



July 26, 2021

Alex Hart
Senior Insurance Regulatory Policy Analyst
Room 1410 MT
Department of the Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

Submitted electronically

Re: Consumer and Community Organizations' Response to Federal Insurance Office *Request for Information: Monitoring the Availability and Affordability of Auto Insurance: Assessing Potential Evolution of the Auto Insurance Market*

Dear Mr. Hart:

On behalf of Consumer Reports¹, I am writing to submit the following comments in response to the Federal Insurance Office (FIO)'s request for information (RFI) concerning the updating of the 2017 FIO Auto Insurance Affordability Study and other research topics and methodologies for FIO to consider regarding auto insurance affordability and availability.

As you note in the RFI, all U.S. states except for New Hampshire require a driver or owner of a motor vehicle to have auto liability insurance or financial security, which may be satisfied by auto liability insurance, when registering or while operating a motor vehicle. Because auto insurance is legally required and is also a practical necessity for people to travel to work, school, shopping and to obtain health care, among other needs, it is critical to formulate and implement public policies to ensure that auto insurance coverage is affordable and accessible to all drivers who need it.

Consumer Reports strongly supports the Federal Insurance Office's efforts to update its 2017 Affordability Study to assess and characterize the impact of auto insurance premium costs on consumers, especially low- and moderate-income drivers, and drivers of color. We encourage FIO to maintain its 2017 methodology to update the report quickly and annually, but also to consider data collection changes to improve the quality and reliability of the report. In addition, separate from the annual update, we encourage FIO to produce a separate report to analyze the auto insurance market in detail, including a review of the impact of auto insurers' use of socioeconomic factors for pricing and

¹ Consumer Reports is an independent, nonprofit membership organization that works side by side with consumers to create a fairer, safer, and healthier world. For over 80 years, CR has provided evidence-based product testing and ratings, rigorous research, hard-hitting investigative journalism, public education, and steadfast policy action on behalf of consumers' interests, including their interest in securing effective privacy protections. Unconstrained by advertising, CR has exposed landmark public health and safety issues and strives to be a catalyst for pro-consumer changes in the marketplace. From championing responsible auto safety standards, to winning food and water protections, to enhancing healthcare quality, to fighting back against predatory lenders in the financial markets, Consumer Reports has always been on the front lines, raising the voices of consumers.

underwriting, including credit history, educational level, occupation and ZIP Code, among others, on the cost and accessibility of auto insurance for low and moderate-income consumers, and consumers of color. For reasons discussed below, the use of socioeconomic factors in auto insurance pricing runs counter to public policy and should be flatly prohibited. Finally, we encourage FIO to study the implications of the adoption and potential growth of telematics programs, current procedures for data protection and transparency, and the need for consumer protections to ensure these programs do not unfairly discriminate, jeopardize consumer privacy, or exploit personal information.

Concerns About Use of Socioeconomic Factors for Auto Insurance Pricing and Underwriting

Consumer Reports believes auto insurance should be priced fairly, based on the risk posed by the insured. However, many insurance companies use a range of socioeconomic factors to price and underwrite insurance policies, including credit history, education level, and occupational status.

In CR's research and reporting about auto insurance, we have found that the use of these factors to price auto insurance often unfairly raises rates for drivers with a good or excellent driving record. This practice is highly problematic, because these factors are also highly correlated with race and income and may result in discriminatory pricing for people of color and people with low- and moderate-incomes. We believe that states and/or the federal government should require insurance companies to base pricing and underwriting decisions on driving-related factors, including driver safety record; miles driven per year; and years of experience on the road, that are related to risk.

Over the last several years, Consumer Reports has carried out several detailed investigations of auto insurance pricing:

- 1) **In September 2015, Consumer Reports published the results of a two-year investigation into auto insurance pricing that revealed a very serious problem with auto insurance pricing in many states where credit history is allowed.** CR gathered more than 2 billion price quotes across 33,000+ residential U.S. ZIP codes to understand the factors that raise rates, including every zip code in Colorado.² Our investigation revealed that how one drives may have little to do with how much one pays, and may depend more heavily on socioeconomic factors, such as education, occupation, gender, marital status and credit history.

