

Effective Date:
09/05/02

CHAPTER 4

FINANCIAL

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.01 AUTHORITY

Wisconsin Administrative Code - DOC 328.07
Wisconsin Statutes 973.09, 973.20, 304.073, 304.074

.02 GENERAL STATEMENT

Payment of financial obligations by an offender is an important part of supervision. Restitution payments demonstrate concern for the victim through monetary reparation of financial loss. Payment of financial obligations fosters rehabilitation by making the offender financially responsible for illegal behavior.

.03 STATUTORY PROVISIONS - ADMINISTRATIVE SURCHARGE AND INTEREST

An offender may be required to pay a surcharge and interest in addition to restitution according to the following schedule:

<u>OFFENSE DATE</u>	<u>SURCHARGE</u>	<u>INTEREST</u>
Before 7/1/80	-0-	-0-
7/1/80 through 5/6/82	10% on restitution	5% on restitution
5/7/82 and after	5% on all obligations	-0-

Any interest collected on restitution is paid to the victim.

The purpose of the administrative surcharge authorized by ss. 973.20(11)(a) is to reimburse the agency that collects the court obligation. The Department collects the 5% surcharge only on that money actually handled by the Department Cashier. The cashier will automatically add 5% to any court obligations collected through the Department, including bond money transferred from the court. A portion of each court obligation payment

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.03 STATUTORY PROVISIONS (continued)

made by an offender is applied to this surcharge. Obligations paid directly to the Clerk of Courts are not assessed a surcharge by the Department.

.04 REMOVING INTEREST

Wisconsin Statute Chapter 352, Laws of 1981, provides that any person ordered to pay restitution for an offense committed prior to May 7, 1982, may petition the court for modification of the order for the purpose of removing interest requirements of the 1979 Statutes or to make the surcharge consistent with the new law. Refunds are not made to offenders for money paid prior to petitioning the court for modification.

.05 FINANCIAL OBLIGATIONS BY INMATES

Financial obligations include court-ordered restitution, costs, fines, administrative surcharges, and other. The law allows the courts may order financial obligations as part of an imposed prison sentence. The court may establish a deadline for the payment of these obligations, which would require inmate payments while incarcerated. Unless ordered, inmates are not required to make payments on obligations other than victim/witness or DNA surcharge while incarcerated. Rather, payment becomes a condition of parole or extended supervision. Inmates may make voluntary payments while incarcerated.

Payments for Victim/Witness and DNA surcharges are sent to the state treasury. When paid in full, verification is sent to the agent for inclusion in the offender's file.

Payments will be sent by the institution Business Office. The agent will receive a copy of the receipt for each payment made by the inmate. Court obligations may not be collected from persons who are direct-discharged from the institution. Civil action by the victim is necessary to recover financial loss.

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.06 FINANCIAL OBLIGATIONS BY PAROLE/EXTENDED SUPERVISION OFFENDERS

Refusal to pay financial obligations may be grounds for revocation of parole or extended supervision. Neither Parole nor extended supervision may be extended by the Department or the court to allow for payment of financial obligations.

An offender having unpaid financial obligations would, if revoked and sentenced or returned to prison, owe those financial obligations as a condition of subsequent parole or extended supervision.

Courts may order payment of financial obligations as part of a prison sentence for crimes committed on or after September 1, 1988. Financial obligations ordered as part of a prison sentence but which are not paid during incarceration become a condition of parole or extended supervision. They are collected and receipted according to 04.06.

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Chapter: Financial

Subject: Restitution

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.01 AUTHORITY

Wisconsin Statute §973.09 and §973.20
Wisconsin Administrative Code DOC 328.07

.02 DETERMINATION

Restitution can only be determined by the court. Upon receipt of the case, the agent will complete the Victim Data ([DOC-31](#)) notifying the cashier of the names and addresses of the victims as well as policy/claim numbers if victim's insurance is due the restitution. If the amount of restitution is stated on the court order, the [DOC-31](#) need not be signed by the judge.

.03 AGENT ASSISTANCE IN DETERMINING RESTITUTION

Under Wisconsin Statutes, the district attorney has the primary responsibility to determine the amount of loss from the victim prior to sentencing. The DOC will extend full cooperation and assistance to the district attorney. In disputed cases when ordered by the court, the agent will establish the financial loss to the victim. This includes out-of-pocket monetary loss as a result of taken or damaged property or medical expenses. It also includes reasonable out-of-pocket expenses incurred by the victim in assisting with the prosecution of the criminal case including:

- return, repair or replacement of property,
- cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care and treatment,
- cost of necessary physical or occupational therapy and rehabilitation,
- income lost by an injured person as the result of the crime,
- funeral or related services if death resulted.

If the district attorney does not know the amount of restitution at the time of sentencing and the court orders the department to determine restitution, the agent will contact the victim directly to ascertain the amount of loss. The Affidavit of Claim, [DOC-29](#), may be used to obtain information from the victim. The victim should submit the claim in writing and provide reasonable verification of loss. The agent will make every reasonable effort to assist the victim in making a claim. The victim should be given at least 30 days to respond to the [DOC-29](#) request. The agent may provide the victim with information concerning the offender's ability to pay, payment plan, and DOC procedures for the collection and distribution of court-ordered payments.

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.04 RESTITUTION COURT ORDER

When the amount of restitution owed is ascertained, the matter must be returned to the court. If the amount established by the district attorney is disputed by any party, a hearing may be held by the court to determine the amount of loss. The court's restitution determination must be indicated on a signed court order and forwarded to the Department Cashier.

If the victim chooses to make no claim, the amount recommended to the court is zero. An order is presented to the court for signature and sent to the department cashier. The offender should be advised that the victim may enter a claim at any time during the period of probation.

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.05 MULTIPLE VICTIMS

When multiple victims are involved, the court must determine the amount each victim is due. Unless the court orders otherwise, these victims should be advised that they will receive proportionate shares of payments made by the offender. In certain circumstances, the courts may order priority payments to victims. If a DOC-31 is prepared, the agent should indicate priority payments ordered by the court.

.06 JOINT AND SEVERAL

When two or more defendants are involved in the same offense, the court may issue a joint and several restitution order. Restitution ordered jointly and severally means that each co-defendant is responsible for the total amount of the restitution ordered.

