 2014 and provide us with periodic updates on any Commission actions taken before or after this date.

Sincerely,

Edward J. Markey
Edward J. Markey
United States Senator

Bernard Sanders
Bernard Sanders
United States Senator

Bill Nelson
Bill Nelson
United States Senator