

# Debt Collection Fact Sheet

## Introduction

Anybody who has missed the due date on a bill has probably received a phone call or letter from a bill collector. This fact sheet offers basic information about how to deal with bill collectors.

## Prioritizing Past-Due Payments

You must decide for yourself whether you can pay a bill without getting into more financial trouble. If you cannot pay all your bills, you need to decide which ones to pay first. This is an important decision. Some bills are more important than others.

You should first pay for things that are necessary for your family. These include rent/mortgages, auto loans, utilities, medication, and child support—in that order. After you have paid these, you can pay other important bills, such as a student loan or a doctor that you need to keep seeing. Leave other bills—such as credit cards, medical bills for treatments that are completed, repossessed cars, and old loans—for last.

## Your Rights and Potential Consequences

If you do not pay a bill, the creditor or collection agency is usually allowed to:

- stop doing business with you
- report your bill to a credit reporting agency
- call or write to you to ask for payment (see limits below)
- sue you in court (even if you continue to make partial payments)

Debt collectors often threaten to sue. If you are sued, the creditor should give you written notice of default to your last known address. If you receive a notice of default or intent to sue from the creditor, contact a lawyer immediately. If you have been sued, you have 30 days to file a written answer. You must do this to preserve any rights or defenses you may have. You must file the response with the clerk of the court where the lawsuit was filed. You must also send a copy to the creditor's attorney.

A creditor has limited rights to take something from you. Normally, the creditor must go to court first. If the creditor gets a judgment, there are limits on what can be taken from you. For example, many public benefits and retirement benefits are protected. However, such benefits might not be protected if they are deposited in an account with money from other sources of income (whether yours or someone else's). You should keep your protected benefits in a separate bank account, especially if you think you might be sued. If you are employed, a creditor may be able to take part of your paycheck. You have the right to protect part or all of your paycheck if you are below a certain level of income.

## Filing for Bankruptcy

Bankruptcy can eliminate most judgments and the ability for creditors to take part of your wages. Remember: call an attorney immediately if you think someone is suing you.

## Dealing with Bill Collectors

### Planning Payments

If you have enough money after paying for your basic needs, you can try making a payment plan. Do not agree to a plan you cannot afford. If your payments are not enough to cover the interest, you will never pay off the bill. Tell the collector you want a payment plan with a low interest rate. If you are trying to catch up on payments you missed while unemployed, you can ask to move the missed payments to the end of the loan. If your income has gone down, ask if there is any way to permanently lower your payments. You can also ask the creditor to change your due date.

### Disputing Billing Errors

If a creditor bills you for something you do not owe, tell the creditor immediately in writing. It is best to send a letter. Include copies of any relevant receipts. Be sure to keep a copy of the letter for yourself and to keep your original receipts.

### Suing the Collection Agency

If a collection agency breaks the law, you may have a right to sue it. Save all letters. Keep a list of every time the collection agency calls you. Note the date, time, and name of the caller and what was said. Save any threatening messages left on your answering machine.

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*The information and statements of law in this fact sheet should not be considered legal advice. This fact sheet is provided as a broad guide to help you understand how certain legal matters are handled in general. Courts may interpret the law differently. Before you take action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.*

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