

# THE FAIR DEBT COLLECTION PRACTICES ACT

## PURPOSE

The purpose of this document is to provide you with basic information about certain provisions of the [Fair Debt Collection Practices Act](#), 15 U.S.C. 1672 et. seq. This is a federal law that may be of some practical use to you in resolving a debt that you feel might be unjustified or getting a collection agency to act within the requirements of the law when attempting to collect a valid debt.

## ROLE OF THE DEBT COLLECTION ASSISTANCE OFFICER (DCAO)

This information is provided as a useful aid by the DCAO and is not a substitute for receiving legal advice from a private attorney or your local military legal assistance officer. This information is made available to assist you with resolving an allegation of a debt owed by you for medical services you or a family member received under the TRICARE program. The role of the DCAO is to research your TRICARE claim, obtain an official determination as to the appropriate resolution of the claim, and provide written documentation to address adverse credit information. The DCAO will request the cooperation of the agency or individual attempting to collect the debt in the hope that that entity will stop its collection efforts until the matter is resolved. In the event the Managed Care Support Contractor (MCSC) or the United States Government is the cause of the delay in the payment of a valid claim, you will be provided with a letter from the DCAO to this effect.

The DCAO can only act as a facilitator in this matter. To locate a DCAO near you please visit: [Beneficiary Counseling and Assistance Coordinator \(BCAC\) Debt Collection Assistance Officer \(DCAO\) http://www.tricare.mil/bcacdcao/](#).

*THE DCAO IS NOT YOUR ATTORNEY AND IS NOT ALLOWED UNDER THE LAW TO ACT AS YOUR ADVOCATE ON THIS ALLEGED DEBT AND COLLECTION MATTER.*

## THE ROLE OF DEBT IN AMERICAN SOCIETY

Most Americans use debt in one form or another. They owe money on their homes, credit cards, education, cars, medical bills, stereos and televisions, etc. When a person who is in debt (a debtor) does not make payment to the creditor as agreed, the creditor will take measures to collect the debt. The creditor may try to collect the debt or they may hire a collection agency to attempt to collect the debt.

Collection agencies specialize in debt collection. In most cases, the collection agency either “buys” the debt from the creditor, or is paid a percentage of what they recover for the creditor. In either case, the collection agency has a great interest in seeing to it that the debtor pays the amount due. In the past, collection agencies used harassing, embarrassing, or strong-arm tactics to collect debts, so in 1978 Congress passed the [Fair Debt Collection Practices Act](#). This law does not erase any legitimate debt that is owed, but it provides specific rules that debt collectors must follow, and prohibits abusive debt collection methods by debt collectors. The law does not apply to individuals or businesses (creditors) trying to collect debts for themselves, unless that is a large part of their regular business.

## WHAT IS A DEBT COLLECTOR ALLOWED TO DO?

Under the [Fair Debt Collection Practices Act](#), a debt collector MAY:

- Contact the debtor by phone, telegram or mail.
- The debt collector should tell the debtor that they work for a collection agency and are contacting them about a debt that is past due.
- The debt collector should inform the debtor of the amount of the debt, the identity of the creditor, and the steps the debtor must take if the debtor feels there has been an error. This information must be supplied to the debtor in writing within 5 days of the first contact (see example letter below).
- Contact others, but only for assistance in locating a debtor such as finding a home or employment address.
- Sue the consumer for the debt, but only in the judicial district where the debtor lives, or where the contract was signed.

## WHAT IS A DEBT COLLECTOR FORBIDDEN TO DO?

The federal law specifically prohibits collection agencies from certain practices. A debt collector may NOT:

