

## What Happens if I Do Not Pay My Bills?

Medical bills and other expenses can pile up easily, especially if you need to take unpaid time off of work or are unable to return to work after your cancer treatment. If you do not pay your debt, there may be serious legal consequences. Your credit score may be severely impacted by past-due bills and other debt, and you may also face debt collection, lawsuits, repossession of your property, or even wage garnishment. However, every individual has unique financial circumstances and it is best to speak with a financial professional for advice that is personalized for you.

### Debt collection

A creditor is someone who extends credit to you or provides a service for which you owe money. For example, credit card companies and doctor's offices can be considered creditors. If you do not pay your medical bills, medical providers or "creditors" may turn your debt over to a debt collection agency that specializes in collecting past due debt. Under the Fair Debt Collection Practices Act (FDCPA), which is a set of laws that gives consumers specific rights to promote honest, fair, and responsible debt collection, both creditors and debt collection agencies are referred to as "debt collectors." Debt collectors are allowed to take reasonable steps to collect payments, but state and federal laws protect you from unfair treatment and harassment.

Under the FDCPA, a debt collector must initially send you a "validation notice" within five days of first contacting you. This notice must state the total amount of debt you owe, the name of the creditor to whom it is owed, and information about what to do if you do not think it is your debt. You have thirty days, after the receipt of the notice, to dispute the debt if you believe it is incorrect. If you dispute the debt, the debt collector cannot contact you again until they send proof that the debt is valid, such as a copy of the bill.

A debt collector can discuss your debt with you or your spouse, if you are legally married. If the debt collector knows that you have an attorney, the debt collector must contact the attorney instead of you. A debt collector is allowed to contact other people to find out: 1) where you live; 2) what your phone number is; and 3) where you work. However, they typically cannot contact any third parties more than once or discuss your debt with them. Debt collectors may contact your employer to get your address or telephone number. If you are not allowed to receive personal calls at work, you need to tell the debt collector. A debt collector may not continue to call you at work once you have asked them not to contact you there.

You have the right to ask a debt collector stop contacting you. To do this, you must send a letter by mail. It is a good idea to send the letter by certified mail, so that you have proof that the debt collector received your letter. Once the debt collector receives your letter, they can only contact you to confirm that they will stop contacting you or to tell you if they plan to take a specific action.

**Under the FDCPA, debt collectors are not allowed to do the following:**

- Harass you. This includes threatening you with violence or harm, using obscene or profane language, or repeatedly using the phone to annoy you.
- Contact you at inconvenient times or places. This includes calling you before 8 a.m. or after 9 p.m., unless you agree to it, or contacting you at work if they know that you cannot receive those calls at your workplace.
- Lie to you. This includes misrepresenting the amount you owe, lying about who they are, or lying about filing a lawsuit against you that they do not intend to pursue.
- Engage in unfair practices. This may include trying to collect other fees or threatening to take property illegally.

### **Debt collection lawsuits**

Debt collectors and creditors cannot put a lien on your property or take money out of your paychecks (“garnish your wages”) without first suing you and getting a judgment entered against you in court. If a debt collector can prove that you owe a debt, they have the right to sue you in court for not paying it. The debt collector would need to file a complaint with the court and serve you with a copy of the complaint and a summons. A summons is a legal document that lets you know that you are being sued, and has additional information on how to respond to the lawsuit. If a debt collector wins the lawsuit, the court will grant a judgment. When a debt collector gets a judgment against you, the court gives the debt collector the right to collect the money you owe.

If you are sued for a past-due debt, do not ignore the lawsuit. Speak to a lawyer as soon as you are served with the notice. If you do not respond, the court may rule in favor of the debt collector and enter a *default judgment* against you. A default judgment is typically granted when one party to the suit fails to do something required (such as respond to a lawsuit or show up for a court date) and the judge hears only one side. Once a judgment is entered against you and the case ends, only a judge can change the ruling or “set aside a judgment,” which can be difficult.

### **You may be judgment proof**

It is possible that even if a debt collector gets a judgment against you, they may not be able to collect the debt from you. You may be “judgment proof,” which means that you do not have anything of value for debt collectors to take from you. You may be deemed judgment proof if you have little or no equity in your home, own little personal property, or you are unemployed. You may also be judgment proof if the things you own are protected (“exempt”) from debt collection. Assets that may be considered exempt could include your home, car, or basic living expenses. State law determines which assets are considered exempt and the law varies by state.

### **Judgment lien**

A lien is someone else’s claim on property that you own or use. If a debt collector gets a judgment against you and you own property, the debt collector may put a “judgment lien” on your property in order to ensure that the debt is repaid in the future. For example, imagine that you owe \$1500 to an auto mechanic who repaired your car. If the auto mechanic sues you and gets a judgment against you, he may be able to put a \$1500 lien on your home if you do not have the funds to pay the debt immediately. The mechanic would then record the lien in the county where the property is located and attach the judgment as proof that they are able to put a lien on that property. If you have a lien on your property, you will have to pay the amount of the lien to the debt collector (in this example, the mechanic) before selling or transferring the property to someone else.

