



CENTER FOR SURVIVOR AGENCY & JUSTICE

The National Consumer Assistance Plan

A settlement agreement with Credit Reporting Agencies offers relief to survivors of domestic violence

Overview

On March 9, 2015, the three national Credit Reporting Agencies (CRAs) – Experian, Equifax, and TransUnion – launched the National Consumer Assistance Plan in response to an investigation conducted by the Office of the Attorney General of the State of New York.ⁱ The investigation arose primarily from concerns regarding credit report accuracy and the effect of medical debt on consumer credit scores. The National Consumer Assistance Plan (the Plan) aims to improve data accuracy and quality; enhance the efficiency of procedures for resolving credit report errors; and increase education on consumers' rights. The Plan will launch in three phases over the course of three years and ninety days.ⁱⁱ Several provisions may offer some relief for domestic violence survivors who are facing credit issues as a result of coerced debt and economic abuse.

Background

Credit Issues Facing Survivors of Domestic Violence

Many survivors of domestic violence find themselves left with consumer debt and poor credit histories as the result of their partner's abuse. Oftentimes, abusers use the consumer credit system to control or sabotage their partners through coerced debt.ⁱⁱⁱ Coerced debt results when an abusive partner engages in behaviors such as: opening credit cards in the survivor's name, coercing them to take out loans or sign over titles, or forcing a survivor to pay for a significant or entire portion of joint financial responsibilities (such as rent, mortgage, or car payments). By incurring debt in the survivor's name through fraud or force, abusive partners assert financial control in the relationship, destroying their partner's credit and creating enormous barriers to economic stability and long-term safety.^{iv}

An Advocacy
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Reporting & Repair
for Survivors](#)



Background (continued)

Credit scores are required to access everything from housing, to utilities, to insurance, to employment; thus, coerced debt not only damages survivors' credit histories and scores, but creates long-term barriers to financial security and safety.^v Despite the distinct impact of coerced debt on the creditworthiness of survivors, the consumer credit system currently lacks any specialized procedure to ensure accuracy in reporting credit of domestic violence survivors.^{vi}

Credit Reporting Agencies (CRAs)

The CRAs maintain consumer credit information on over 200 million people by compiling the data through data furnishers, such as creditors and collection agencies. The CRAs then provide credit reports to creditors by attaching credit information to consumers' credit reports. The Plan aims to improve the accuracy of credit report data, reduce challenges relating to medical debt collections, and enhance the dispute process.

Errors in Credit Reporting

The collection of credit data is an automated process that often results in inaccuracies on consumer credit reports. The credit report is built by employing algorithms, which do not require an exact match between credit data and a consumer's information before merging the files.^{vii} As a result of mismerged files, credit reports may contain inaccuracies with potentially negative effects on consumers' credit scores. In 2012, the Federal Trade Commission determined that "26% of study participants identified at least one potentially material error in their credit reports," and 13% of participants experienced a change in credit score after successfully disputing an error.^{viii}

Medical debt also raises concerns about the quality of consumers' credit reports. While nearly one in five credit reports contain at least one medical debt

collection item,^{ix} research shows that such data often provides little insight into a consumer's creditworthiness.^x Medical debt differs from other types of consumer debt in two major ways. First, medical debt often arises from services that are involuntary, unplanned, unpredictable, and for which prices are rarely provided.^{xi} Second, medical debt may result from disputes or delays in payment related to inefficient insurance-claims systems,^{xii} which take 13 days on average to respond to a claim.^{xiii} Nonetheless, medical debt is currently attached to credit reports as soon as medical providers forward the bill to collection agencies.

Disputing Credit Report Errors

To dispute an error, consumers must file a complaint through a largely automated process that is both time-consuming^{xiv} and often unsuccessful.^{xv} The CRAs forward the consumer's complaint to involved collection agencies, who independently review the dispute. A filed complaint lasts only 90 days so survivors need to monitor the process and update the complaint as needed. If a consumer is unsuccessful in disputing an error, they have the right to file a statement of dispute, which a creditor may not see or consider.

Impact of Credit Reporting Procedures on Survivors

Credit reporting procedures present unique challenges to survivors of domestic violence. Requesting credit reports raises privacy concerns, because CRAs require survivors to reveal personal information (such as current address and place of employment) before obtaining a report. Additionally, because a single incident of domestic violence on average costs \$391 for healthcare services, survivors often accumulate significant amounts of medical debt that damage their credit histories.^{xvi} Damaged credit histories carries collateral damage, resulting in long-term barriers to establishing financial security and safety for domestic violence survivors.



Key Provisions

The Plan will extend consumer protections to survivors through the following terms and obligations:

1

Data Accuracy and Quality

- The Plan prohibits data furnishers from reporting debts that do not arise from a contract or agreement to pay (including tickets and certain fines) and institutes a process to remove such data from consumer credit reports.
- To allow consumers time to resolve medical insurance and billing issues, the Plan mandates a 180-day waiting period before a creditor may report medical debt.
- The CRAs will institute a process for eliminating medical collections from credit reports when insurance pays the debt.
- The CRAs will enhance the accuracy of consumer credit reports by implementing guidelines and minimum standards for data collection and reporting.

