

WHAT TO DO IF YOU ARE IN DEBT IN MASSACHUSETTS

Prepared by the Mental Health Legal Advisors Committee August 2010

1. Cancel ALL credit cards EXCEPT the one that either has the lowest interest rate, or is carrying the lowest balance. This will consolidate the amount of payments you are required to make, and will be easier to manage.
2. If your only income is judgment proof, then it is protected from creditors. This means that it cannot be taken to pay a debt, and you cannot be ordered to make payments out of it. The following sources of income are protected:
 - Unemployment Compensation M.G.L. c. 151A, § 36
 - Workers Compensation M.G.L. c. 152, § 47*
 - Veterans Benefits 38 U.S.C., § 3100 & (both state and federal) M.G.L. c. 224, § 16
 - Pensions, Retirement Funds, IRAs, etc. M.G.L. c. 235, § 34A
 - Public Employees' Pensions M.G.L. c. 32, §§ 19, 41
 - Railroad Retirement 45 U.S.C., § 231m
 - OASDI, SSDI (Social Security) 42 U.S.C., § 407
 - SSI (Supplemental Security Income) M.G.L. c. 235, § 34
 - Public Assistance (Any government benefit to the poor) M.G.L. c. 235, § 34
 - Welfare Benefits (Any benefit given by the Mass Dept. of Transitional Assistance) M.G.L. c. 118, § 10

If your income is protected, then you should write a letter to your creditors informing them of this, and asking them to stop contacting you. You should specify in the letter that your only income is judgment proof (and state the type of income you receive), and that you would like them to stop contacting you because you cannot and will not make payments. Once the collection agency receives your letter, they may not contact you again except to say there will be no further contact.

3. If you want to keep the above income protected, you must keep it in a separate bank account from all other sources of income. If you have both judgment proof and non-judgment proof income, immediately separate them into two accounts. It helps to have the checks for your protected income directly deposited into an account so that you have proof that the account holds only protected income. If you keep both types of income together, then your judgment proof income will no longer be protected.

* This income is subject in certain circumstances to claims for reimbursement by the Veterans Administration and the Department of Transitional Assistance.

4. Keep a log of all phone calls with creditors, including names, dates, times, and what they say. This is important to track whether the creditors are abiding by the laws, or whether you are being harassed.
5. If you have non-judgment proof income, you can try to negotiate down your debt. If you do this, it is crucial that your credit card company agree to stop all late charges and interest charges. If they don't do this, then you will be making payments only on the interest, and will never pay down the balance. It is also extremely important to agree on a payment schedule that you can afford. NEVER agree to payments you can't afford. It is better to refuse to make an agreement at all than to break an agreement.