

BANKRUPTCY CLAIMS

AUTHORITY:	U.S. Bankruptcy Codes
RESCINDS:	Procedure Manual Item 2-1-105, dated 04/18/14 (Major Revision)
FORMS:	None
PURPOSE:	To provide a guideline for case management in determining the impact of bankruptcy claims against criminal restitution, Court-ordered fines, and costs of probation

I. GENERAL INFORMATION

The scope of this PMI is necessarily limited. Bankruptcy law is an intricate web of laws and each case is unique. The most common types of bankruptcy cases involving probationers are Chapter 7 and Chapter 13.

II. PROCEDURE

A. Assigned Collection Officer to Review Account

1. Review received Notice of Bankruptcy
 - a. Review the Notice of Bankruptcy to determine if there is a need to take action such as submitting a proof of claim.
2. Review client account
 - a. Add case notes regarding the Notice of Bankruptcy.
3. Assigned Collection Officer to Execute Automatic Stay Period:
 - a. All collection enforcement actions and billings will be stopped until a notice of discharge is received regardless of Chapter cited.
 - b. Bankruptcy flag is checked to automatically have system stop bills from being mailed out.

B. Assigned Collection Officer to Review Order of Discharge

1. After the court bankruptcy proceedings have completed, an Order of Discharge will be issued by the court to all listed debt holders.
2. Review the Order of Discharge to determine if the case was denied, closed, dismissed, or discharged. The Order of Discharge will state if it is a Chapter 7 or Chapter 13 bankruptcy filing.

3. Discharge applies differently depending upon which Chapter filing is used by the debtor and which kind of debt is owed.
 - a. Take any required action on the account as noted in the Order of Discharge.
 - (1) Criminal restitution obligations are non-dischargeable in all bankruptcy cases regardless of Chapter cited.
 - (2) Criminal Fines are non-dischargeable in all bankruptcy cases regardless of Chapter cited.
 - (3) Criminal Fees and Costs of Probation are not dischargeable in Chapter 7 proceedings.
 - (4) Criminal Fees and Costs of Probation may or may not be dischargeable under Chapter 13. The Sixth Circuit of the United States Court of Appeals determined these to be "debts" as defined in 11 U.S.C. Section 101.
4. Reinstate all enforcement actions by inputting the Bankruptcy Discharge date in the system. Mailing of billing statements will resume

REFERENCES:

None

A. Gonzales

APPROVED BY: