

New York City Department of Consumer and Worker Protection Issues Proposed Amendments to its Rules Relating to Debt Collectors

2 min read

Nov 13, 2023

By: Dana B. Briganti

In September, the New York City Department of Consumer and Worker Protection (DCWP) requested comment on [proposed amendments](#) to its rules relating to debt collectors, which could significantly change the requirements and procedures concerning debt collection with New York City consumers. DCWP had previously proposed amendments in November 2022, which were not finalized.

The proposed amendments contain, among other provisions, new and revised definitions, and changes to the requirements for records to be maintained by a debt collection agency. There are also several revisions to the rules regarding unconscionable and deceptive trade practices, which concern the collection of medical debt, validation notices, verification, communications with consumers, requisite disclosures, and credit reporting.

Revised and New Definitions

The proposed amendments alter the definitions of “communication” and “debt collector” and add new definitions for the following terms:

- “attempted communication,”
- “clear and conspicuous,”
- “covered medical entity,”
- “electronic communication,”
- “electronic record,”
- “financial assistance policy,”
- “itemization reference date,”

- “language access services,”
- “limited-content message,” and
- “original creditor and originator creditor.”

Recordkeeping Amendments

The proposed amendments include additional requirements for records that debt collection agencies maintain. For example, each debt file that a debt collection agency maintains to document its collection activities with a consumer will also need to include any records that evidence compliance and noncompliance with certain laws and rules and a log, account notes, or record of all communications and attempted communications by any medium between a debt collection agency and a New York City consumer.

The log must identify the date, time, duration, and medium of the communication or attempted communication, the names and contact information of the persons involved, and a contemporaneous plain language summary of the communication or attempted communication.

Debt collection agencies will also need to maintain monthly logs or records documenting New York City consumers’ filed complaints, all disputes or requests for verification, and all cease-and-desist requests. In addition, debt collection agencies will need to maintain a record indicating which medium(s) of electronic communication are permitted or not permitted by each consumer, along with each consumer’s preferred medium of communication, if known, a record of information on debt furnished to a consumer reporting agency, and a record of any notice of unverified debt issued or received.

Medical Debt Amendments

The proposed amendments contain provisions specific to the collection of medical debt, including disclosures, disputes, and verification of medical debt, and general requirements debt collectors must comply with when collecting medical debt.

Unconscionable and Deceptive Trade Practices Amendments

The proposed amendments contain numerous changes and additions to the rules concerning unconscionable and deceptive trade practices, which include:

- (i) new requirements concerning time-barred debts, including waiting periods and specific disclosures that must be provided to consumers when collecting on time-barred debt;

- (ii) new requirements for the use of electronic communications, such as email, text messages, and social media;
- (iii) significant restrictions on the frequency of communications and attempted communications with New York City consumers; and
- (iv) prerequisites to furnishing information about a debt to a consumer reporting agency, including a requirement that debt collectors first send the consumer a proper validation notice and comply with a waiting period.

DCWP is holding a [public hearing on November 29, 2023](#), at 11:00 a.m. EST to discuss the proposed amendments and take comments. Written comments are due by November 29, 2023. Hinshaw will continue to monitor these and other rules impacting debt collection activities.

Hinshaw & Culbertson LLP is a U.S.-based law firm with offices nationwide. The firm's national reputation spans the insurance industry, the financial services sector, professional services, and other highly regulated industries. Hinshaw provides holistic legal solutions—from litigation and dispute resolution, and business advisory and transactional services, to regulatory compliance—for clients of all sizes. Visit www.hinshawlaw.com for more information and follow @Hinshaw on LinkedIn and X.

Topics

Debt Collection, Consumer Protections, Debt Collector, Medical Debts

Related Capabilities

Consumer Financial Services