

COVID-19 has upended all of our lives in the last weeks and days, and unfortunately, the situation may get worse before it gets better. There has been recent reporting, given the closures, especially in the travel and hospitality industries, that unemployment could reach 20%. With that backdrop, the Chapter 13 Trustees expect that we will see many motions to modify plans to temporarily suspend or reduce plan payments. We are writing today to communicate some tips and best practices. Please keep in mind that this is a fluid situation and every case is different, so these are general suggestions that may or may not apply to your particular case.

1. How far behind is the Debtor? Be sure to use www.NDC.org to monitor the case. If the Trustee just got a payment in the last week or two, there is not an emergency yet. If we are still in the same boat we are now at the end of April, you may want to file a modification. As long as there is a modification on file before the end of a particular month, you can suspend for that month. (So if you modify to suspend payments for April and May say by April 25, that will be fine.)
2. In general payment suspensions should be 2-3 months. The longer the debtor goes without payments, the more difficult it is to maintain a feasible plan.
3. Consider reducing, rather than suspending payments if the debtor can handle it. This is especially true if there are secured debts to pay that have interest due as the interest will continue to accrue and require increased plan payments over the remaining, shorter, plan term.
4. Consider the debtor's eligibility to convert to a chapter 7, and if that might make the most sense under the circumstances.
5. For a case that is simply suspending payments please include a statement that "The plan will be further modified after payments resume, if necessary, to maintain a feasible plan.
6. Be sure to explain in a modified plan why the payment suspension is needed, lost job, hours cut, etc.
7. If the payments are being lowered temporarily, be sure to file an amended budget.
8. The modified plan must be served on all creditors. If you are working remotely and that is difficult, consider using a vendor like www.certificateofservice.com to serve the plan.
9. There are several items pending in Congress right now to bring relief to folks all over the country. Is the debtor eligible for unemployment, or other stimulus? While the relief may only be a short term, partial solution, it should be considered. It also may buy the debtor some time. There are certainly industries that are suffering, but there are other employers who need all the help they can get right now, like grocery stores and cleaning companies. Could the debtor find a different job right now?

Hopefully, these tips will assist you assist your debtors. All of us are stressed right now, and if you are a debtor already worried about getting bills paid, the uncertainty we are experiencing right now probably only makes this situation worse for them.

We hope all of you are well and safe,

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