

FTC Facts

For Consumers



FEDERAL TRADE COMMISSION
FOR THE CONSUMER

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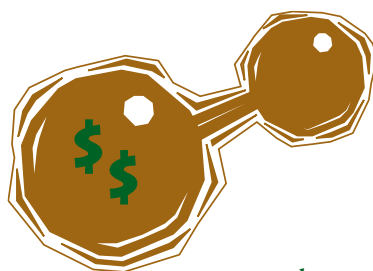
Fiscal Fitness: Choosing a Credit Counselor

Living paycheck to paycheck? Worried about debt collectors? Can't seem to develop a workable budget, let alone save money for retirement? If this sounds familiar, you may want to consider the services of a credit counselor.

Many credit counseling organizations are nonprofit and work with you to solve your financial problems. But beware – just because an organization says it is “nonprofit” doesn't guarantee that its services are free or affordable, or that its services are legitimate. In fact, some credit counseling organizations charge high fees, some of which may be hidden, or urge consumers to make “voluntary” contributions that cause them to fall deeper into debt.

Most credit counselors offer services through local offices, the Internet, or on the telephone. If possible, find an organization that offers in-person counseling. Many universities, military bases, credit unions, housing authorities, and branches of the U.S. Cooperative Extension Service operate nonprofit credit counseling

programs. Your financial institution, local consumer protection agency, and friends and family also may be good sources of information and referrals.



Amendments to the FTC's Telemarketing Sales Rule prohibit for-profit credit counselors who sell debt settlement and other debt relief services on the phone from charging or collecting a fee before they settle, reduce or alter your debt. If you do business with a for-profit debt relief company, you may be required to put money in a dedicated bank account, which will be administered by an independent third party. See *Settling Your Credit Card Debts* at ftc.gov/credit for more information.

CHOOSING A CREDIT COUNSELING ORGANIZATION

Reputable credit counseling organizations advise you on managing your money and debts, help you develop a budget, and usually offer free educational materials and workshops. Their counselors are certified and trained in the areas of consumer credit, money and

debt management, and budgeting. Counselors discuss your entire financial situation with you, and help you develop a personalized plan to solve your money problems. An initial counseling session typically lasts an hour, with an offer of follow-up sessions.

A reputable credit counseling agency should send you free information about itself and the services it provides without requiring you to provide any details about your situation. If a firm doesn't do that, consider it a red flag and go elsewhere for help.

Once you've developed a list of potential counseling agencies, check them out with your state Attorney General, local consumer protection agency, and Better Business Bureau. They can tell you if consumers have filed complaints about them. (But even if there are no complaints about them, it's not a guarantee that they're legitimate.) The United States Trustee Program also keeps a list of credit counseling agencies that have been approved to provide pre-bankruptcy counseling. You can find a state-by-state list of government-approved organizations at www.usdoj.gov/ust. After you've done your background investigation, it's time for the most important research – you should interview the final “candidates.”

Questions to Ask

Here are some questions to ask to help you find the best counselor for you.

What services do you offer? Look for an organization that offers a range of services, including budget counseling, and savings and debt management classes. Avoid organizations that push a debt management plan (DMP) as your only option before they spend a significant amount of time analyzing your financial situation.

Do you offer information? Are educational materials available for free? Avoid organizations that charge for information.

In addition to helping me solve my immediate problem, will you help me develop a plan for avoiding problems in the future?

What are your fees? Are there set-up and/or monthly fees? Get a specific price quote in writing.

What if I can't afford to pay your fees or make contributions? If an organization won't help you because you can't afford to pay, look elsewhere for help.

Will I have a formal written agreement or contract with you? Don't sign anything without reading it first. Make sure all verbal promises are in writing.

Are you licensed to offer your services in my state?

What are the qualifications of your counselors? Are they accredited or certified by an outside organization? If so, by whom? If not, how are they trained? Try to use an organization whose counselors are trained by a non-affiliated party.

What assurance do I have that information about me (including my address, phone number, and financial information) will be kept confidential and secure?

How are your employees compensated? Are they paid more if I sign up for certain services, if I pay a fee, or if I make a contribution to your organization? If the answer is yes, consider it a red flag and go elsewhere for help.

