Michael Kerr

From: comments
Sent: Saturday, March 19, 2011 5:32 PM
To: Michael Kerr
Subject: FW: Comment on Proposed Amendments To The UDMSA

From: Hilton Sher [mailto:hilton@consolidatedcredit.org]
Sent: Fri 3/18/2011 4:58 PM
To: comments
Subject: Comment on Proposed Amendments To The UDMSA

We have the following recommendation to the proposed amendments to the Uniform Debt-Management Services Act.

Section 23 (d) (1) provides for a fee not exceeding $50 for consultation, obtaining a credit report, setting up an account and the like.
Section 23 (d) (2) states that a provider may not request or receive any compensation from or on behalf of an individual unless:

-the provider has secured the assent of the individual and at least one creditor of the individual to a change in the terms of the debt and

-the individual has made a payment towards satisfying the modified terms of the debt.

The provisions of Section 23 (d) (2) are acceptable with regard to the monthly service fee contemplated in Section 23 (d) (3). Traditionally, most providers do not accept a monthly fee unless:

-a signed agreement from the individual consenting to a debt management plan has been received and

-the individual has made a payment towards satisfying the modified terms of the debt and

-proposals have been sent out and at least one creditor has agreed to a change in terms.

The provisions of Section 23 (d) (2) should not apply to the fee provided for in Section 23 (d) (1). The Section 23 (d) (1) fee should be allowable upon the provider having secured the assent of the individual. Most providers initially provide counseling and educational services to an individual and set up an account. If the individual then chooses a debt management plan, an agreement is sent to the individual. Upon the return of this signed agreement, a credit report is obtained, the account is updated with additional information and other services are performed. All of this takes place prior to the individual making a payment towards satisfying the modified terms of the debt or the receipt of proposal acceptance from creditors. The provider incurs significant costs to set up an account and there is no guarantee that the individual will even make their first monthly payment. The fee contemplated in Section 23 (d) (1) would help to defray a small amount of the initial costs incurred by the provider and show a commitment by the individual. This is not an advance fee as the work is performed when counseling/consulting with the individual and setting up the account.

Regards,

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