At the national level, Consumer Reports found that single drivers paid a median of \$190 more for merely having "good" credit, compared to consumers with the best credit. That national difference was \$1,200 for consumers with "poor" credit scores. Consumer Reports also found that, for those states that do not prohibit the use of credit scores, more than 75 percent of the premiums were higher for good drivers with poor credit than those with a drunken driving arrest and excellent credit. The median difference was \$700. In some states they paid significantly more. For example, in Colorado, an excellent driver with poor credit was charged \$1,141 more in premiums than a drunk driver with excellent credit and a DUI conviction (see chart, Appendix A.)

² *The Truth About Car Insurance*, Consumer Reports, Sept. 2015, available at <http://www.consumerreports.org/cro/car-insurance/auto-insurance-special-report/index.htm>. See also: Consumer Reports Advocacy, *Auto Insurers Penalize Good Drivers with Higher Premiums Because of Credit Histories and Other Non-Driving Factors*, Press Release, 11/18/2015, available at: https://advocacy.consumerreports.org/press_release/auto-insurers-penalize-good-drivers-with-higher-premiums-because-of-credit-histories-and-other-non-driving-factors/

In CR's view, it is patently unfair and unwise to let convicted drunk drivers pay less for their auto insurance than an excellent driver with poor credit. When this is allowed, excellent credit can function as a socio-economic buffer against being charged the highest rates, even if one has engaged in and has been convicted of the worst driving behavior possible--drunken driving. When use of credit score is allowed, good drivers with poor credit can end up subsidizing the rates paid by convicted drunken drivers with excellent credit. In a pricing scheme that does not allow the use of credit information and places more emphasis on driving behavior, such as number of miles driven and driving record, such a result would not be possible.

CR also has longstanding concerns about using credit scores for insurance pricing, which we present in more detail in Appendix B of this letter. A principal concern is that credit scores are highly correlated with race and income. They reflect longstanding racial disparities in housing wealth, and employment and educational opportunity. A 2012 study by the CFPB examining credit scores for about 200,000 consumers found that the median FICO score for consumers in majority minority zip codes was in the 34th percentile, while it was in the 52nd percentile for zip codes with low minority populations.³ The Urban Institute has reported that significantly higher percentages of African American and Hispanic communities have subprime credit scores than in white communities, and that this trend has widened during the pandemic.⁴

On March 23, 2021 Washington Insurance Commissioner Mike Kreidler issued an order banning the use of credit scores in Washington for three years, because of concerns the underlying data was discriminatory, but also in wake of the COVID-19 pandemic, had become "degraded and unreliable."

"It is discriminatory to use credit scores to set insurance rates because this practice results in low-income people and people of color paying more for insurance," said Gov. Jay Inslee. "Because the CARES Act prohibits some lenders and creditors from reporting delinquent accounts, the CARES Act actually shines a light on the dubious use of credit scores altogether and demonstrates that credit scores are an inaccurate evaluation of creditworthiness."⁵

There are currently five states which do not allow the use of credit information in auto insurance pricing decisions -- California, Hawaii, Massachusetts, Michigan, and Washington.

- 2) **In April 2017, Consumer Reports and ProPublica published additional research that showed that insurance companies unfairly increase car insurance prices for people who live in predominantly minority neighborhoods, showing that drivers of color in those neighborhoods paid 30% more than people living in zip codes with comparable risk.** The analysis focused on 4 states that

³ Consumer Financial Protection Bureau, Analysis of Differences Between Consumer- and Creditor-Purchased Credit Scores, at 18, Sept. 2012, available at

http://files.consumerfinance.gov/f/201209_Analysis_Differences_Consumer_Credit.pdf

⁴ Urban Institute, *Credit Health During the COVID-19 Pandemic*, 2/25/2021, available at:

<https://apps.urban.org/features/credit-health-during-pandemic/>

⁵ Office of the Insurance Commissioner, Washington State, *Kreidler Issues Emergency Rule Banning Credit Score for Three Years*, available at: <https://www.insurance.wa.gov/news/kreidler-issues-emergency-rule-banning-credit-scoring-three-years>

publicly release auto insurance claims information by zip code (California, Illinois, Missouri, and Texas).⁶

The difference in premiums was especially stark in Illinois, where nearly every insurer showed a disparity at every risk level. In California, Texas and Missouri, we found disparities in the riskiest zip codes.

