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**Paying less than minimum won't ward off garnishment**

By Sally Herigstad



**Dear To Her Credit,**

I have a judgment against me for over \$5,000. I don't have the money to pay it off, but someone told me that if I pay something every month, even if it's only \$10, they won't be able to garnish my wages. Is that true? -- Sara



**Dear Sara,**

I've heard rumors to that effect. Someone told me, for example, that if you pay the hospital \$5 a month, they can't take any action against you. Unfortunately, this is only a rumor. There is no such rule.



To Her Credit

Sally Herigstad is a certified public accountant and the author of "Help! I Can't Pay My Bills: Surviving a Financial Crisis" (St. Martin's Press, 2006).

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Creditors are not required to accept payment in monthly installments unless there is a contract or an agreed upon payment plan. Even then, the debtor must make the minimum payment as set forth in the contract or plan. Paying an arbitrary low amount won't cut it. Creditors can not only take legal action, but they may also report your past due debt to the credit bureaus.

Rumors usually start with a grain of truth. The truth in this rumor is that creditors are more likely to work with you if you stay in contact with them and make some effort to pay. There's a difference between what creditors may choose to do and what they are required by law to do, however.

I asked collections and judgment enforcement attorney Joshua P. Friedman if making a small payment every month would stop collection activity. He says, "The debtor cannot arbitrarily make minimal payments to a creditor and avoid further legal and/or collections activities. Those minimal payments will simply be applied to the outstanding debt, but will not stop any legal and/or collections activities."

"This is really a question of contract law," says Friedman. "It depends on what the original contract with the creditor says. For example, a standard credit card contract states that so long as you pay at least 2.4 percent of your then outstanding balance, you have made your minimal payment, will not be in default and the credit card company will not pursue any penalties."

Other creditors, such as health care providers and landlords, expect payment in full immediately. When you are admitted to the hospital or visit the doctor, you sign an agreement to pay any balance owed within 30 days of billing. As a practical matter, you have a little more time. "As a courtesy, most medical practitioners will not bill the patient until the medical practitioner has reached a final resolution with the insurance carrier," says Friedman. If you get behind in your rent, landlords expect payment when due.

If you don't want your wages garnished, you must act immediately. That means contacting the creditor and working something out with them, not just sending them a reduced amount. "If a debtor

wants to avoid further legal action, the debtor should contact the original creditor directly and agree to a payment plan," says Friedman.

Be sure to ask the creditor to waive all interest, attorneys fees, costs, and so on as long as you make payments, according to Friedman. And always have the creditor or debtor confirm the terms of the agreement in writing.

Making contact with a creditor is usually the last thing we feel like doing. That's what makes the pay-a-small-amount story so attractive. It makes people think they can deal with the issue without having to write a letter or pick up the phone. With a little more effort, however, you can face the situation and find a workable solution with your creditor so you can pay this off without having your wages garnished or your credit damaged.

Take care of your credit!

**See related:** [Ignoring credit card debt can lead to garnished wages](#), [Wage garnishment rules of engagement](#), [Take these steps to avoid wage garnishment](#)

*Sally Herigstad writes about women and credit every week for CreditCards.com. Herigstad is a writer and finance consultant for MSN Money, a personal finance software product. She is also a member of the Washington Society of Certified Public Accountants and the American Institute of Certified Public Accountants. Her Web site is <http://helpcantpaymybills.net>. Sally Herigstad lives in Kent, Wash., with her husband Gary. They have two grown children, Valia and Grant.*

*To Her Credit answers a question about a debt or credit issue from a CreditCards.com reader each week. Send your question to Sally.*

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