

I Owe Money and I Want to Set Up a Payment Plan With a Debt Collector. What Should I Do?

IT'S TRUE THAT ALMOST EVERYONE WANTS TO PAY BACK THEIR DEBTS. BUT, IS A PAYMENT PLAN THE RIGHT ANSWER FOR YOU?

There are a few important considerations before you decide to make a payment plan. Ask yourself the questions below:

- **Do you only have income and assets from government or disability benefits?** If YES, it is likely that none of that income or assets can be taken by a debt collector collecting on private debts – like for credit cards, cell phones or medical services. In other words, even if the company sues you and wins, they will not be able to take your benefits. Look at the list at the end of this fact sheet or seek assistance from an attorney or social worker to figure out if all of your income falls into this category. If you make payments with those monies voluntarily, you cannot get them back.
- **Can you really afford to make payments?** If you think that you will not be able to pay for rent, food, utilities, medicine or other necessities, we suggest that you do not agree to make payments. Oftentimes you are worse off if you agree to make payments and then fail to make them, than you are if you never agree to make payments.
- **Is the debt they are asking you to pay back your debt?** If it is not, go to the police and file a report. Send a letter to the debt collector with a copy of the police report stating that the debt is not yours. Do not be pressured into paying a debt that is not yours.

WHAT IF I CAN AFFORD TO MAKE SOME PAYMENTS AND I WANT TO SET UP A PAYMENT PLAN? HOW SHOULD I GO ABOUT DOING IT?

- **Figure out how much you can afford to pay per month. DO NOT AGREE TO PAY MORE.**
- **Agree on a total amount you will pay off over a specific period of time.** This stops the interest from accruing and gives you certainty about when you'll be done paying it off.
- **If you can, negotiate to make one lump sum payment.** This may mean that you have to wait and save some money before you contact the debt collector. If you do this though, often you have more leverage and they will be willing to accept less money than they will accept if you want to make payments over time.
- **Get any agreement you make in writing.** Before making any payment, insist that the debt collector send you something in writing. Tell them you will not make a payment without something written and signed. Once they send the agreement, review it to make sure that you understand all of it. If the agreement says anything about a judgment, seek legal advice before signing it. A judgment will allow them to freeze your bank account and take certain assets without your permission.
- **Include notice of default and opportunity to cure.** If possible, include in the agreement that you are entitled to notice of a default in payment and an opportunity to cure the default by sending the money within a certain period of time. You should provide for at least fifteen days to cure the default to ensure there is enough time for you to receive the notice of default and send in the money.
- **Keep some proof of every payment you make.** A money order receipt and a cancelled check are good proof. Also, send the payments Certified Mail Return Receipt Requested if you can so

that you have proof that the payment was received. If that is too expensive, a certificate of mailing from the post office is the cheapest way to prove that you sent something – it costs about \$1.00.

- **Advise the creditor, in writing, of any change in your address.**

WHAT MONEY IS EXEMPT FROM COLLECTION?

Below is a partial list of monies that generally are exempt from collection or garnishment:

- Veterans Benefits (including Survivor's Benefits)
- Wages of SSI and public assistance recipients
- Public or Private Pensions
- Social Security Disability Benefits (SSD)
- Unemployment Benefits
- Supplemental Security Income (SSI)
- Public School Teacher Benefits
- 90% of your wages
- Public Assistance
- Workers Compensation Benefits
- Social Security Benefits
- Child Support
- Maintenance (Alimony)
- Railroad Retirement benefits
- Some Insurance Benefits
- Life Insurance Policy

Note: There are exceptions to the general rule that the above benefits are exempt from garnishment: some exempt funds may be garnished for purposes of paying child support or federal debts, including student loans. If you owe these kinds of debts, you should contact an attorney to find out how these debts may affect your benefits.