There is no "fair share" concept in cases where restitution is ordered jointly and severally. It is therefore inappropriate to divide the total amount of restitution equally among the co-defendants. Accordingly, the Payment Ledger (DOC-150) on each offender must reflect the total amount of restitution ordered by the court.

When offenders ordered to pay jointly and severally are assigned to different agents, the agents must work cooperatively in establishing and collecting restitution. Each payment by an offender on a joint and several order affects the payment balances of the other co-defendant(s).

The status of the co-defendants' accounts should be checked periodically by reviewing screen 77 (Offender Account Inquiry Screen) in the Corrections Accounting Cashiers Unit (CACU) system.

The Department Cashier will set up obligations on joint and several orders. Victim information generally is not entered and payments not disbursed until all co-defendants are identified and are on field supervision. The amount of court ordered restitution must match the amount indicated on the DOC-31.

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.06 JOINT AND SEVERAL (continued)

For joint and several cases in which a co-defendant has not been, or will not be on supervision, or is a juvenile, the agent notes that on the DOC-31. The Cashiers Unit will enter the information into CACU.

In those cases where the offender feels that s/he has paid an equitable share of restitution, that offender may wish to approach the court and request that their restitution amount be amended from joint and several to sole payment. It should be noted, however, that funds already disbursed by the department cashier will not be affected by such an amendment.

Offenders who feel they have paid more than a proportionate share of restitution should be referred to civil court for remedy. The offender may sue the co-defendant(s) for any excess payments.

When completing the Victim Data (DOC-31), the co-defendant(s), along with their offender numbers and court case numbers, must be listed in the "Other Information" section.

In the event of overpayment on a joint and several restitution order, the Cashier will contact the agent(s) to assist in the redistribution of overpaid funds. If one offender paid more than another toward restitution, the overpayment should be redistributed in favor of the offender paying the larger share.

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.07 INFORMATION TO VICTIMS

The agent will provide information to victims on the status of payments as requested. Victim inquiries should not be directed to the Cashiers Unit.

.08 CIVIL SUITS

A victim may begin a civil action against an offender to recover loss. This is a separate process from the Department's restitution responsibility.

.09 VICTIM COMPENSATION

Victims (or their families) of crimes involving personal injury or death may be eligible for compensation under Chapter 949 of the Wisconsin Statutes, Awards for Victims of Crimes. This program is administered by the Wisconsin Department of Justice. If a victim receives this compensation, restitution is to be made to the Wisconsin Department of Justice.

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Chapter:	Financial	
Subject:	Crime Victim & Witness Assistance Surcharge	
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.01 AUTHORITY

Wisconsin Statute 973.045

.02 GENERAL STATEMENT

The court will impose a Crime Victim and Witness Assistance Surcharge for each offense or count of conviction.

.03 COLLECTION

Determination and collection of the amount due is the responsibility of the Clerk of Courts. If the court orders obligations as a condition of probation, the agent will collect the ordered surcharge in the same manner as other court-ordered payments. Disbursement by the Department Cashiers office will be in accordance with statutory provisions. If the surcharge is not included in the court order, the agent is not obligated to collect the surcharge and the Department Cashier will not automatically add the surcharge to the court obligations.

.04 INCARCERATED OFFENDERS

In the event of an imposed prison sentence, the surcharge will be collected by the Clerk of Courts at the time of sentencing or at the institution during incarceration. Victim/witness surcharges are collected if the crime date is after September 1, 1988. Institutions will furnish close out statements to the Cashiers Unit upon the inmate's release to ensure proper credit. Agents with questions on these accounts should call the Cashiers or releasing institution business office.

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Chapter: Financial

Subject: Court Costs, Fines, Attorney Fees and Other Court Ordered Obligations
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.01 COURT COSTS

Offenders are frequently ordered to pay court costs. The actual dollar amount is set by the court.

.02 FINES

The court will specify the amount of the fine on the court order. The court order may also specify a time limit for payment, with a jail commitment as the penalty for nonpayment. If payment is not made, a bench warrant may be issued by the court for the offender's arrest. The agent should alert offenders to these situations.

.03 ATTORNEY FEES

A judge may order an offender to pay for the services of a court appointed attorney as a condition of probation.

The agent will request a determination of attorney fees within 30 days after the offender is received on supervision. When notified of the attorney fees, the agent will communicate the amount to the department cashier. The agent may recommend the court remove payment of attorney fees as a condition of probation if a response for the determination of attorney fees is not received within the first 90 days of the probation term.

.04 OTHER COURT-ORDERED OBLIGATIONS

Other court obligations frequently appear on judgements of conviction. These obligations are collected in the same manner as all other obligations ordered by the court.

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Subject: Payment Plan	
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.01 AUTHORITY

Wisconsin Statute Sections 973.09, 973.20, 241.09
Wisconsin Administrative Code Section DOC 328.07

.02 PAYMENT PLAN

The agent will inform the offender of their responsibility to meet court ordered financial obligations. Payment planning from the onset of supervision attempts to ensure timely retirement of financial obligations.

The agent and offender will establish a payment plan if there are financial obligations. To determine a reasonable monthly payment in instances of substantial financial obligation, the agent may require the offender to provide an itemized budget as provided on the back of the Offender Report Form ([DOC-8](#)). The agent should also consider specific orders of the court, the total amount owed, and the length of supervision. In planning for the collection of the ordered financial obligations, the agent will attempt regular and reasonable collection. A payment plan should be made a rule of supervision and incorporated into the Rules of Community Supervision ([DOC-10](#)).

.03 MODIFICATION OF PAYMENT PLAN

In the event of substantial change in the offender's financial situation, the agent will reevaluate the implemented payment plan. The agent will again request itemized financial information from the offender to determine suitable payments in light of the offender's changed financial situation.

.04 WAGE ASSIGNMENT

The agent may wish to implement a wage assignment in some circumstances. A wage assignment orders a portion of the offender's wages be sent directly to the agent. In these instances, the agent will discuss the proposed wage assignment with the offender and the employer and request the offender initiate a Wage Assignment (Form [DOC-148](#)).

Wisconsin Statute requires the spouse of a married person executing a wage assignment to signify approval by signing in the presence of two disinterested witnesses.