In Illinois, 33 of 34 companies that we analyzed were charging more than 10 percent higher on average for liability premiums in minority zip codes than in white zip codes on average. We also found that companies from the Allstate, Travelers, Metropolitan, Pekin, and Auto Owners insurance groups were charging 30 percent higher on average in risky minority zip codes than in non-minority zip codes with similar risk. Within the city of Chicago, we found that Berkshire Hathaway (Geico), Progressive, Metropolitan and Farmers showed disparities higher than 10 percent.

While CR and *ProPublica* sought to include more states in the study, it was not possible to obtain the claims data in the other 46 states under Freedom of Information Act requests.

- 3) **In January 2021, Consumer Reports released a new investigative report, “Why Your Education and Job Could Mean You’re Paying Too Much for Car Insurance”⁷ and white paper⁸ that raise concerns about this unfair and discriminatory practice, which could result in many low- and moderate-income drivers and drivers of color paying more for their auto insurance than risk would indicate.** To understand how insurers are using education and occupation to set premiums, Consumer Reports requested 869 unique online auto insurance quotes from nine different insurers. CR studied 21 ZIP codes in six states (Illinois, Louisiana, Minnesota, New Jersey, Oregon and Washington) plus Washington, D.C. CR sought quotes for a hypothetical 30-year-old woman who owns her 2016 Toyota Camry LE and has a clean driving record, shopping for her states’ minimum required coverage. The only details that varied between quote requests were her education level and job title.

CR found that:

- Three companies provided preliminary quotes that were more expensive on average for consumers with less education: Liberty Mutual (\$62 more annually), Geico (\$115 more

⁶ Angwin, J., Larson, J., Kirchner, J., and Mattu, S., “Car Insurance Companies Charge Higher Rates in Some Minority Neighborhoods,” Consumer Reports and ProPublica, April 2017, available at: <http://www.consumerreports.org/consumer-protection/car-insurance-companies-charge-higher-rates-in-some-minority-neighborhoods/> See also: *How We Examined Racial Discrimination in Auto Insurance Prices*, April 2017, available at: <https://www.propublica.org/article/minority-neighborhoods-higher-car-insurance-premiums-methodology>

⁷ Consumer Reports, available at: , “Why Your Education and Job Could Mean You’re Paying Too Much for Car Insurance,” 1/28/21, (available online at <https://www.consumerreports.org/car-insurance/why-your-education-and-job-could-mean-youre-paying-too-much-for-car-insurance/>)

⁸ Consumer Reports Digital Lab, *Effects of Varying Education Level and Job Status on Online Auto Insurance Price Quotes*, 1/28/21, available at: <https://advocacy.consumerreports.org/research/report-effects-of-varying-education-level-and-job-status-on-online-auto-insurance-price-quotes/>

annually), and Progressive (\$101 more annually).

- Two companies provided preliminary quotes that were more expensive on average for an applicant who was a cashier compared to an executive: Geico (\$97 more annually), and Progressive (\$31 more annually).
- Some quotes collected by CR were much higher. Because people with more education are likelier to work professional jobs, this kind of pricing can hit low-income consumers doubly hard. In Hoboken, NJ, for example, Geico quoted a hypothetical cashier without a high school degree an annual premium that was \$455 higher than an identical driver with an executive job title and advanced degree.
- Five of the companies studied (Allstate, NJM, Plymouth Rock, State Farm, and Travelers) did not ask prospective customers about job or education levels. Farmers collects information about occupation, but its preliminary quotes did not vary substantially across job categories.