- Contact the debtor at inconvenient times, such as before 0800 or after 2100, unless the debtor agrees.
- Contact the debtor at work if their employer (supervisor or commander) disapproves.
- Contact the debtor directly once the debtor has written the collection agency a letter asking them not to contact him/her further.
- Tell anyone else that the debtor owes money (except for the debtor's attorney).
- Use threats of violence or harm to the property or reputation of the debtor.
- Publish a list of debtors who refuse to pay their debts (except to a credit bureau).
- Use obscene or profane language.
- Repeatedly call the debtor in order to harass him/her.
- Contact the debtors without identifying themselves.
- Make any false statements, including statements:
  - Implying that they are an attorney or government representative when they are not.
  - Implying that the debtor has committed a crime when he or she has not.
  - Misrepresenting the amount of debt.
  - Indicating they are sending legal papers when they are not or indicating they are not sending legal paper when they are.
- Threaten the debtor with arrest.
- State that they will take actions against the debtor that may not be taken by law.
- Send documents to the debtor, which resemble official government or court documents.
- Use a false name.
- Collect any amount greater than your debt unless allowed by law (for example, collection agencies are often authorized to collect interest and late fees).
- Deposit a post-dated check before the date on the check.
- Make the debtor accept collect calls or pay for telegrams.
- Contact the debtor by post card.
- Send any mailing to a debtor which indicates on the envelope that the mailing is in reference to the collection of a debt.

## WHAT IF THE DEBT COLLECTOR BREAKS THE LAW?

According to the [Fair Debt Collection Practices Act](#), a debtor who is the victim of illegal practices by a collection agency may sue the agency in Federal Court regardless of the amount of the controversy. The Act also allows private law suits against debt collectors who break the law. The suit must be filed within one year of the illegal practice. If the debtor wins the suit, he or she may recover any monetary damages caused by the illegal practice, as well as court costs and attorney's fees in some cases.

Many states also have debt collection laws that penalize collection agencies practices, and allow the wronged debtor to sue. A debtor who has a complaint should contact their State's Attorney General's office to determine their rights under the law.

A debtor with a complaint should also contact the [Federal Trade Commission](#) office nearest them. The Federal Trade Commission relies on consumer complaints to decide which companies to investigate. Federal Trade Commission offices can be located by visiting [Federal Trade Commission](#) <http://www.ftc.gov/>

**CAUTION:** This document is designed to provide you with general information about the [Fair Debt Collections Practices Act](#). The specific facts in your case may involve different legal issues not discussed here. In the event the debt is determined to be valid, or if you wish to further contest the validity of the debt, you may desire to consult your legal assistance advisor. For more information we recommend you the following website: [Beneficiary Counseling and Assistance Coordinator \(BCAC\) Debt Collection Assistance Officer \(DCAO\)](#) <http://www.tricare.mil/bcacdcao/>

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**Privacy Act Statement:** This statement serves to inform you of the purpose for collecting information required by the Defense Health Agency Great Lakes (DHA-GL) and how it will be used. **AUTHORITY:** 10 U.S.C. Chapter 55, Medical and Dental Care; 32 CFR 199.17, TRICARE program; and E.O. 9397 (SSN), as amended. **PURPOSE:** To collect information from Military Health System beneficiaries in order to determine their eligibility for coverage under the TRICARE Program. **ROUTINE USES:** Use and disclosure of your records outside of DoD may occur in accordance with 5 U.S.C. 522a (b) of the Privacy Act of 1974, as amended, which incorporates the DoD Blanket Routine Uses published at: [http://dpclo.defense.gov/privacy/SORNS/blanket\\_routine\\_uses.html](http://dpclo.defense.gov/privacy/SORNS/blanket_routine_uses.html). Any protected health information (PHI) in your records may be used and disclosed generally as permitted by the HIPPA Privacy Rule (45 CFR Parts 160 and 164), as implemented within DoD by 6025.18-R. Permitted uses and discloses of PHI include, but are not limited to, treatment, payment, and healthcare operations. **DISCLOSURE:** Voluntary; however, failure to provide information may result in the denial of coverage.

**Date**

XYZ Credit Reporting Agency  
Street Address  
City, State ZIP Code

Dear XYZ Credit Reporting Agency

I am contesting the accuracy and completeness of information contained in my consumer's file at your credit-reporting agency. I am requesting a reinvestigation under the Fair Debt Collection Practices Act, 15 U.S.C. 1681i.

The information I am contesting is a claim for health care services and/or supplies by \_\_\_\_\_ dated \_\_\_\_\_ alleging late or non-payment by me. I have enclosed information from the Department of Defense, TRICARE Management Activity which explains the Government's role in the delay in payment or payment of less than billed charges. I request that you reinvestigate this matter and delete the negative information from my consumer file.

Signed: Service Member