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Subject:	Collection of Financial Obligations	
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.01 AUTHORITY

Wis. Stats. §20.906
Wisconsin Administrative Code - DOC 328.05(5)-(8)

.02 RECEIPT BOOKS

Supervisors, agents and program assistants approved by the supervisor may be issued an official receipt book, which remains property of the Department. New receipt books will be issued by the Department Cashier upon request. Receipt books will accompany agents and supervisors accepting lateral transfers. Receipt books assigned to program assistant positions should remain with the position after auditing, be returned to the Cashiers Unit or be reassigned. If reassigned, the Cashiers Unit should be notified to whom the book was assigned and the first receipt number to be used.

Upon receipt of a payment, an official receipt (DOC-500PP) will be immediately prepared in triplicate. The original receipt is given to the person making the payment. The pink copy is maintained in the offender file. The second carbon copy remains permanently in the receipt book. "Temporary Receipts" are not to be issued under any circumstances.

The DOC-500PP is to be used only for receipting court ordered financial obligations. Receipts for payments for open records law copies are to be made in accordance with 14.06.05.

Receipt books are audited by the unit supervisor at least semiannually. When a receipt book is completed or when the receipt book holder terminates employment with the employing authority, the receipt book must be audited by the unit supervisor, be returned to the Cashiers Unit, or be reassigned. If reassigned, the Cashiers Unit should be notified to whom the book was assigned and the first receipt number to be used.

.03 VOIDS OF RECEIPTS

Receipts made in error must be voided and all copies of receipts must remain in the receipt book. If receipts have been issued, all copies should be recovered and secured in their proper place in the receipt book. The voided receipts must be noted as such on the Statement of Collections (DOC-25).

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.04 CASH PAYMENTS

Department employees are bonded in the amount of \$2,500. No insurance is carried to protect the Department or its employees against thefts or loss of cash; therefore, cash will not be accepted by Division staff for payment of offender court ordered obligations.

.05 REMITTANCES

All money received from or on behalf of offenders must be transmitted to the Division Cashier with the Statement of Collections (DOC-25). At the close of the work week, staff will send all collections for deposit to a bank lock box established for the Cashiers Unit. Payments received by the Cashiers Unit will be disbursed in accordance with policy.

Staff will maintain the Statement of Collections forms in a consecutively numbered series in reverse numerical order. It is imperative that all information on the DOC-25 be accurate to ensure proper accounting procedures.

Entries on the DOC-25 must be sequential with every receipt accounted for. Receipts should not be issued out of sequence and all "voids" must be entered as such. (See 04.06.03.)

Staff will not send cash or any personal check as remittances. Payers will be instructed to secure a money order made payable to the State Department of Corrections. Money orders drawn to the agent must be endorsed, "Pay to the Order of State Department of Corrections, Madison, Wisconsin."

Each money order receipted must be immediately stamped with the depository stamp in the endorsement area.

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.06 LEDGERS

A Payment Ledger (DOC-150) is used for each offender owing court obligations or with money on deposit with the Division. It should be filed alphabetically in a three-ring, loose-leaf binder or kept stapled to the inside front cover of the case file. If the DOC-150 is maintained electronically, once obligations are completed or the case is transferred out or closed, the ledger sheet is printed and stapled to the inside front cover of the file.

The agent may check the status of an offender account by reviewing Screen 77 (Offender Accounting Inquiry Screen) from CACU or OATS.

.07 CHECKS

Personal checks will not be accepted as payment of court ordered obligations or supervision fees. Certified personal checks may be accepted but the cost of this service by most banks equals or exceeds the cost of a money order. Corporate checks from the paying self-employed offender will not be accepted.

Checks from sheriff's offices, other governmental agencies or corporations will be accepted.

A check over \$50 or any out-of-state check will not be entered into the offender's account until it has cleared the bank on which it was drawn (approximately six weeks).

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Chapter: Financial

Subject: Cashier's Office

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.01 GENERAL STATEMENT

The Department Cashier maintains the official accounting of all offender accounts, except supervision fees. The cashier processes all money transmitted by the agent and disburses it for restitution, court costs, attorney fees, and other related payments.

.02 DISBURSEMENT SCHEDULE

Wisconsin Statutes establish the order of priority for the disbursement of money collected from offenders. Money is not applied to any other court ordered obligation until restitution and its 5% administrative surcharge is paid in full.

Upon entry of receipts on the Statement of Collections (DOC-25) into CACU, the system will make disbursements weekly as follows:

1. Restitution.
2. Crime victim and witness assistance surcharge.
3. Penalty assessment, Jail assessment, Fines, DNA surcharge.
4. Domestic abuse assessment, court costs, witness fees.
5. Other related ordered payments.
6. Attorney fees.

.03 MULTIPLE CASES

Case payment will follow the below listed sequence:

First: payment will cover any overdraw i.e., non-sufficient fund check.

Second: court-ordered case priority.

Third: Supervision cases with the earliest discharge date. If a probation case is extended, the system will look at the new discharge date and will switch to the next case with the earliest discharge date, including parole and extended supervision cases.

Fourth: any incarcerated case.

.04 NOTICE OF STATUS OF OBLIGATIONS

At least 90 days prior to an offender's scheduled discharge, the Department Cashier will prepare a status report of court-ordered financial obligations. The report will be forwarded to the court and copies sent to the agent and the agent's supervisor. Upon receipt, the agent will take appropriate action to collect the balance of the unpaid obligations, request a court review, or initiate revocation.

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.05 RESTITUTION PAYMENTS TO VICTIMS

The Department Cashier will mail restitution checks directly to the victim according to the information provided by the agent on the Victim Data Form (DOC-31). If a restitution check is returned to the Cashier by the post office as undeliverable, the Cashier will ask the agent to locate the victim. A copy of the returned envelope will be forwarded to the agent. If the agent locates the victim, the cashier must be notified of the new address by submitting a new DOC-31 or by e-mail or memo. The DOC-31 e-mail or memo should be labeled "address change." If the agent is unable to locate the victim, a memo to that effect will be sent to the cashier. Undelivered restitution payments held by the Cashier will finally be transferred to the State Treasurer as unclaimed funds.

At least 90 days prior to an offender's discharge, the Division will provide a notice to all victims to whom restitution is owed but unpaid advising that the agent will take appropriate action to collect the balance of the unpaid obligations, request court action, or initiate revocation.

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Chapter:	Financial	
Subject:	Child Support	
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.01 REFERENCES

Wisconsin Statute §948.22

.02 COURT-ORDERED SUPPORT PAYMENTS

If the court orders child support, the agent will direct the offender to pay the support money directly to the appropriate local agency. Agents will not use the receipt book process for collection of child support. The agent will regularly require the offender to provide proof of payment of the ordered support. Even though the agent is not directly involved in collection of ordered support payments, probation may be extended or revoked for failure to comply.