CR's findings underscore the fundamental unfairness of basing auto insurance pricing decisions on socioeconomic rating factors that are unrelated to driving records and habits, and over which consumers have little control. Pricing auto insurance based on non-driving factors like education and occupation is unacceptable because it magnifies the economic impacts of systemic racism. The ability to attain a particular level of education, and to hold a particular job title, often reflects longstanding income, wealth, racial, and gender disparities, and unequal access to education and higher-paying jobs. |

Research shows that Black workers endure persistent racial disparities in employment outcomes⁹ and job opportunities.¹⁰ Because of discrimination and economic disparities, people of color have historically had less access to adequately funded primary and secondary schools, higher education, and employment opportunities, leading to highly unequal outcomes in education and the labor market.¹¹ In 2019, 40.1% of non-Hispanic whites 25 and older held a bachelor's degree or higher, compared with 26.1% and 18.8% of Black and Latinx Americans, respectively.¹² In addition, 41.4% of employed Whites worked in management, professional,

⁹ Jhacova Williams and Valerie Wilson, "Black workers endure persistent racial disparities in employment outcomes," Economic Policy Institute, <https://www.epi.org/publication/labor-day-2019-racial-disparities-in-employment>

¹⁰ Ruqaiijah Yearby, "The Impact of Structural Racism in Employment and Wages on Minority Women's Health," American Bar Association, https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/the-state-of-healthcare-in-the-united-states/minority-womens-health/

¹¹ Linda Darling-Hammond, "Unequal Opportunity: Race and Education," <https://www.brookings.edu/articles/unequal-opportunity-race-and-education>

¹² U.S. Census Bureau, "Educational Attainment in the United States: 2019," <https://www.census.gov/content/census/en/data/tables/2019/demo/educational-attainment/cps-detailed-tables.html>. In 2019, 40.1% of non-Hispanic whites aged 25 and older had a bachelor's degree or higher, up from 33.2% in 2010. During the same period, the percentage of blacks age 25 and older with a bachelor's degree or higher rose from 19.8% to 26.1%; Asians from 52.4% to 58.1%; and Hispanics from 13.9% to 18.8%." <https://www.census.gov/newsroom/press-releases/2020/educational-attainment.html#:~:text=In%202019%2C%2040.%201%25%20of%20non,from%2013.9%25%20to%2018.8%25>

and related occupations, compared with 31.9% of employed Blacks and 23.3% of employed Hispanics.¹³

As of this writing, eight states have banned or sharply restricted the use of education auto insurance pricing (CA, GA, HI, MA, MI, NY, NC, and VT), and seven states have banned or sharply restricted the use of occupation (CA, GA, HI, MA, MI, NY, and VT).¹⁴

Conclusion

For all these reasons, we strongly urge the Federal Insurance Office to continue its efforts to collect, analyze and publish detailed data on the cost and availability of auto insurance, especially for people living in low- and moderate-income neighborhoods and underserved communities. Your 2017 report provided an authoritative national resource for understanding longstanding problems with auto insurance affordability. We strongly urge you to investigate the impact of the use of socioeconomic ratings factors and algorithms that makes auto insurance sharply more expensive for many American drivers, even though they have excellent driving record with no accidents or traffic violations. Auto insurance companies are generally prohibited from considering race and income when setting prices, yet in many states they are currently allowed to consider credit history, job level and education attainment, which—as noted above—closely correlate with race and income. We encourage you to expand your efforts to collect data on the specific impacts of these socioeconomic factors and other “big data” variables that may be unfairly driving up rates for consumers and resulting in discriminatory pricing for lower-income people and drivers of color.

Sincerely,



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101 Truman Avenue
Yonkers, NY 10703

¹³ U.S. Bureau of Labor Statistics, “Labor force characteristics by race and ethnicity, 2019,” <https://www.bls.gov/opub/reports/race-and-ethnicity/2019/home.htm>