2

The Dispute Process

- The CRAs may not require consumers to obtain current reports and identification numbers before disputing the accuracy of their files.
- Each CRA (Experian, Equifax, and TransUnion) must implement a process for sharing dispute outcomes and consumer information with each other to improve data accuracy.
- To enhance communication with consumers, the CRAs will provide consumers with a notice that contains standard information relating to the consumer's reinvestigation and post-dispute options.
- Consumers are entitled to a second free annual credit report, upon request, after filing a dispute.

3

Educational Campaign

- CRAs update and enhance AnnualCreditReport.com to improve consumers' understanding of credit reports, the dispute process, fraud and identity theft, and options for those dissatisfied with their reinvestigation results.
- The CRAs must launch a three-year educational campaign to inform consumers about (a) the right to obtain a free annual credit report from **each** CRA (meaning consumers can obtain three free reports per year, one from each CRA); (b) the right to dispute inaccurate information on a credit file; and (c) the right to submit supporting documentation in support of disputes.

4

Furnisher Monitoring

- The CRAs will develop the National Credit Reporting Working Group to establish best practices for data furnishes, establish data quality metrics, and share information to identify further initiatives.
- The CRAs will take corrective action against creditors that fail to comply.

5

Consumer Complaints

- Each CRA will designate a department within its company to assist in promptly responding to consumer complaints.



Implications for Survivors of Domestic Violence

Advocacy Strategies to Repair Survivors' Credit

As The Plan is implemented, first contact your local Attorney General to find out if they have signed on with the National Consumer Assistance Plan. If they have not, encourage them to do so citing the impact of credit reporting on survivors. Attorney Generals will be an important enforcer of The Plan. Changes to the *Dispute Process* and *Medical Debt Reporting* are two major areas that will have a positive impact on survivors and advocacy efforts.

The Dispute Process:

The Plan may ease some barriers that survivors face through an improved dispute process, which expands consumers' access to their credit reports and mitigates the negative impact of certain debts. Provisions to improve the credit report dispute process include the following:

- Complaints involving fraud and identity theft will qualify for escalated handling. This includes the involvement of specialized representatives in processing and reviewing the disputes.
- A National Credit Reporting Working Group will be convened to establish best practices related to fraud and identity theft.
- CRAs may not require consumers to request a credit report prior to filing a complaint. This change allows domestic violence survivors to avoid having to disclose their locations in order to dispute an error.

Strategies for assisting survivors with the dispute process:

- 1) Assist survivors in the credit report dispute process. Discuss options for safely, obtaining documentation regarding the dispute. Provide sample dispute letters and walk through the process with survivors.
- 2) To increase survivors' access to credit reports, programs can:

- a. Partner with local banking institutions that can pull survivor's credit reports at low or no cost, called a "soft pull". Banking institutions may also have the ability to pull credit reports without including a survivor's current address. Local banks or credit unions may be more open to partnership than large financial institutions. There are a number of financial coaching or education nonprofits, such as The Financial Clinic in New York City, that offer soft credit pulls.
- b. Seek funding to provide survivors with credit reports beyond the free one per CRA annually.
- c. Encourage survivors who have experienced debt coercion but have no known credit reporting errors to spread out receiving a free credit report from each CRA. For example, order a report from Experian in January, Equifax in May, and Transunion in September.

- 3) Review credit reports for debts that did not arise from a contract or agreement to pay (including certain fines and traffic tickets) as the Plan prohibits data furnishers from reporting such debts. Report them for removal from the survivor's report if this occurs.
- 4) Inform survivors of their rights during the dispute process, including that the Plan entitles them to a second free report from each CRA after disputing an error. Check that the error is resolved on all three CRAs.
- 5) Watch for trends in the dispute process on CRAs and alert your state's attorney general if CRAs are not complying with the Plan.

Medical Debt Reporting:

The Plan's changes to medical debt collection may provide relief to survivors. On average, women survivors of domestic violence incur more than twice the amount of health care costs than women who have not experienced abuse.^{xvii} Establishing a 180-day period before attaching medical debt to a credit report allows time to resolve payment issues.



Implications for Survivors of Domestic Violence (Continued)

Strategies for handling medical debts:

- 1) Encourage survivors to contact their insurance providers to understand their financial obligations for medical bills and resolve any payment disputes.
- 2) For some medical expenses caused by IPV, survivors may utilize crime victim's compensation funds, which can be a slow process. Provide information on your state's victim compensation fund for survivor's dealing with medical injuries as a result of abuse.
- 3) Prioritize debts in accordance with the medical debt timeline. For example, a survivor may still need to focus on paying off medical debts, but given the 180-day extension may choose to focus on paying off other debts first.
- 4) The Plan and CRAs will be monitored throughout implementation of the settlement. Though CRAs are supposed to remove all medical debt once The Plan is implemented to conform to the 180-day wait period, they will likely overlook or be slow to implement.