.03 ARREARAGE

Unless the court designated child support arrearage as restitution, the agent will advise the offender to pay the arrearage to the appropriate local agency. If arrearage is not designated as restitution and all other conditions of supervision have been met, Central Records Unit will discharge upon the expiration date.

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Subject: Offender Funds

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.01 AUTHORITY

Wisconsin Administrative Code - DOC 328.05(1)

.02 GENERAL STATEMENT

The agent may assist in the management of the financial resources of an offender. This may be done only when:

- the court has ordered payment of financial obligations;
- the offender requests it;
- the agent believes it is necessary to control funds in order to teach money management; or
- reimbursement is necessary for the costs of purchased services.

.03 CONTROL OF FUNDS

When it is necessary to manage the funds of an offender being released from an institution, the agent will designate on the Inmate Release Authorization (DOC-15) the reason and the amount to be given the offender upon release. The balance of the offender's funds and/or savings are to be transmitted by the institution to the Cashiers Unit and established in an account.

Withdrawals from the offender's account are to be made through the agent, with the offender signing the Disbursement Order (DOC-32). Deposits to an existing account are to be receipted by the agent or designee and forwarded to the Department Cashiers Unit via the Statement of Collections (DOC-25). A Payment Ledger (DOC-150) will be used to maintain each offender's account.

Any deposits to the account of a parolee on concurrent probation and owing financial obligations will be used to satisfy those outstanding obligations in accordance with Department policy.

.04 DISCHARGE

The agent must submit a Disbursement Order (DOC-32) to the Cashiers Unit so any remaining balance can be delivered to the offender at the time of discharge.

.05 REVOCATION

When an offender has closeout money or savings in an account in the Cashiers Unit, the agent should notify the Cashiers Unit to forward any remaining balance to the institution business office where the offender is incarcerated.

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.01 AUTHORITY

Wisconsin Administrative Code - DOC 328.05(13)
Wisconsin Statute 304.075

.02 GENERAL STATEMENT

The Division Cashier's Office administers a Revolving Fund and a Parolee Loan Fund to provide offenders an emergency loan when all local resources have been exhausted. The loan may be used only for clothing, transportation or basic maintenance. An offender may be granted more than one loan during supervision, but all loans must include a feasible repayment plan.

.03 REVOLVING FUND

Any offender who has been on supervision for more than one month may request a loan from the revolving fund through the agent. The maximum amount of the loan is \$50, and each request must have supervisory approval. The amount of any loan request may be reduced by the Cashiers Unit by any balance still due from a previous outstanding loan.

.04 PAROLEE LOAN FUND

An offender released from an institution may, within the first month of supervision, request a loan through the agent. The maximum amount of the loan over a four-week period will be \$250. In order to be eligible, the parolee must be employed at least 20 hours per week, and each request must have supervisory approval. The amount of any loan request may be reduced by the Cashiers Unit by any balance still due from a previous outstanding loan.

.05 PROCEDURE

If the offender is eligible, the agent shall call the Cashier to determine the availability of funds and whether or not the offender has an outstanding loan. The agent prepares a Disbursement Order (DOC-32) including a repayment plan. It is then forwarded to the supervisor, who will approve or disapprove the request.

If the supervisor approves the request, it is forwarded to the Cashier's Unit, where it will be reviewed. If approved, a check will be issued. Funds will not be released until the Cashier receives the DOC-32. It shall then be the agent's responsibility to collect and receipt all payments. (Refer to Manual Section 04.06.05)

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.06 DELINQUENT LOANS

A Revolving Fund Loan or a Parolee Loan Fund loan is delinquent if it is not paid according to the repayment schedule.

Previous delinquent Revolving Fund Loans will not exclude a parolee from receiving money from the Parolee Loan Fund. However, past delinquent loans should be considered and must be included in the repayment plan. Total of all loans may not exceed \$250.

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.01 AUTHORITY

Wisconsin Statutes Section 973.09(3)(b)
Wisconsin Administrative Code - DOC 328.10

.02 HUGGETT DECISION

Failure to make restitution in the original probation period may constitute cause for extending probation and continuing restitution only if there is a basis for believing that additional restitution would achieve the objectives of probation and that the offender could make more than negligible payments during the extended period.

The court must determine that the offender has or did have the ability to comply and has not made a good faith effort.

The burden of demonstrating a good faith effort toward the payment of court ordered financial obligations is on the offender.

An offender demonstrates good faith effort as follows:

- An offender shall obtain a social security card and, if unemployed, shall register with Wisconsin Job Service.
- An offender shall provide his/her agent with documentation as to his/her financial situation including but not limited to income, savings accounts, rent, utility bills, medical bills, and loan payments.
- An offender needing job skills training must cooperate with referrals to agencies to enhance job readiness.
- An offender with reasonable job skills shall provide a verifiable job search list with the name of employer, contact person, type of job applied for, address and telephone number. An offender shall apply for a minimum of five job openings each week.
- An offender must be willing to do community service work for court costs, attorney fees, and surcharges if approved by the Court.
- Regardless of employment status, some payment shall be made every month toward court ordered financial obligations.
- As a guideline, a minimum of 7% of net income is to be paid toward court ordered financial obligations.
- An offender shall cooperate with a wage assignment if he/she fails to make consistent monthly payments.

.03 EXTENSION OF PROBATION OR ISSUANCE OF A CIVIL JUDGEMENT- PROBATION, PAROLE, OR EXTENDED SUPERVISION

Upon receipt of the 90-day notice of unpaid obligations from the Cashier's Office the agent will attempt to collect the balance of the unpaid obligations. The agent will continue to review cases as to whether extension is appropriate under Huggett Decision (DCC Operations Manual Section 15.03.19). Where extension is not appropriate, the

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.03 EXTENSION OF PROBATION OR ISSUANCE OF A CIVIL JUDGEMENT - PROBATION, PAROLE, OR EXTENDED SUPERVISION (continued)

agent will so advise the court so the issuance of a judgment may occur. The agent will provide a current status of the account to document the amount of unpaid restitution for the court. The agent will discuss the delinquent obligations with the offender in order to determine the reasons for the delinquency. The agent will advise the offender of the right to appear in court in order to contest the extension of the probation term or the issuance of a civil judgment. The offender may waive the right of appearance by signing the Petition and Stipulation to Waive Appearance and Hearing (CR-208/DOC-101). The agent shall prepare a memorandum for the court supporting the reasons for the recommended action.