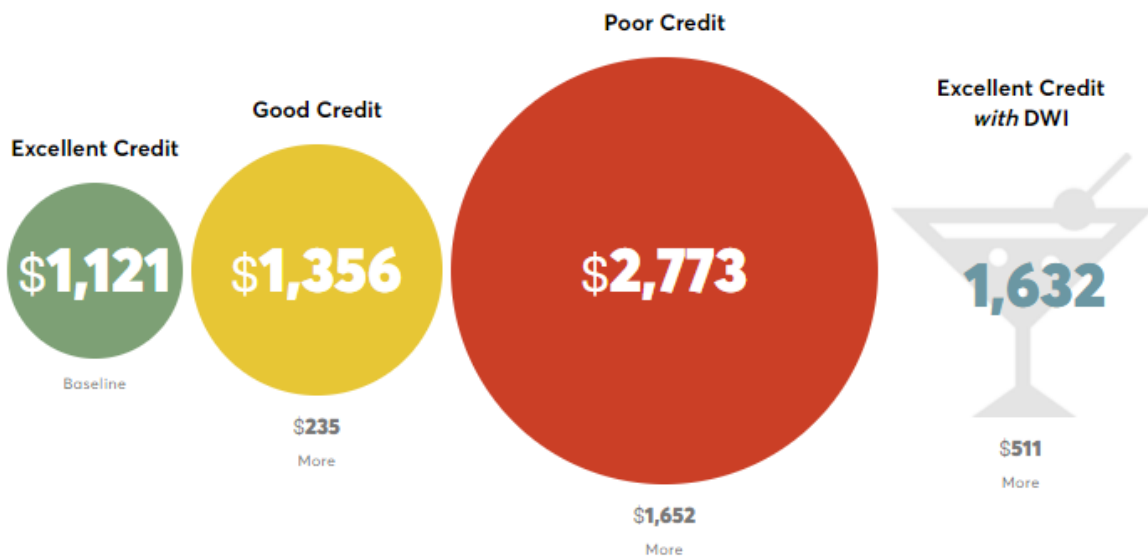
¹⁴ Soucy, Cassadra, testimony of Oregon Department of Consumer and Business Services on HB 2043, Oregon State Legislature, 2/24/2021, available at: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/8312>; personal communication from Stephanie Brackin, Media Relations, Vermont Department of Finance Regulation, to Charles Bell, Consumer Reports, 2/17/2021.

Appendix A.

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Insurance Costs by Credit Score

Rates shown are the average new-customer premium for adult single drivers with a clean driving record and poor, good, or excellent credit. We compare these to the average premium for a driver with excellent credit and a driving while intoxicated (DWI) conviction.



Source: "The Secret Score Behind Your Rates," *Consumer Reports*, September, 2015¹⁵

¹⁵ "The Secret Score Behind Your Rates," *Consumer Reports*, September, 2015, available at: [available at: https://www.consumerreports.org/cro/car-insurance/credit-scores-affect-auto-insurance-rates/index.htm](https://www.consumerreports.org/cro/car-insurance/credit-scores-affect-auto-insurance-rates/index.htm)

Appendix B. Additional Concerns About Use of Credit History For Insurance Pricing and Underwriting.

Insurance Credit Scores Are Secret. Proprietary Scores, Which Customers Do Not Have Access To

Credit reports were originally developed for “credit-granting purposes,” for banks and lenders to make decisions about credit-based products like mortgages, loans and credit cards. But beginning in the 1990s, insurance companies began to use adopt the use of credit history for pricing and underwriting purposes. This represented a significant form of “mission creep” for credit reports, since the data collected were not originally intended or collected for this purpose. Income and race are prohibited as ratings factors, yet the use of credit history can serve as a proxy for both. CR is highly concerned that the use of credit history has a disparate impact on low- and moderate-income drivers, and drivers of color. Many insurance companies have turned a deaf ear to the concerns of consumer and civil rights organizations about these issues, and show little concern for the negative impacts of these non-driving ratings factors on their customers.

To prepare insurance credit scores, insurance companies buy data from credit reporting agencies, and cherry-pick particular variables and measures to create proprietary, secret algorithms for calculating an insurance credit score that is unique to that company. The credit history used is derived from credit reports, but it is not the same as the more common FICO and consumer-reporting agency scores that consumers can obtain for a fee.

This secretive insurance industry practice means consumers are being judged on measures that are not visible and transparent, that vary from company to company. While insurance companies are required to provide adverse action notices if a decision is made to reject customers or raise their rates, customers cannot reasonably know how the insurance company is calculating the score, and the specific information they are relying on to make their pricing and underwriting determinations.