DEBT MANAGEMENT PLANS

If your financial problems stem from too much debt or your inability to repay your debts, a credit counseling agency may recommend that you enroll in a debt management plan. A DMP alone is not credit counseling, and DMPs are not for everyone. Consider signing on for one of these plans only after a certified credit counselor has spent time thoroughly reviewing your financial situation, and has offered you customized advice on managing your money. Even if a DMP is appropriate for you, a reputable credit counseling organization still will help you create a budget and teach you money management skills.

How a DMP Works

You deposit money each month with the credit counseling organization. The organization uses your deposits to pay your unsecured debts, like credit card bills, student loans, and medical bills, according to a payment schedule the counselor develops with you and your creditors. Your creditors may agree to lower your interest rates and waive certain fees, but check with all your creditors to be sure that they offer the concessions that a credit counseling organization describes to you. A successful DMP requires you to make regular, timely payments, and could take 48 months or longer to complete. Ask the credit counselor to estimate how long it will take for you to complete the plan. You also may have to agree not to apply for – or use – any additional credit while you’re participating in the plan.

A successful DMP requires you to make regular, timely payments, and could take 48 months or longer to complete.

Is a DMP Right For You?

In addition to the questions already listed, here are some other important ones to ask if you’re considering enrolling in a DMP.

Is a DMP the only option you can give me? Will you provide me with on-going budgeting advice, regardless of whether I enroll in a DMP? If an organization offers only DMPs, find another credit counseling organization that also will help you create a budget and teach you money management skills.

How does your DMP work? How will you make sure that all my creditors will be paid by the applicable due dates and in the correct billing cycle? If a DMP is appropriate, sign up for one that allows all your creditors to be paid before your payment due dates and within the correct billing cycle.

How is the amount of my payment determined? What if the amount is more than I can afford? Don’t sign up for a DMP if you can’t afford the monthly payment.

How often can I get status reports on my accounts? Can I get access to my accounts online or by phone? Make sure that the organization you sign up with is

willing to provide regular, detailed statements about your account.

Can you get my creditors to lower or eliminate interest and finance charges, or waive late fees?

If yes, contact your creditors to verify this, and ask them how long you have to be on the plan before the benefits kick in.

What debts aren't included in the DMP? This is important because you'll have to pay those bills on your own.

Do I have to make any payments to my creditors before they will accept the proposed payment plan? Some creditors require a payment to the credit counselor before accepting you into a DMP. If a credit counselor tells you this is so, call your creditors to verify this information before you send money to the credit counseling agency.

How will enrolling in a DMP affect my credit? Beware of any organization that tells you it can remove accurate negative information from your credit report. Legally, it can't be done. Accurate negative information may stay on your credit report for up to seven years.

Can you get my creditors to "re-age" my accounts – that is, to make my accounts current? If so, how many payments will I have to make before my creditors will do so? Even if your accounts are "re-aged," negative information from past delinquencies or late payments will remain on your credit report.

How to Make a DMP Work for You

The following steps will help you benefit from a DMP, and avoid falling further into debt.

- Continue to pay your bills until the plan has been approved by your creditors. If you stop making payments before your creditors have accepted you into a plan, you'll face late fees, penalties, and negative entries on your credit report.
- Contact your creditors and confirm that they have accepted the proposed plan before you send any payments to the credit counseling organization for your DMP.

- Make sure the organization's payment schedule allows your debts to be paid before they are due each month. Paying on time will help you avoid late fees and penalties. Call each of your creditors on the first of every month to make sure the agency has paid them on time.
- Review monthly statements from your creditors to make sure they have received your payments.
- If your debt management plan depends on your creditors agreeing to lower or eliminate interest and finance charges, or waive late fees, make sure these concessions are reflected on your statements.

DEBT SETTLEMENT PROGRAMS

Debt settlement differs greatly from credit counseling and DMPs. It can be very risky, and have a long term negative impact on your credit report and, in turn, your ability to get credit. That's why the FTC and many states have laws or rules regulating debt settlement companies and the services they offer. Contact your state Attorney General for more information.

