

United States Senate

WASHINGTON, DC 20510

December 3, 2023

The Honorable Lloyd J. Austin III
Secretary of Defense
United States Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Austin:

We write regarding the implementation of the Consumer Financial Protection Bureau's (CFPB) recommendations from its Office of Servicemember Affairs Annual Report on financial challenges confronting service members and their families.¹ The 2022 CFPB report recommended that the Department of Defense (DoD) collect better data on the scope and impact of medical debt on service members.² The report also recommended that medical providers and third-party billing companies improve their systems to work more effectively with TRICARE, the health insurance program available to service members, veterans, and their families.³

We are concerned by the revelation that TRICARE still “does not currently collect data on medical debt” and that existing data collection efforts are fragmented across different DoD systems and are “not complete enough to accurately report the extent or amount of medical debt among Service members and their families.”⁴ we urge you to improve how DoD collects data on service members' medical debt and strengthen DoD's coordination with medical providers and debt collectors to better protect service members and their families from financial harm.

Recommendation 1: Collection of Medical Debt Data

The CFPB's 2022 report recommended that DoD collect data on medical debt borne by service members.⁵ The CFPB received over 5,000 complaints from service members and their families about medical bills and debt between 2018 and 2021,⁶ and the report explained that the complaints “raise[d] significant concerns that medical debt is having an underappreciated and understudied effect on servicemember's financial health, which in turn can affect military

¹ Consumer Financial Protection Bureau, “Office of Servicemember Affairs Annual Report,” June 2022, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2021.pdf.

² *Id.*, p. 22.

³ *Id.*

⁴ Letter from Under Secretary of Defense for Personnel and Readiness Gilbert R. Cisneros, Jr. to Senator Elizabeth Warren, August 16, 2023, p. 1, <https://www.warren.senate.gov/download/osd002308-23-upr-signed-response>.

⁵ Consumer Financial Protection Bureau, “Office of Servicemember Affairs Annual Report,” June 2022, p. 22, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2021.pdf.

⁶ *Id.*, p. 3.

readiness.”⁷ However, DoD acknowledged in August 2023 – more than a year after the CFPB report was published – that it still does not collect data on medical debt borne by service members, appearing to have taken no steps to implement this recommendation.⁸ Instead, TRICARE collects “self-reported” data on debt collection resulting from claim denials and recoupments by TRICARE Managed Care Support Contractors (MCSCs), which DoD acknowledges is insufficient to accurately calculate “the average amount of medical debt among Service members.”⁹

This is a significant gap, and DoD should take steps to ensure it is collecting comprehensive data to identify the unique challenges that cause service members to acquire medical debt.

Recommendation 2: Provider and Third-Party Coordination with TRICARE

The CFPB’s report also recommended that medical providers and third-party billing companies maintain “adequate systems” to coordinate with TRICARE in seeking reimbursements.¹⁰ DoD’s August 2023 letter provided additional information as to why such coordination is needed. Typically, if a service member or their family receives care outside of a military treatment facility, their provider should bill TRICARE for covered services.¹¹ However, providers sometimes fail to bill TRICARE and instead bill service members directly, as in the case of one service member in North Carolina who was billed nearly \$670,000 despite being enrolled in TRICARE.¹² Given service members’ frequent relocations, some service members may not discover these charges in a timely manner.¹³

The CFPB has received repeated complaints from service members who only learned about a medical bill after it was sent to collections or harmed their credit reports. One service member and their spouse from North Carolina had difficulty of getting their bill paid after being tossed back and forth between the pharmacy and the insurance company.¹⁴ The bill was ultimately sent to a debt collector.¹⁵ Another service member from Florida shared that the “staff never

⁷ *Id.*, p. 22.

⁸ Letter from Under Secretary of Defense for Personnel and Readiness Gilbert R. Cisneros, Jr. to Senator Elizabeth Warren, August 16, 2023, p. 1, <https://www.warren.senate.gov/download/osd002308-23-upr-signed-response>.

⁹ Letter from Under Secretary of Defense for Personnel and Readiness Gilbert R. Cisneros, Jr. to Senator Elizabeth Warren, August 16, 2023, p. 1, <https://www.warren.senate.gov/download/osd002308-23-upr-signed-response>.