Research Confirms That Significant Errors in Credit Reports are Common and Can Harm Consumers

Consumer Reports has raised concerns for many years about the use of credit information in auto insurance pricing. In 2006, Consumer Reports published *Caution! The secret score behind auto insurance* which alerted consumers that credit-based insurance scores had become as important in determining their annual premiums as their driving record and the neighborhood of residence.¹⁶ The same year, the Consumer Reports’ advocacy division published an in-depth white paper entitled *Score Wars: Consumers Caught in the Crossfire--The Case for Banning Credit Information in Insurance Pricing*.¹⁷

Though we published these reports 15 years ago, our concerns over the use of credit data in insurance underwriting have not abated and the points we made then about the negative public policy ramifications of using credit history remain highly relevant today.

These include:

- secrecy in determining insurance scores, such that consumers cannot reasonably know what goes in them;

¹⁶ *Caution! The Secret Score Behind Your Auto Insurance*, Consumer Reports, Aug. 2006, available at <http://consumersunion.org/pdf/CR-Aug2006.pdf>

¹⁷ Garcia, Norma P. *Score Wars: Consumers Caught in the Crossfire – The Case for Banning the Use of Credit Information in Insurance* (2006), Consumers Union, available at <http://consumersunion.org/pdf/ScoreWars.pdf>

- serious problems with the accuracy of information contained in credit files that underlie insurance scores derived from credit information;
- the unfavorable impact on low-income and minority communities when credit scores function as proxies for race and income, and
- the insufficiency of current laws to protect against unfair results in states that allow the practice.

Consumers also have good reason to be concerned about the use of credit scores for pricing auto insurance, because the underlying credit reports used to calculate these secret, proprietary scores are riddled with errors and inaccuracies.

Errors in Credit Reports Are Very Common

In 2014, Consumer Reports National Research Center conducted a nationally representative survey of 3,112 participants regarding credit report.¹⁸ Among our findings, we learned:

- Twenty percent (20%) of respondents who checked their credit reports found errors that could negatively affect their credit scores, such as non-collectible old debt that was still listed, incorrect account information (payment history or credit limit, for example), accounts that were not theirs, and information about the wrong people.
- Two-thirds of credit report consumers who found one or more errors tried to correct them. Approximately 58% of those who tried to resolve a credit report error ran into challenges (e.g. were ignored, confused, rejected, or lied to) with credit reporting agencies or data furnishers in their pursuit to resolve credit report errors.

In 2012, the Federal Trade Commission (FTC) investigation yielded similar findings and estimated that almost 20 percent of consumers had at least one credit report that contained errors.¹⁹ Over five percent had errors significant enough to place them in an inferior credit category for FICO's car loan specialty score, making it more likely they would pay more for a loan.²⁰ Further, many Americans are spending valuable time working, sometimes fruitlessly, to correct the errors in their credit files. In 2011, consumers contacted the big three CRAs about eight million times with their accuracy concerns.²¹ Consumers have also taken their concerns to the CFPB. In 2013, the agency collected about 24,200 complaints about credit reporting issues, and 73 percent of those complaints cited "incorrect information" in relation to credit reports.²²

¹⁸ *How Your Credit Card Can Help You—Or Hurt You*, Consumer Reports, Nov. 2014, available at

<http://www.consumerreports.org/cro/magazine/2015/01/how-your-credit-report-can-help-you-or-hurt-you/index.htm>

¹⁹ FED. TRADE COMM'N, *REPORT TO CONGRESS UNDER SECTION 319 OF THE FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003 2* (2012) [hereinafter 2012 ACCURACY REPORT], available at

<https://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf>

²⁰ *Id.* at 47. Based on the FTC's estimate that the credit reporting industry has files on 200 million consumers, it can be concluded that about 10 million consumers would be put into the more expensive credit category due to credit reporting errors. See *supra* text accompanying note 7.

²¹ CONSUMER FINANCIAL PROTECTION BUREAU, *KEY DIMENSIONS AND PROCESSES IN THE U.S. CREDIT REPORTING SYSTEM 7* (2012), available at http://files.consumerfinance.gov/f/201212_cfpb_creditreporting-white-paper.pdf (discussing historical rise of three largest CRAs), at 27.