In the event the case to be extended derives from another county, the supervising agent, at least 60 days prior to discharge, will prepare a memorandum, to include the following:

- Court History
- Status of Obligations and Payment
- Relevant Financial Information
- Reason for Nonpayment
- Agent's Recommendation.

The memorandum, and CR-208/DOC-101, if signed by the offender, will be forwarded to the DCC Office in the county of sentencing (Intake Unit in Milwaukee). This office will present the matter to the Court and then forward the Court's decision to the supervising agent, who will send the original to the Central Records Unit.

If an extension is granted by the court for the purpose of court obligations, the offender will discharge upon payment of all court obligations owing for that case. The Department's authority to supervise will end upon receipt of payment. Payment may not be refused.

In the case of parole or extended supervision, the agent shall prepare an Amended Judgment of Conviction (DOC-37) requesting the Court issue a civil judgment indicating the amount of the unpaid obligations and information regarding to whom they are due.

.04 REMOVAL OF COURT-ORDERED FINANCIAL OBLIGATIONS

If the agent determines that the offender has made a good faith effort to comply with the court ordered financial obligations but does not have the ability to comply, the agent may recommend that the balance of the ordered financial obligations be removed as a condition of probation. The agent will prepare a memorandum to the court, which delineates the offender's financial situation precluding payment.

.05 REVOCATION OF SUPERVISION

If the agent determines that the offender has had the ability to pay and has refused, it is advisable to institute revocation proceedings. Refusal to pay violates the Rules of Community Supervision and the order of the

court.

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.06 BANKRUPTCY

Financial obligations ordered by a criminal court as a condition of supervision are not dischargeable by bankruptcy proceedings. This means that a bankruptcy discharge cannot operate to discharge a restitution debt whether the bankruptcy was filed under Ch.7 or Ch. 13 of the Bankruptcy Code.

However, once the bankruptcy petition is filed, an automatic stay prevents any action to collect debts including court-ordered obligations such as restitution. No adverse action may be taken against the offender based solely upon non-payment while the bankruptcy is pending. To attempt to take adverse action, such as revocation, would potentially be a contempt of the bankruptcy court and an action subject to sanctions. However, if the offender makes payments on the obligations during the pendency of the bankruptcy those can be collected and remitted as appropriate. In view of the automatic stay it is advisable to live with whatever payments are made during the pendency of the bankruptcy proceedings, but wait until the bankruptcy is discharged or dismissed before taking any action to revoke based solely on nonpayment.

The agent should ensure that the offender does not discharge from probation inadvertently while the bankruptcy is pending, and take whatever steps are necessary to extend the probation past the duration of the bankruptcy proceeding.

The agent should file a Proof of Claim for the court ordered obligations with the bankruptcy court, if one is sent. Instructions are provided with the form. The following statement should be put in block 1 of the proof of claim form. "Restitution is an unsecured, non-priority claim. Restitution debts are established by court order on "X" date to be paid as a condition of the debtor's felony/misdemeanor conviction." Attach a copy of the Judgement of Conviction to the Proof of Claim form.

The following statement should also be inserted on the Proof of Claim form. Although for space reasons, it may need to be on the back of the form, it should be referred to on the front: "The Wisconsin Department of Corrections' position is that a restitution debt is not dischargeable under Chapter 7 or Chapter 13. See 11 U.S.C. sec. 523(a)(7) and Kelly v Robinson, 107 S.Ct. 353 (1986). Also see Pennsylvania Dept. of Public Welfare v Davenport, 495 U.S. 552, 110 S.Ct. 2126 (1990), and changes in the Bankruptcy Code, 11 USC Sec. 1128(a) that took effect in 1990."

Under Item #5, "type of debt" mark "unsecured" and refer back to your answer in Item #1.

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.01 UNPAID FINANCIAL OBLIGATIONS

If an offender should pass the discharge date with obligations owing and no extension is signed by the court, the Department has no legal authority to continue supervision or to require further payments, however, voluntary payments may be collected. When submitted to the cashier, the agent should specify on the Statement of Collections (DOC-25) that payment is to be applied to the closed case. The court case number or CACU case ID must be noted on the Statement of Collections.

.02 TERMINATION PROCEDURE WITH OBLIGATIONS OWING

On cases where the crime date is prior to September 1, 1988, cases will not automatically discharge if court ordered obligations are still due. To request termination of supervision with court obligations owing the agent must submit a completed Request for Administrative Action (DOC-44) to the field supervisor indicating reasons why case should be terminated with obligations owing. Cases may be terminated in this manner only if the discharge date has passed. If approved, the Central Records Unit will close the case. A discharge certificate will not be issued.

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.01 AUTHORITY

Wisconsin Statutes 973.09; 973.20

.02 GENERAL STATEMENT

For crimes committed on or after September 1, 1988, courts will in most cases order restitution and/or other financial obligations in addition to imposed prison terms. The court may specify a deadline for payment of these financial obligations, which would necessitate payment while incarcerated. If no deadline for payment is specified by the court, the financial obligation becomes a condition of parole or extended supervision.

.03 PAYMENT BY INMATES

Inmates may make voluntary payments while incarcerated. Payments by inmates will be sent by the institution Business Office to the Cashier's Unit. The agent will receive a copy of the inmate's receipt. All financial information pertaining to an inmate should be noted on the Payment Ledger (DOC-150) by the agent of record.

Persons who are direct-discharged from the institution will not receive parole supervision. Therefore, civil action by the victim will be necessary to obtain restitution.

.04 PAYMENT BY PAROLEES AND EXTENDED SUPERVISION OFFENDERS

Financial obligations which are not paid during incarceration become conditions of parole or extended supervision. Failure to pay financial obligations may be grounds for revocation. Parole or extended supervision may not be extended to allow for payment.

Financial obligations of parolees/ES offenders are collected and submitted according to 04.06.01-03. The agent should prepare a payment plan according to 04.05.01-04. Financial obligation payments will be handled by the Cashier's Unit according to 04.07.01-04.