**Repossessions and “voluntary” liens**

If you fail to pay debts that are secured by collateral (such as a car payment or mortgage), a creditor can often repossess or foreclose on your property without needing a judgment in court. The creditor can do this because when you take out a loan to buy a house or a car, you generally agree to give the creditor (usually a bank) rights to your property (a “voluntary lien”) if you do not repay the debt under the terms in your contract. If you take out a car loan from a bank, for example, the bank holds title to the car until you pay off the loan. If you default on your loan, the bank can use that lien to repossess the vehicle, meaning they can come and take the car because they hold title to it. If you fail to pay your mortgage, the bank can foreclose on your property, meaning they can sell your house to pay off your debt.

**Wage garnishment**

A debt collector garnishes your wages through a court order directing your employer to hold a portion of your wages, which are then given to the debt collector. However, there are limitations on how much of your wages can be garnished. A debt collector can only take a portion of your *disposable earnings*, or the amount you have left after taxes and other basic expenses have been deducted from your income. There is a maximum amount that can be garnished from your wages each week by debt collectors. The weekly amount garnished cannot exceed either 25% of your disposable earnings, or the amount by which your disposable earnings are greater than 30 times the federal minimum wage (currently \$7.25).

The following chart illustrates **how much of your wages may be garnished per pay period:**

<b>If you get paid weekly and earn...</b>	<b>If you get paid every other week and earn...</b>	<b>If you get paid monthly and earn...</b>
\$217.50 or less: NONE of your wages can be garnished	\$435.00 or less: NONE of your wages can be garnished	\$942.50 or less: NONE of your wages can be garnished
More than \$217.50 but less than \$290.00: amount of disposable earnings above <sup>1</sup> \$217.50 can be garnished	More than \$435.00 but less than \$580.00: amount of disposable earnings above \$435.00 can be garnished	More than \$942.50 but less than \$1256.66: amount of disposable earnings above \$942.50 can be garnished
\$290.00 or more: MAXIMUM 25% <sup>2</sup> can be garnished	\$580.00 or more: MAXIMUM 25% can be garnished	\$1256.66 or more: MAXIMUM 25% can be garnished

**1. Amount of disposable earnings above:** The means that a debt collector can garnish all wages between the two numbers listed. For example, if your weekly income is \$287.50 (more than \$217.50 but less than \$290.00), the debt collector can garnish \$70.00 of your wages (the amount of disposable earnings above \$217.50).

**2. Maximum 25%:** The debt collector/creditor can garnish up to 25% of your wages at or above that number listed. For example, if your weekly income is \$290, the maximum amount that they can garnish is \$72.50 (25% of \$290.00)

**Bank Levies**

A debt collector may also be able to garnish funds from your bank account (“levying”), but only if the money in your bank account is not from certain federal benefit sources. Certain federal benefits are typically exempt or protected from levying by debt collectors. For benefits from state governments, the law varies from state to state as to which types of state benefits may be exempt from levying. The following federal benefits are generally exempt from bank account levies:

- Social Security benefits (retirement and SSDI benefits)
- Supplemental Security Income (SSI) benefits
- Veteran’s benefits
- Civil service and federal retirement and disability benefits
- Military annuities and survivor’s benefits
- Federal student aid

A debt collector may choose to levy funds from your bank account instead of garnish your wages for a variety reasons. Levying is typically easier and faster than garnishing your wages. Your bank account may also have the funds necessary to pay off your debt, so the debt collector does not need to garnish your wages. Lastly, debt collectors can only collect up to certain amount of your wages at a time and it may take longer for the debt collector to collect the full amount of debt through wage garnishment. However, a debt collector usually has the option to either garnish your wages or put a bank levy on your account.

### **Bankruptcy**

Many people struggle to pay debts despite their best efforts. If you are unable to pay your debts, you may consider filing bankruptcy. Bankruptcy is a legal procedure to relieve a person or business of certain debts that he or she may no longer be able to pay. If you file bankruptcy, this eliminates a debt collector’s ability to collect debt, even if they have a judgment, except within the terms of the bankruptcy. If you have a lien on your property, there may be additional steps that you need to take if you file bankruptcy. However, bankruptcy is an option of last resort; it can have a serious impact on your credit score for up to 10 years, which affects your ability to qualify for loans, obtain credit cards, or be extended any other credit. For more information about bankruptcy, please read additional information on the Cancer Legal Resource Center’s website.

## Resources

### **To receive help from a credit counseling service, please contact:**

National Foundation for Credit Counseling NFCC Credit Counselor: (800) 388-2227

<https://www.nfcc.org>

Financial Counseling Association of America: (800) 450-1794

<https://fcaa.org>

### **This Federal Trade Commission (FTC) video explains your rights under FDCPA:**

<http://bcove.me/t6s6l7lf>

### **To file a complaint against a debt collector, please contact:**

Consumer Financial Protection Bureau: (855) 411-2372

<https://www.consumerfinance.gov/>

Federal Trade Commission: <https://www.ftccomplaintassistant.gov/>

Alternatively, you can contact your State Attorney General's office.

### **For more information about wage garnishment, please review the following:**

Benefits Exempt From Wage Garnishment:

<https://www.consumer.ftc.gov/articles/0114-garnishing-federal-benefits>

Wage Garnishment Rules: <https://www.dol.gov/whd/garnishment/>

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