²² CONSUMER FIN. PROTECTION BUREAU, *CONSUMER RESPONSE ANNUAL REPORT: JANUARY 1- DECEMBER 31, 2013 19* (2014), available at http://files.consumerfinance.gov/f/201403_cfpb_consumer-response-annual-report-complaints.pdf. The CFPB began collecting complaints about credit reporting issues in October 2012. Consumer

In June 2021, Consumer Reports released a new crowd-sourced study of 5,858 consumers who examined their credit reports found errors in their reports. Although the study is not nationally representative, it did find that among the participants, errors happened with alarming frequency, with just over a third reporting having found at least one. 34% of consumers in the study found at least one error in their report. 29% found errors related to their personal information, such as wrong addresses and misspelled names. About one in 10 found account-related errors that could affect their credit standing, such as unrecognized accounts, unrecognized debts, and payments wrongly reported as late.²³ ²⁴ Consumer complaints regarding credit reports roughly doubled during the COVID-19 pandemic and have reached record levels.²⁵

From the foregoing, it is clear, the credit standing of consumers can be unfairly damaged by mistakes made by creditors, and the failure of credit reporting agencies to correct the errors. For this reason alone, it is therefore highly questionable for auto insurance companies to then use this information for pricing, underwriting and tier placement purposes. Priority concerns include the dubious accuracy of credit histories and scores; the lag time and lack of follow-up by creditors in removing non-existent debts from collections; and the fact that consumers may have experienced legitimate, life-threatening emergencies and illnesses that impair their earning capacity and economic status, due to no fault of their own.

When consumers have negative information reported on their credit report – sometimes unfairly so, as we have just seen -- their options for credit are usually restricted. It becomes harder to “shop around,” and they will have fewer choices, and credit will be priced higher for credit cards, loans, mortgages and other financial products.

When credit scores are used for insurance purposes, this impact is multiplied in ways that it hard for consumers to perceive and see. Consumers will have fewer choices for auto insurance coverage, and these will be more highly priced. When financial hard times strike, credit becomes scarce, and auto premiums will tend to cost more, even if the situation resulted from a general contraction of the economy, a plant closure, a regional economic downturn, or other factors that are completely beyond a consumer’s control.

This additional financial burden of higher auto insurance premiums unfairly hurts consumers who may have a perfect or very good driving record, who must rely on their cars to get to work to earn wages and pay their bills. We suspect many consumers would be deeply concerned to learn that auto insurance

Fin. Protection Bureau, Credit Reporting Complaint Snapshot 2 (2014), available at http://files.consumerfinance.gov/f/201402_cfpb_snapshot_credit-reporting-complaints.pdf.

²³ Gill, Lisa. *More than one third of volunteers in a Consumer Reports study found errors in their credit reports*, Consumer Reports, 6/10/2021, available at:

<https://www.consumerreports.org/credit-scores-reports/consumers-found-errors-in-their-credit-reports-a6996937910/>

²⁴ Ejaz, Syed. *A Broken System: How the Credit Reporting System Fails Consumers, and What to Do About It*, Consumer Reports, 6/10/2021, available at: <https://advocacy.consumerreports.org/research/a-broken-system-how-the-credit-reporting-system-fails-consumers-and-what-to-do-about-it/>

²⁵ Gill, Lisa. *Why the pandemic may be hurting your credit score*, Consumer Reports, 02/03/2021, available from: <https://www.consumerreports.org/credit-scores-reports/why-the-pandemic-may-be-hurting-your-credit-score/>

companies are using credit information to make pricing decisions, because of the poor quality of some of the underlying data, and this “piling on” effect, that in particular penalizes low and moderate-income households.

Medical Debt Places Additional Burdens on Consumer Credit Standing

In 2014, the Consumer Financial Protection Bureau estimated that "43 million Americans have overdue medical debt on their credit reports."²⁶ In announcing the agency’s findings, former CFPB director Richard Cordray acknowledged: “It’s hard for consumers to navigate the medical debt maze and come out with a clean credit report on the other side.”