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.05 REVOCATION

For crimes committed on or after September 1, 1988:

- A probationer having an imposed and stayed prison sentence, including financial obligations, would, if revoked, owe those financial obligations as a condition of parole.
- A probationer having an imposed and stayed jail sentence would upon revocation still owe those financial obligations and the court shall be notified by the agent of the amount owed.
- A probationer having a withheld sentence including financial obligations would, on revocation and sentence to prison, owe those financial obligations as a condition of parole unless the court addressed the obligations in sentencing.
- A person on parole or mandatory release owing financial obligations would, if revoked, owe those obligations as a condition of subsequent parole or mandatory release.
- A person on extended supervision, if revoked, would owe those obligations as a condition of subsequent release.

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.01 AUTHORITY

Wisconsin Administrative Code - 328.043 and 328.045
Wisconsin Statutes 304.074, 303

.02 GENERAL STATEMENT

Payment of supervision fees by offenders is an important condition of supervision. These fees increase the accountability of offenders for their supervision, and also provide funding support to the Division of Community Corrections' field supervision services. The supervision fees described in this section of the manual apply to all offenders on active supervision excepted Intensive Sanctions (IS) Inmates, Not Guilty by Reason of Mental Illness (NGI) offenders or Sexually Violent Persons (SVP's). NGI or SVP offenders who have a concurrent probation, parole or extended supervision term are required to pay fees. There are limited fee exemptions for offenders related to unemployment, full time education, treatment participation which precluded employment or medical reasons which preclude employment and are verified by a licensed physician. Offenders with a life term owe supervision fees for the duration of their supervision. (see 04.14.05)

.03 PAYMENT PRIORITY

Supervision fees are to be paid in addition to court ordered obligations, and have the same priority as restitution. Supervision fees are to be paid monthly. Offenders attaining field status on the first through the 15th of the month will owe their first payment on the 25th of that month. Offenders attaining field status on the 16th through the end of the month will owe two payments by the 25th of the next month.

The offender owes the full supervision fee for each month of supervision, including the month placed on supervision. If the offender pays the fees in this manner, the final payment will be made the month prior to termination from supervision. (see 04.14.05)

.04 PAYMENT SCHEDULE

The payment schedule is based on the amount of money the offender and his/her spouse receive monthly including salary, interest or dividends, government subsidy such as Supplemental Security Income (SSI), social security benefits, retirement benefits, veterans benefits, or a trust fund. When both spouses are under supervision, the joint gross income will determine the payment for each

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.04 PAYMENT SCHEDULE (continued)

offender. For purposes of establishing the gross income of an offender who is 17 years of age or younger, the agent will use the offender's gross income and spouse's gross income, not the parents' or guardian's gross income. In addition to the sources of income listed on the Monthly Income Section on the reverse side of the Offender Report Form (DOC-8), SSI for the offender or the offender's spouse and alimony are to be considered as a source of income. The following are not to be considered as a source of income: Temporary Assistance to Needy Families (TANF); WIC; Food Stamps; SSI for a child recipient, and child support for the recipient of such support (e.g. person who has custody of the child).

The payment schedule is three-tiered and is based on gross income:

\$0 - \$799.99	\$20.00 monthly supervision fee
\$800 - \$1,499.99	\$40.00 monthly supervision fee
\$1,500 and above	\$60.00 monthly supervision fee

.05 PAYMENT CALCULATION

The amount an offender owes is computed by multiplying the monthly fee times the length of field supervision. Calculations are made from the first month of field supervision through the last month of field supervision. An offender on parole with a life sentence would pay throughout the entire course of field supervision.

Offenders will owe for the last month of supervision in the following cases:

- Early discharge
- Revocation
- Current period of supervision begun prior to 1/1/96

.06 PAYMENT COLLECTIONS

The process for collection of supervision fees from offenders is different from the process of collecting court obligations. Agents do not directly collect supervision fees. However, the agent does have responsibility to ensure that the offender is making supervision fee payments on a scheduled basis. Accordingly, agents do not receipt the fee payment and do not report supervision fees on a Statement of Collections (DOC-25). A separate supervision fee account is established for each offender and that account is a special component of the CACU system. Offenders are issued a coupon book with preprinted labels. The offender can bring in the supervision fee payment along with the required coupon at his/her scheduled appointment time. At the agent's discretion, the coupon book can be placed in the offender's file and a coupon given to the offender when the offender brings in a payment. The agent or designee shall ensure all information is accurate, and can observe the offender placing the payment and coupon into

an envelope for mailing. The agent can make note of the

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.06 PAYMENT COLLECTIONS (continued)

payment on the chronological log to maintain an on-going record of the amount assessed and the balance due. On the date collected, the agent or designee shall mail all supervision fees to the lock box.

.07 AGENT'S RESPONSIBILITY

- Direct the offender to complete the Monthly Income section on the reverse side of the Offender Report Form (DOC-8) for the initial financial assessment.
- Discuss the fee exemption criteria and documentation needed with the offender. If the offender meets exemption criteria, complete Supervision Fee Action Report (DOC-1682) and submit to unit supervisor for approval.
- With the exception of offenders who are exempted from paying supervision fees, issue a labeled coupon book, explain instructions and provide a copy of the fee schedule by sharing a copy of the reverse side of the offender report form.
- Maintain a copy of the Coupon Book Payment agreement in the offenders' file.
- Provide the supervision fee data designee with a copy of the payment agreement and/or a copy of the DOC-1682 for all offenders, including those who have fee exemptions.
- Consider the need for wage assignment and take appropriate action.
- Encourage the offender to pay fees promptly and advise the offender s/he may pay in advance.
- Review monthly report of payments made and assist in resolving offender supervision fee account problems.
- On an ongoing basis, review the changes in employment status and monthly income and direct the offender to complete Monthly Income section on the DOC-8 and other financial information, as necessary. When the information on the DOC-8 indicates that a change is needed, complete a DOC-1682 and submit to the supervision fee designee. When the amount of the fee changes, agents shall provide a copy of the reverse side of the DOC-8, initialed by the offender and agent, to the offender or provide a letter specifying an estimate of total fees owed.
- Consult with supervisor to determine sanctions for non-payment of fees.

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.08 SUPERVISION FEE DATA DESIGNEE'S RESPONSIBILITY

Each office/unit will identify a supervision fee designee who will complete data entry on the initial fee assessment, changes in fee status and other related data on fees, as well as use the automated database to verify supervision fee account data.