¹⁰ Consumer Financial Protection Bureau, “Office of Servicemember Affairs Annual Report,” June 2022, p. 22, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2021.pdf.

¹¹ TRICARE, “About Us,” October 23, 2023, <https://www.tricare.mil/About>; Consumer Financial Protection Bureau, “Office of Servicemember Affairs Annual Report,” June 2022, p. 15, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2021.pdf.

¹² Military.com, “An Army Couple Had Their Daughter at a Military Hospital. Then the Collections Calls Started for \$600,000.” Patricia Kime, June 29, 2023, <https://www.military.com/daily-news/2023/06/29/army-couple-had-their-daughter-military-hospital-then-collections-calls-started-600000.html>.

¹³ Consumer Financial Protection Bureau, “Office of Servicemember Affairs Annual Report,” June 2022, p. 16-17, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2021.pdf.

¹⁴ Consumer Financial Protection Bureau, “6234754,” <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/6234754>.

¹⁵ *Id.*

got the health insurance information from me or the hospital. I did not know of this debt until a year later when checking my credit.”¹⁶ DoD’s August 2023 letter affirmed that “[m]any cases [that are] sent to collections occur because there is no submitted claim [from medical providers] on file.”¹⁷

The coordination challenges may extend beyond providers’ failure to bill TRICARE. Media reports indicate that even when bills are sent to TRICARE, payments can take up to two months due to the complex reimbursement process.¹⁸ DoD’s August 2023 letter explained that providers sometimes fail to follow billing rules or omit required forms or documentation.¹⁹ Alarming, DoD also indicated that the military services themselves may sometimes miscategorize the eligibility of a service member to receive care.²⁰

DoD should strengthen efforts to coordinate with providers and third-party billing companies to protect service members from medical debt. This could include additional outreach and education efforts by TRICARE’s MCSCs to beneficiaries, providers, and debt collectors. Current Debt Collection Assistance Officers’ (DCAOs) policies and procedures seem to be inadequate in addressing potential billing issues between TRICARE and civilian medical providers, as CFPB’s 2021 report indicated that over 50 percent of medical debt collection complaints were about attempts to collect a debt not owed.²¹

It is essential for DoD to resolve these problems, as medical debt can derail the careers of service members and their families. DoD’s August 2023 letter warned that “any significant debt could make an individual a greater security risk” and compromise a service member’s ability to obtain an advanced security clearance.²² Further, bad credit reports could prevent service members and their families from obtaining a home loan, renting a house, or buying a

¹⁶ Consumer Financial Protection Bureau, “5632684,” <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/5632684>.

¹⁷ Letter from Under Secretary of Defense for Personnel and Readiness Gilbert R. Cisneros, Jr. to Senator Elizabeth Warren, August 16, 2023, p. 4, <https://www.warren.senate.gov/download/osd002308-23-upr-signed-response>.

¹⁸ Great Falls Tribune, “Tester discusses ‘alarming number of issues’ with military healthcare,” David Murray, March 5, 2023, <https://www.greatfalls Tribune.com/story/news/local/2023/03/05/tester-discusses-broken-military-healthcare-system-at-local-roundtable/69971682007/>; Office of Senator Elizabeth Warren, “ICYMI: At Hearing, Senator Warren Highlights Unique Burden of Medical Debt on Servicemembers, Applauds CFPB Action to Remove Medical Debt from Credit Reports,” press release, November 3, 2023, <https://www.warren.senate.gov/newsroom/press-releases/icymi-at-hearing-senator-warren-highlights-unique-burden-of-medical-debt-on-servicemembers-applauds-cfpb-action-to-remove-medical-debt-from-credit-reports>.

¹⁹ Letter from Under Secretary of Defense for Personnel and Readiness Gilbert R. Cisneros, Jr. to Senator Elizabeth Warren, August 16, 2023, p. 4, <https://www.warren.senate.gov/download/osd002308-23-upr-signed-response>.