According to the CFPB report:

- **Half of all overdue debt on credit reports is from medical debt:** A staggering 52 percent of all debt on credit reports is from medical expenses. When a debt is past due, a collector may report the consumer’s account to a credit reporting agency. On the consumer’s report, this item would appear as an account in collections, resulting in a credit score drop.
- **One out of five credit reports contains overdue medical debt:** Today’s study found that one out of five credit reports contain medical debt in collections. This means that 43 million Americans have unpaid medical debt adversely affecting their credit report.
- **15 million consumers have only medical debt on their credit reports:** Seven percent of all consumers have medical debt and no other collection items on their reports. These 15 million consumers tend to be more reliable bill payers than consumers with other types of collections on their credit reports. They are much more likely to be consumers who normally meet their debt obligations.
- **Average reported medical debt is \$579:** The average unpaid, non-medical collections item on a credit report is \$1,000; the median is \$366. Unpaid medical collections are smaller, with an average of \$579 and a median of \$207. These figures contrast with the much larger amounts that are due on credit cards or student loans that are seriously delinquent. Such accounts average several thousand dollars.

As the news release notes, consumers frequently incur liability for medical debts that are disputed, which are the responsibility of other parties such as insurance companies, and later reversed:

Medical debt is incurred differently than other unpaid bills, such as unpaid phone or utility bills. Medical debt can result from an event that is unpredictable and costly, such as an accident or sudden illness. In addition, consumers are often temporarily responsible for the whole bill until insurance works it out. Consumers can also become responsible for medical debt because of billing issues between medical providers and insurers. Complaints to the CFPB indicate that many consumers do not even know they owe medical debt until they get a call from the collections agency, or they discover it on their credit report.

²⁶ “CFPB Spotlights Concerns with Medical Debt Collection and Reporting,” Consumer Financial Protection Bureau press release, December 11, 2014, available at: <http://www.consumerfinance.gov/about-us/newsroom/cfpb-spotlights-concerns-with-medical-debt-collection-and-reporting/>

In addition, provider and insurance company medical billing errors and billing disputes are extremely common. A 2014 Consumers Union national poll found that 30% of consumers have received a surprise medical bill in the last two years, where the insurance company paid less than expected for any reason. Among those who received a surprise medical bill, nearly 1 out of 4 got a bill from a doctor they did not expect to get a bill from. Addressing incorrect or mistakenly sent bills, and/or clarifying financial responsibility in insurer-provider billing disputes, is a time-consuming process, that can take consumers weeks or months to complete, and in the meantime the bill may be referred to collection agencies, damaging the consumer's credit standing. Approximately half of consumers were able to eventually get surprise medical bills reduced or forgiven, but 53% stated that their surprise bill was not resolved as they liked, or not resolved at all. These consumers reported that they then paid off the balance in full or through an installment plan.²⁷

While the large national credit reporting agencies (Equifax, Experian and TransUnion) changed their procedures in 2015 to wait 180 days before adding medical debt to consumer credit reports, the previous, inaccurate reports were still considered part of a consumer's payment history. Further, if medical bills are not resolved in 180 days, they are still considered part of the consumers' payment history by credit reporting agencies.

Medical debts are very common, so they may be given less weight in the secret, proprietary scores used by auto insurance companies. But consumers and virtually all outside parties simply have no way of knowing what the past practices or current practices of auto insurance companies are with respect to medical debt, or how their premiums may have been affected by scoring models that incorporated the vast backlog of inaccurate information reported by collection agencies, that were used prior to 2014, and continuing stream of inaccurate and incorrect data being reported today.

In addition, problems related to medical debt tend to be interwoven with other household bills and debts. Some consumers may choose to pay medical debts first, to get them off their record, or pay them by credit card, or loan money to other relatives to help them pay urgent medical bills. However the issue plays out, there is little doubt that many Americans are being unfairly penalized on their credit scores because they are struggling with medical debts, which are difficult to anticipate or control.

²⁷ "Surprise Medical Bills Survey: 2015 Nationally-Representative Survey," Consumer Reports National Research Center, May 5, 2015, available at: <http://consumersunion.org/research/surprise-bills-survey/>