CORONAVIRUS AND YOUR MONEY

Behind on Debts? Know Your Rights

There are limits on what debt collectors can do to recoup what you owe. If you have medical debts, you have even more rights.

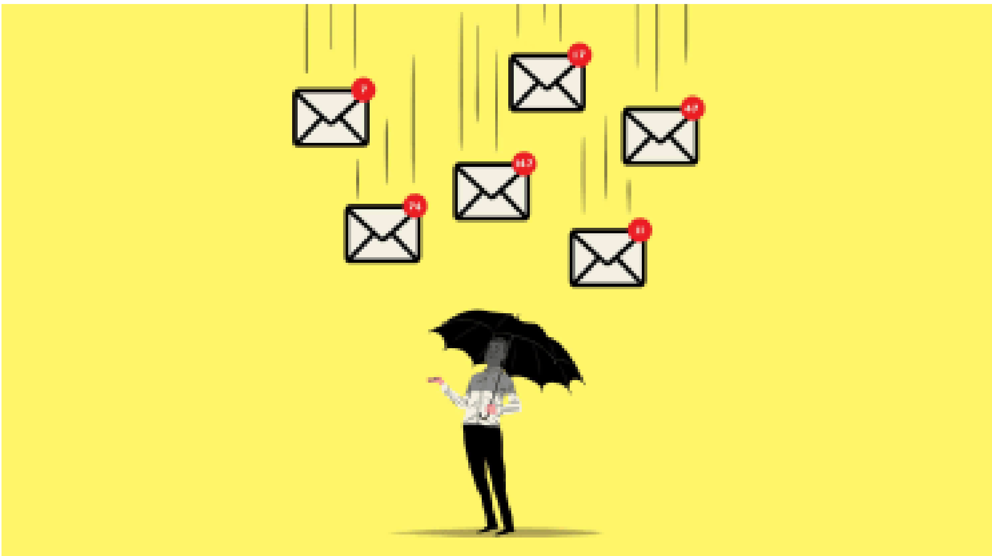

Illustration by Paul Blow

The average FICO Credit score hit an all-time high last summer, but that doesn't mean debts aren't a problem. Nearly 30% of consumers with a credit report had some type of debt in collection last October, according to data from the Urban Institute, a policy think tank. And when debts go into collection, they end up in the hands of debt collectors—a common source of angst for consumers.

According to the Consumer Federation of America, a consumer advocacy group, credit and debit issues, including those related to debt collection, are among the top 10 complaints that consumers file with state and local consumer agencies. And thanks to a new debt-collection rule issued last year by the government's Consumer Financial Protection Bureau, complaints aren't likely to decline anytime soon.

The CFPB's two-part rule, set to take effect in November, will allow debt collectors to contact consumers via e-mail, text and direct messages on Facebook and other social media sites—and there's no limit on how many times the collectors can reach out to you using these methods. On the plus side, you may not receive as many phone calls during dinner because collectors will be limited to seven calls a week for each debt. If you pick up the phone during one of these attempts, the collector can't call you again that week to discuss that particular debt.

That's still a lot of calls, and consumer advocates are concerned about the lack of a cap on electronic communications, says Linda Sherry, director of national priorities at Consumer Action, a consumer advocacy group. If you have, say, three debts in collection, you could receive up to 21 calls a week and mountains of social media messages. Consumer groups hope that the Biden administration's nominee to head the CFPB, Rohit Chopra, will support tweaking the rule to limit digital communications.

Know your rights. Under the federal Fair Debt Collection Practices Act, it's illegal for debt collectors to use abusive, unfair or deceptive tactics when trying to collect a debt. Collectors cannot threaten you or someone you know with violence or jail time or add interest or fees to the debt that weren't approved by the company you owe. And debt collectors usually can't call you before 8 a.m. or after 9 p.m.

You also have the right to write to the debt collector (or collectors) and instruct it to stop contacting you. After that, a debt collector may not contact you again unless it's to verify that it has received your request or to tell you that it plans to take some form of legal action.

It's also important to understand that a statute of limitations applies for debts in collection. The time period varies by state and the type of debt, but typically debt collectors have three to six years from when the debt goes into collection to file a lawsuit against you to collect payment. Once the statute of limitations has passed, the debt collector can't sue you. But that doesn't mean collection calls will stop, Sherry says. What's more, making a payment on an old debt may reset the clock on the statute of limitations, and the collector could sue you for the full amount. However, if you're able to repay the debt in full, it should improve your credit score. (For more on old debts and lawsuits, go to kiplinger.com/kpf/bankruptcy.)

The new CFPB rule requires that consumers receive more information about debts that have gone into collection. Debt collectors must provide you with a written "validation notice," either before contacting you for the first time or within five days of contacting you. It must include details on the amount you owe and advise you that you have the right to dispute the debt within 30 days.

Debt collectors must also wait 14 days after sending some type of notification to consumers—whether that's the validation notice or another letter or note is up for debate, according to consumer advocates—before alerting the major credit bureaus (Equifax, Experian and TransUnion) that a debt has gone into collection. The goal is to make sure the notice has gone to the correct person and that the individual understands that the debt has gone into collection before it lands on his or her credit report. If the collection agency reports it, the black mark will stay on your credit report for seven and a half years. Recently, some large debt-collection agencies have agreed not to report accounts to the credit bureaus if you set up a payment arrangement with them and stick with it, says credit expert Gerri Detweiler.

The validation notice can help you determine if the debt actually belongs to you and if the amount is correct. That's important, Sherry says, because it's common for debt collectors to contact the wrong person about an outstanding debt. Plus, scammers often pose as debt collectors to prey on consumers. If you know you have unpaid debts, Sherry suggests keeping detailed records of who you owe and the balances outstanding. If you think your rights have been violated, file a complaint with the CFPB and the Federal Trade Commission.

Your rights if you have medical debt. Medical debts are subject to the same debt-collection rules as credit card and other consumer debts, such as personal loans. But if you have unpaid medical bills, you have additional rights. As a result of a lawsuit settlement between the major credit bureaus and various states that took effect in 2017, debt collectors are required to wait 180 days from the time a medical bill becomes delinquent before reporting it to the three major credit bureaus. That provides extra time either for your insurance to pay the bill or, if it's not covered, for you to work out a payment plan with the hospital or medical services billing department.

This rule also says that if your insurance provider pays a medical bill in full, the default account must be immediately removed from your credit report. Again, it's important to keep a record of who has the debt shown in the validation notice or any other notice you receive. Medical debt collections are more likely than other debt collections to contain errors because multiple parties provide information that determines the final bill. For example, if an administrator inputs a wrong billing code, your insurer may incorrectly deny coverage.

How defaults affect credit scores

Debts in collection will eventually fall off of your credit report. But as long as they're on your report, they negatively affect the payment-history part of the FICO score calculation, which accounts for 35% of your score. The good news is that FICO has an updated model that weights paid debt in collection differently. With FICO 9, debts that have gone into collection and are paid off no longer hurt your score. However, many lenders continue to use FICO 8, which factors collections into your score even if they're paid off.

Meanwhile, FICO 10 T, introduced late last year, incorporates "trended data," which tracks consumers' account balances and payment activity on loans and credit cards over the past 24 months. If you steadily pay off debt over time, that has a positive effect on your 10 T score. However, it will be some time before lenders across the board start using the new model.

NYSUT Note: NYSUT Member Benefits endorses Cambridge Credit Counseling, to provide free debt counseling and other debt management services for NYSUT members. Click [here] for more information.

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