Assist survivors to:

- a. Check and review reports to be sure any medical debt is removed if it appeared on the report within 180 days of the bill.
 - b. If you see debt less than 180 days old, or medical debt that is being paid by insurance, contact the CRAs to remove the debt.
 - c. If they still do not remove the debt, contact your state Attorney General who is monitoring implementation.
- 5) Watch for trends in medical debt on CRAs and alert your state's attorney general if CRAs are not complying with the Plan.

Remaining Gaps

While the Plan greatly enhance data accuracy and the dispute process, significant gaps remain for consumers who are domestic violence survivors. For example, the Plan still refers complaints to the creditor associated with the disputed item, offering no protections related to the disclosure of the survivor's current contact information.^{xviii} Moreover, the Plan does not provide any procedures for addressing coerced debt or blocking fraudulent transactions resulting from financial abuse. Nonetheless, advocates should contact their local attorneys general to find out if they have signed on with the Plan and urge them to consider the specific protections it will offer to domestic violence survivors. Documenting survivor experiences and trends in continued barriers to dispute errors and remove certain debts will be key to advancing systems changes to credit reporting.

Conclusion

Today, access to housing, employment, utilities, and even a cell phone requires good credit. Domestic violence survivors, who have coerced debt and other forms of damaged credit, are often left to navigate a burdensome and inaccurate credit reporting system, which presents challenges to their long-term safety. The National Consumer Assistance Plan acknowledges and addresses many current deficiencies in credit reporting. The provisions that address data accuracy, limit the reporting of medical debt, improve the dispute process, as well as require communication and transparency from the CRAs remove many credit barriers. Furthermore, The Plan provides pathways to advance systems changes that better meet the unique economic needs of domestic violence survivors that are inextricably linked to their long term safety and economic security.



Additional Resources

For a general overview of survivor centered advocacy and tools to enhance economic security, see:

For in-depth training and resources on credit reporting and repair for survivors, see:

For advocacy strategies to address barriers to employment that can be adapted to the credit check context, see:

- [Building Partnerships to Enhance Consumer Rights for Domestic Violence Survivors: An Assessment and Resource Tool for Attorneys and Advocates](#)
- [Consumer Rights Screening Tool for Domestic Violence Advocates and Lawyers](#)
- [Webinar: Credit Reporting & Repair for Survivors](#)
- [Debt Collection Agent Form Letter Template](#)
- [Webinar: Credit Checks: An Illegitimate Barrier to Employment for Survivors](#)
- [Other Consumer Practice Webinars](#)
- [Criminal Records & Employment Rights: A Tool for Advocates Working with Domestic Violence Survivors](#)
- [Criminal Records & Employment Rights: A Tool for Survivors of Domestic Violence](#)

References

ⁱ Settlement Agreement, *In the Matter of the Investigation by Eric T. Schneiderman, Attorney General of the State of New York, of Experian Information Solutions, Inc.; Equifax Information Services, LLC; and TransUnion LLC*, 6–8 (March 8, 2015), <http://www.ag.ny.gov/pdfs/CRA%20Agreement%20Fully%20Executed%203.8.15.pdf>

ⁱⁱ *Id.* at 9.

ⁱⁱⁱ Angela Littwin, *Coerced Debt: The Role of Consumer Credit in Domestic Violence*, 100 *Calif.L.Rev.* 951, 954 (2012).

^{iv} *Id.*

^v *Id.* at 1000–01.

^{vi} *Id.* at 1007.

^{vii} Settlement Agreement, at 5.

^{viii} Federal Trade Commission, *Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003*, at 2 (Dec. 2012).

^{ix} Consumer Financial Protection Bureau, *A Study of Medical and Non-medical Collections*, at 5 (Dec. 2014).

^x Consumer Financial Protection Bureau, *Medical Debt and Credit Scores*, at 16 (May 2014).

^{xi} Chi Chi Wu, *Strong Medicine Needed: What the CFPB Should Do to Protect Consumers from Unfair Collection and Reporting of Medical Debt*, at 4 (Sept. 2014).

^{xii} *Id.* at 5; see also Mark Rukavina, *Symposium: Medical Debt and Its Relevance When Assessing Creditworthiness*, 46 *Suffolk U. L. Rev.* 967, 969 (2013).

^{xiii} See Press Release, Am. Med. Ass'n, *New AMA Health Insurer Report Card Finds Need For More Accuracy* (June 14, 2010), <http://www.ama-assn.org/ama/pub/news/news/2010-report-card.page>.

^{xiv} Angela Littwin, *Escaping Battered Credit: A Proposal for Repairing Credit Reports Damaged by Domestic Violence*, 161 *U. Pa. L. Rev.* 363, 384 (2013).

^{xv} *Id.* at 6.

^{xvi} Ted R. Miller et al., National Inst. of Justice, *Victim Costs and Consequences: A New Look*, at 9 (1996).

^{xvii} Amy E. Bonomi et al., *Health Care Utilization and Costs Associated with Physical and Nonphysical-Only Intimate Partner Violence*, 1052–67, (June 2009).

^{xviii} *Id.* at 1004.



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