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From: Jaime Wigger [jwigger@scfederal.org]
Sent: Friday, November 02, 2007 1:51 PM
To: _Regulatory Comments
Subject: Jaime Wigger - Comments on Proposed Guidance (Garnishment of Federal Benefit Payments)

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General Comments of the Proposal

is our understanding that no garnishment order would be sent to a financial institution until attempts have been made to contact the person to which the order applies. Therefore, at the time the garnishment is sent to any financial institution, the individual should be well aware that such action is a possibility, and they have been given the opportunity to contact the agency in order to make arrangements to repay their debt. The garnishment of the individual's funds should be a push to encourage the person to contact the applicable agency in order to resolve the issue, since at that point the individual seems to be ignoring the problem or failing to take steps to repay their debt.

Individual's that are receiving federally protected funds should be aware of the protection at the time that they begin to receive these benefits and should know that they can take steps to prevent the situation from escalating to this point. It appears this proposal intends to make financial institutions take on the responsibility of determining these individual's financial situations and making a judgment call, which is unlikely to be 100% accurate, about whether or not to follow a legal order to freeze funds. What protection will financial institutions have if they determine that funds appear to be a federal benefit when, in fact, they aren't protected? These individual's owe money to someone and have failed to take responsibility for it; why should the burden be placed on the financial institution to determine the individual's personal situation?

I. Request for Comment

The Agencies request comment on all aspects of the proposed guidance. In addition, the Agencies seek comment on the following issues:

1. Are there practices that would enable an institution to avoid freezing funds altogether by determining at the time of receipt of a garnishment order that the funds are federally protected and not subject to an exception?

It is possible that in some instances, federally protected funds may be recognized; however, we could not guarantee 100% accuracy. Funds are received through various methods: cash (we have no way of determining the source), checks from a federal agency (could be assumed that it is protected, but may not be certain), funds received electronically have only a description, which the sender chooses and enters (again, this would be based on assumption).

2. Are there other permissible practices that would better serve the interests of consumers who have accounts containing federal benefit payments? Are there ways to provide consumers with reasonable access to their funds during the garnishment process?

Are the agencies that provide federally protected benefits informing these individuals of the protection and their rights regarding garnishments? Perhaps more education should be given to them from those agencies? It would seem more appropriate that those agencies would be certain of whether those funds are protected.

3. Are customers adequately informed of their rights when a creditor attempts to garnish their funds? What could be done to provide consumers with better information?

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Our current process includes immediately sending notice to the individual. The notice advises the individual that we have received a garnishment order and from which agency it is from. We provide time frames which apply, contact information for the applicable agency, our fax number to submit a release of levy/garnishment, and advise the individual to contact the agency immediately in order to make payment arrangements. A memo is placed on the account, which includes the agency and their phone number, so that if the individual visits a branch or calls they will be given the information so that they can contact the appropriate agency. In an effort to ensure consumers are aware of the protection of federal benefits, we will add information to the notice, which would state that certain funds are protected and if they feel this is applicable to them, they should contact the agency immediately and bring this information to their attention.

4. Institutions often charge customers a fee for freezing an account. How do these fees compare to those charged separately when an account holds insufficient funds to cover a check presented for payment? Are there operational justifications for both types of fees to be assessed?

We do not charge consumers a fee for processing garnishment orders. We charge fees for non-sufficient funds when applicable, this covers processing costs.

A suggestion made in the proposal is to offer consumers segregated accounts that contain only federal benefit funds. We do not have the ability to limit deposits only into an account, in order for account owners to have access to the funds (withdrawals, payments, etc.); they would also have access to deposit any funds into the account. Through the various methods of depositing funds, we would not be able to monitor deposits to ensure that non-federally protected funds were not deposited into the account. This would be dependent upon the consumer acting honestly and not attempting to hide other funds within this account. Therefore, this would not be an effective method to ensure federally protected funds are kept separate.

Thank you for the opportunity to comment on the proposed guidance.

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