²⁰ *Id.*, p. 3,

²¹ Consumer Financial Protection Bureau, “Office of Servicemember Affairs Annual Report,” June 2022, p. 15, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2021.pdf.

²² Letter from Under Secretary of Defense for Personnel and Readiness Gilbert R. Cisneros, Jr. to Senator Elizabeth Warren, August 16, 2023, p. 2, <https://www.warren.senate.gov/download/osd002308-23-upr-signed-response>.

car.²³ This is why the CFPB's actions to remove medical debt from credit reports will make a real difference for service members and their families.²⁴

It has been over a year since CFPB issued its recommendations on service member medical debt,²⁵ and while we appreciate that DoD has briefed the Senate and House Committees on Armed Services as required by the National Defense Authorization Act for Fiscal Year 2024, we are disappointed that DoD's letter indicated that the Department has yet to act.²⁶ In your August 2023 response, DoD claimed it would need to create a centralized reporting system or database²⁷ in order to understand the full scope and impact of medical debt on service members. We urge DoD to develop such a system to collect data on service member medical debt and to address the coordination problems described above. We also request a briefing and written answers to the following questions no later than December 17, 2023:

1. Has DoD taken any additional actions to implement the CFPB's recommendations since the letter was sent in August 2023?
 - a. If so, what actions have you taken and what additional actions do you plan to take?
 - b. What are the existing systems to monitor service member medical debt? Are any forms of service member medical debt unreported?
2. Please provide the DCAO's specific policies and procedures to address medical debt.
3. How does DoD currently identify service members that may be suffering from financial hardship, emotional distress, or other problems from medical debt?
4. How does TRICARE ensure accountability from MCSCs?
 - a. Does DoD have specific contractual requirements regarding outreach and education efforts to service members and providers?
 - b. Does DoD have specific contractual requirements with MCSCs to address problems with providers not appropriately submitting claims?
5. How long does TRICARE take to process a reimbursement? Do you collect data on the number of providers that bill service members directly because of the lag in reimbursement?
6. In 2022, how often did TRICARE MCSCs make claims payment errors?
7. CFPB's report noted that in 2021, 54 percent of medical debt collection complaints submitted by service members were about attempts to collect a debt not owed.²⁸ Is

²³ Military News," Medical Billing Errors Hurt US Troops' Credit, Federal Consumer Agency Says," Patricia Kime, June 16, 2022, <https://www.military.com/daily-news/2022/06/16/medical-billing-errors-hurt-us-troops-credit-federal-consumer-agency-says.html>.

²⁴ Consumer Financial Protection Bureau, "CFPB Kicks Off Rulemaking to Remove Medical Bills from Credit Reports," September 21, 2023, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-kicks-off-rulemaking-to-remove-medical-bills-from-credit-reports/>.

²⁵ Consumer Financial Protection Bureau, "Office of Servicemember Affairs Annual Report," June 2022, p. 22-23, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2021.pdf.

²⁶ Letter from Under Secretary of Defense for Personnel and Readiness Gilbert R. Cisneros, Jr. to Senator Elizabeth Warren, August 16, 2023, <https://www.warren.senate.gov/download/osd002308-23-upr-signed-response>.

²⁷ Letter from Under Secretary of Defense for Personnel and Readiness Gilbert R. Cisneros, Jr. to Senator Warren, August 16, 2023, p. 2, <https://www.warren.senate.gov/download/osd002308-23-upr-signed-response>.

²⁸ Consumer Financial Protection Bureau, "Office of Servicemember Affairs Annual Report," June 2022, p. 15, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2021.pdf.

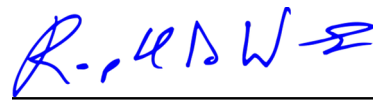
DoD aware of any reasons why a service member would be subject to collections attempts for debt not owed?

8. Has DoD explored establishing an online portal to allow beneficiaries to submit and track complaints, including complaints regarding billing?
9. What additional authorities from Congress, if any, has DoD identified are necessary to implement these recommendations?

Sincerely,



Elizabeth Warren
United States Senator



Raphael Warnock
United States Senator



Sherrod Brown
United States Senator