.09 SUPERVISOR'S RESPONSIBILITY

- Review collection of fees every six months or more often as necessary.
- Consult with agent regarding methods of collection, status of payments and sanctions to be applied for non-payment.
- Review agent decisions on requests from offenders for an exemption to payment of fees.

.10 CHANGES IN AMOUNT OF FEES OWED

In order to avoid double billing of offenders, it is necessary to:

- Document all changes in the fees assessed to an offender on the reverse side of the DOC-8. Agents shall submit changes in fees to the supervision fee designee on the Supervision Fee Action Report (DOC-1682).
- The designee has until the last day of the second month following the change in charges to enter the change on the database without a special adjustment.
- After the last day of the second month, charges will already have been posted to the offender supervision fee account. To correct the account the agent shall notify the supervision fee designee via a DOC-1682.
- When the supervision fee changes during the month, the fee amount established latest in the month prevails for the entire month; however when an offender changes to or from vendor supervision, the vendor level of supervision fees shall prevail for the entire month.
- The effective date of the No Charge schedule for an IS-ATR is the date that the Regional Chief or designee approves the ATR agreement. The agent shall submit a DOC-1682 to the supervision fee designee to advise the designee of the date of the No Charge schedule.
- When an offender is discharged from supervision, the agent shall advise the supervision fee designee via the DOC-1682

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.11 SUPERVISION FEE EXEMPTIONS

All offenders are expected to pay supervision fees. There are, however, certain limited situations where an offender is not able to pay fees. Even when an offender meets one or more of the four exemption criteria, the offender will be required to pay a supervision fee when the agent and supervisor determine that the offender has the ability to pay the supervision fee. There are four possible fee exemption criteria.

1. Unemployment

The offender has used all reasonable and appropriate means to obtain employment as determined by the agent, but has been unable to obtain employment. The exemption does not apply when an offender refused to seek employment as directed by the agent. The exemption may apply to offenders who are 55 years of age or older, when the offender does not have a retirement income or Social Security benefits. This exemption does not require an outside agency verification. The agent shall use professional discretion in assessing the need for verification. Since offenders are expected to be employed, most of the exemptions under this criterion will be for a period of sixty to ninety days. Offenders are expected to obtain employment within this time frame.

2. Full-time Student

This exemption applies to offenders who are students attending a full-time course of instruction. A "full-time course of instruction" means:

- Enrolled in an accredited course of instruction and registered for more than 9 credits in post-secondary education; or
- Full-time high school; or
- Full-time junior high school

A "school" means a public school, a charter school or a private school as defined in the statutes. Home schooling is not included as "school" under state statute.

The offender will be required to provide a signed release of information so that the agent can verify enrollment, registration credits and attendance.

3. Treatment

The offender is undergoing psychological, chemical or medical treatment consistent with the supervision plan and is unable to be employed. The offender is required to provide a release of information and the agent shall verify that the offender is in treatment. Most of the exemptions under this section will be for thirty to

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.11 SUPERVISION FEE EXEMPTIONS (continued)

sixty days. After treatment, the offender will often be involved in outpatient treatment or aftercare but may be able to be employed.

4. Medical Reasons

The offender has a statement from a licensed physician excusing the offender from work for medical reasons and the offender is unable to be employed because of the medical reason. The offender is required to provide a release of information, so that the agent can verify information.

When an agent has reason to believe that an offender meets one or more of the exemption criteria, the agent documents this on the DOC-1682. The agent shall make the initial determination of an offender's exemption from supervision fees within ten working days of receiving the offender on supervision. Subsequent determinations of an offender's exemption from supervision fees shall be made within ten working days of a reported change in the offender's status. The agent's determination must be reported to the supervision fee designee on the DOC-1682. Within thirty days, the agent should receive all documentation from the offender for completing verification of the exemptions. The agent shall discuss all exemption determinations with the supervisor.

When the offender does not sign a release of information, the offender is not eligible for an exemption.

Exemption Criteria for Jailed Offenders

- Offenders in jail without Huber or not working should be classified as CP (concurrent prison sentence). This requires supervisory approval.
- Offenders being detained pending revocation hearings may qualify for an exemption. This requires supervisory approval and should be classified OT (other).

All exemptions must be reviewed at least once during the first six months of the exemption, and monthly thereafter; to assess whether the offender continues on a no charge status or becomes an active fee schedule status.

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.11 SUPERVISION FEE EXEMPTIONS (continued)

Anytime there is a change from an exemption status to an active fee schedule status, the agent must submit a DOC-1682 to the supervision fee data designee specifying the date when the offender was no longer eligible for a fee exemption. The assignment to the active fee schedule status is effective the first day of the month following the date of the change in status.

.12 SUPERVISION FEE POLICIES FOR ABSCONDERS

Offenders who are supervised one day or more in the month prior to or after absconding will be charged supervision fees for that month. An offender is considered an absconder after 30 days of not being able to be located by an agent. When an offender is an absconder, the agent must submit a copy of the DOC-1682 to the supervision fee data designee to enter a no charge status on the offender's account effective the date of the absconder status. The schedule is changed so that charges do not accrue while in absconder status. When the offender is apprehended, the agent should submit a DOC-1682 to the supervision fee data designee to return the offender to an active fee schedule status. The date selected for return to the active fee schedule status is dependent on whether time is tolled.

Effective Date of Return to Active Fee Schedule: Time Tolled

When time is tolled, the effective date of the return to active fee schedule is the apprehension date, or if not in custody, the date the offender's whereabouts became known.

Effective Date of Return to Active Fee Schedule: No Time Tolled

When time is not tolled, the effective date of the return to active fee schedule is the day after the date of absconder status.

Discussion of Supervision Fee Requirements

If supervision fees were not discussed with the offender prior to absconding, the agent must discuss the fees with the offender upon return to active status. If an offender requests information about exemptions, the agent must provide information on the criteria and documentation needed for the exemptions. When an exemption is not given, the agent must have the offender complete the monthly income section on the DOC-8 and issue a coupon book with preprinted labels.

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.13 SUPERVISION FEES FOR OFFENDERS - REVOCATION

An offender who is in the process of revocation continues to be responsible for supervision fees unless an exemption has been granted (see 04.14.11). An offender who is in the process of revocation must continue on active fee schedule status until the final decision on the revocation has been made. When the agent receives a copy of the Revocation Order and Warrant, the agent should notify the supervision fee data designee of the revocation date via the DOC-1682. The effective date of the revocation is the date the Order and Warrant was signed.