The Claims

Debt settlement firms may claim they'll negotiate with your creditors to reduce the amount you owe. Some debt settlement companies may claim that they can arrange for your debt to be paid off for a much lower amount – anywhere from 30 to 70 percent of the balance you owe. For example, if you owe \$10,000 on a credit card, a debt settlement company may claim it can arrange for you to pay off the debt for less, say \$4,000. Some debt settlement firms may also claim to be nonprofit.

Debt settlement firms often pitch their services as an alternative to bankruptcy. They may claim that using their services will have little or no negative impact on your ability to get credit in the future, or that any

negative information can be removed from your credit report when you complete their debt negotiation program. The firms usually tell you to stop making payments to your creditors and, instead, send payments to the debt negotiation company.

The firm may promise to hold your funds in a special account and pay your creditors on your behalf.

The Truth

There is no guarantee that the services debt settlement companies offer are legitimate. There also is no guarantee that a creditor will accept partial payment of a legitimate debt. In fact, if you stop making payments on a credit card, late fees and interest usually are added to the debt each month. If you exceed your credit limit, additional fees and charges also can be added. This can cause your original debt to double or triple. All these fees will put you further in the hole.

While creditors have no obligation to agree to negotiate the amount a consumer owes, they have a legal obligation to provide accurate information to the credit reporting agencies, including your failure to make monthly payments. That can result in a negative entry on your credit report. And in certain situations, creditors may have the right to sue you to recover the money you owe. In some instances, when creditors win a lawsuit, they have the right to garnish your wages or put a lien on your home. Finally, the Internal Revenue Service may consider any amount of forgiven debt to be taxable income.

Fees

Amendments to the FTC's Telemarketing Sales Rule prohibit companies that sell debt settlement and other

debt relief services on the phone from charging a fee **before** they settle or reduce your debt.

If you do business with a debt settlement company, you may be required to put money in a dedicated bank account, which will be administered by an independent third party. The account administrator may charge you a reasonable fee, and is responsible for transferring funds from your account to pay your

creditors and the debt settlement company when settlements occur. See *Settling Your Credit Card Debts* at ftc.gov/credit for more information.

Disclosure Requirements

Before you sign up for the service, the debt settlement company must give you information about the program's:

- **Price and terms.** The company must explain its fees and must tell you about any conditions on its services.
- **Results.** The company must tell you how long it will take to get results. That is, how many months or years before the company will make an offer to each creditor.
- **Offers.** The company must tell you how much money or what percentage of each outstanding debt you must save before it will make an offer to each creditor.
- **Non-payment.** If the company asks you to stop making payments to your creditors – or if the program relies on your not making payments – the company must tell you about the possible negative consequences of doing so.

Accurate negative information may stay on your credit report for up to seven years.

Tax Consequences

Depending on your financial condition, the amount of any savings you obtain from debt relief services can be considered income and taxable. Credit card companies and others may report settled debt to the IRS, and the IRS considers it income, unless you are “insolvent.”

You are insolvent when your total debts are more than the fair market value of your total assets. Insolvency can be fairly complex to determine – please talk to a tax professional if are not sure whether you qualify for this exception.

Tip-offs to Rip-offs

Steer clear of debt relief companies that:

- charge any fees before it settles your debts
- guarantee they can remove your unsecured debt
- tout a “new government program” to bail out personal credit card debt
- promise that unsecured debts can be paid off with pennies on the dollar
- tell you to stop making payments to or communicating with your creditors
- tell you it can stop all debt collection calls and lawsuits
- claim that creditors never sue consumers for non-payment of unsecured debt
- promise that using their system will have no negative impact on your credit report
- claim that they can remove accurate negative information from your credit report.

If you decide to work with a debt settlement company, be sure to check it out with your state Attorney General, local consumer protection agency, and the Better Business Bureau. They can tell you if any consumer complaints are on file about the firm you’re considering doing business with. Also, ask your state Attorney General if the company is required to be licensed to work in your state and, if so, whether it is.

FOR MORE INFORMATION

To learn more about dealing with debt, visit www.ftc.gov/MoneyMatters.

The FTC works to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop and avoid them. To file a complaint or get free information on consumer issues, visit ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. Watch a video, *How to File a Complaint*, at ftc.gov/video to learn more. The FTC enters consumer complaints into the Consumer Sentinel Network, a secure online database and investigative tool used by hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.