.14 DISCHARGE

Absolute: When an offender is discharged absolutely, the agent shall give the supervision fee data designee a copy of the DOC-1682 so that the change to no charge and any adjustments can be made to the database.

One Case Only: When a case is discharged and the offender remains on supervision because of another case, there is no need to submit the discharge certificate to the supervision fee data designee.

.15 RESOLVING SUPERVISION FEE ACCOUNT PROBLEMS

The fee collection system requires that each payment include:

- A signed money order or cashiers check, or in the case of a wage assignment, a signed business check;
- A completed, labeled coupon.

When an offender does not indicate his or her name on the money order/cashier's check, does not submit a coupon, or submits an incomplete coupon, these payments are assigned to a rejection file. When an offender submits a payment or coupon marked "Paid in Full" or a personal check, these are not processed and are returned to the agent to ensure that a correct payment is submitted.

Resolving Account Problems and Field Level Reconciliation

When an offender reports to an agent that a payment is not credited to his or her account, the agent shall request that the supervision fee data designee search the offender's account and the rejection file.

Based on the review of the account, it may be necessary for the supervision fee data designee to reconcile the account. That is possible when the data accompanying a received payment includes at least three correct identifiers. Identifiers are DOC number, offender's name, offender's date of birth, coupon book number, or agent number.

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.15 RESOLVING SUPERVISION FEE ACCOUNT PROBLEMS (continued)

Resolving Account Problems, Business Office Level Reconciliation

There are certain account problems, which are identifiable and resolvable at the business office level. The problem areas include:

- Incomplete coupon;
- Personal check;
- Unsigned cashier's check or money order;
- Money order/cashier's check or coupon marked "Paid in Full", "PIF" or any other variation;
- Insufficient funds, stopped payment and additional bank charges.

Incomplete coupon submittal/unsigned cashiers check or money order

When an offender reports to an agent that a payment is not credited to his or her account, the agent will request that the supervision fee data designee search the offender's supervision fee account and the rejection file. When the payment is not on the account, the agent should instruct the offender to obtain a copy of both sides of the canceled money order/cashier's check from the institution which issued the order or check and provide these copies to the agent, who will forward a copy of both sides of the document, together with case identifying information to the DCC Business and Records office, ATTN: Supervision Fee Specialist. The Business Office will reconcile the offender's account, when identifying information can be verified.

Attempted Personal Check Payment, or Money Order, Cashier's Check or Coupon Marked Paid in Full

When the offender submits a personal check as payment, or a money order, cashiers check or coupon marked "Paid in Full", "PIF" or any other variation the Business Office will return these to the agent of record. The agent will advise the offender to obtain a new money order/cashier's check and submit it with a completed coupon to the lock box address. The agent will instruct the offender to discontinue signing "Paid in Full" on any money orders/cashier's checks or coupons. When the offender attempts to use a personal check, the agent will instruct the offender that no personal checks can be accepted as payment.

Insufficient Funds, Stopped Payment and Additional Charges

When the offender submits a payment which is returned to the Business Office stamped "Not sufficient funds", "Refer to Maker", "Account closed", "Payment Stopped", or "Presented Twice, Do Not Present Again", the Business Office will advise the agent of this in writing and further advise if there was a processing charge assessed to the offender by the bank. The agent will advise the offender to obtain a new money order/cashier's check

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.15 RESOLVING SUPERVISION FEE ACCOUNT PROBLEMS (continued)

and submit it with a completed coupon to the lock box address. The cashier's check/money order must also include the processing charge if the bank charged the Department.

.16 SANCTIONS FOR FAILURE TO PAY SUPERVISION FEES

Prior to initiating a sanction, the agent will request that the supervision fee data designee verify payments through all of the possible identifiers. The agent has the responsibility to consider implementation of the following sanctions when the offender fails to pay the supervision fee and a determination has been made that the offender has the ability to pay:

Within 30 days after becoming aware that the offender has missed a fee payment, the agent shall:

- Investigate the reason for non-payment;
- Remind the offender of the obligation to pay;
- Counsel the offender regarding the need to budget monthly for payment of the fee;
- Advise the offender of other possible sanctions; and

Within 30 days of becoming aware that the offender has missed a second payment, the agent may implement any of the following sanctions:

- Counseling with a formal warning;
- Formal conference with the offender and field supervisor to review the fee schedule and further sanctions;
- Attendance at formal budget/financial counseling;

The agent may implement any of the following sanctions after becoming aware that the offender has missed more than two fee payments:

- Initiate a wage assignment as a sanction or at any time during the supervision period;
- Place the offender on electronic monitoring;
- Review the supervision level to determine if it should be increased;
- Disciplinary detention, with supervisory approval, in a DOC approved detention facility for a length of time not to exceed five (5) working days
- Initiate a recommendation for revocation of supervision

.17 COMPLAINTS

The offender has the opportunity to utilize the Request for Administrative Review (DOC-127) for any complaints.

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.18 REFUNDS

Refunds of fees will be made in certain instances. No refund will be prorated for a partial month. Refunds of fees paid in advance will be upon request of the offender following termination or discharge from supervision. DOC has 90 days to process the request for refund. All supervision fee payment refunds are requested by a [DOC-1682](#). Situations that would warrant a refund request include:

- Death of an offender - estate requests;
- Early discharge;
- Court terminates/vacates probation;
- Revocation;
- Interstate Compact

Order Vacated

When a court vacates an order, the offender is eligible for a refund for the entire period of supervision.

Appeal

This section applies only when the court disposition involves termination of supervision. When an offender appeals the court's disposition, the offender must pay for the time period before initiating the appeal and while the appeal is in process. If the appeal is granted, the offender is eligible for a refund of payments made from the date the appeal is filed until the court's ruling.

Early Discharge/Revocation

When an offender has paid supervision fees in advance and is discharged or revoked, the offender is eligible for a refund for those months where no supervision occurred.

Court Ordered Obligations

The lock-box service for supervision fees is only for supervision fees and cannot be used by offenders to submit payments for court obligations.

When an offender submits a payment and coupon to the supervision fee lock-box, which includes a payment for court obligations, it will be deposited in the offender's supervision fee account. If an offender overpays supervision fees in such an amount that the account is paid past the termination date, the overpayment can be refunded and applied toward court obligations.

.19 BANKRUPTCY

Supervision fees are not dischargeable through bankruptcy.