

LEGAL EASE



Kathleen Martin is an attorney with O'Donnell, Weiss & Mattei, P.C., and a newspaper columnist for The Mercury, which gave permission for this article to be reprinted.

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When costs rise, credit card usage goes up

For some seniors, living on a fixed income becomes a harsh reality when costs rise and income does not keep pace. The use of credit cards in the population over 65 years has been growing, and many are having trouble making the payments. The average credit card debt for consumers over the age of 65 years has doubled from 1992 to 2004. That same fixed income which originally encouraged the use of credit cards to help make ends meet becomes another issue when there is insufficient cash to make even minimum payments.

A recent issue of Elder Law Answers (www.elderlawanswers.com) offered some potential solutions to the credit card debt issue for seniors. They include:

- **Negotiate with the credit card company.** A credit counseling service or an attorney may be able to negotiate with the credit card company to lower fees or interest rates. If the debtor relies solely on Social Security for income, it may be possible to have the debt forgiven. However, be aware of the income tax consequences for forgiveness of a debt, which will count as income to the debtor. It may also affect Social Security payments.
- **Obtain a Reverse Mortgage.** If the debtor owns a house, and is over 62 years old, he or she may be able to obtain a reverse mortgage to pay off the debt. A reverse mortgage uses the equity in the house to provide the homeowner with money, typically in the form of a line of credit. However, the homeowner does not need to pay off the mortgage until the house is sold or the homeowner dies. However, reverse mortgages have significant downsides, so choose this option carefully. The *Chicago Tribune* recently published an article about new options in reverse mortgages (reported in Elder Law Answers). The closing costs can be significant on these mortgages, but competition in the market is driving costs down. If it is possible, wait until late 2007 or early 2008 to obtain a reverse mortgage when the products might be more favorable to consumers.
- **Use paid up life insurance.** Permanent life insurance builds cash value, and that value can be borrowed against, or withdrawn from the account. This money can be used for any purpose, including paying off credit card debt. However, be aware that loans or withdrawals will reduce the death benefit.
- **Bankruptcy.** In 2005, new bankruptcy laws went into effect, making it much tougher to utilize this option. Bankruptcy may only be available to individuals whose income is below a certain level, and you might not be able to protect the equity in your home. Be sure to discuss this option before you act with a lawyer who is familiar with the new laws.
- **Or do nothing.** If you do nothing, the creditor will sue the debtor and a court will decide what should be done. An attorney who is experienced in this area should be consulted to explain your risks if you choose this option.

The Fair Debt Collection Act prohibits certain conduct by debt collectors. For example, creditors may only contact debtors between the hours of 8 am and 9 pm, may not use profane or offensive language, and must stop contacting debtors if the debtor requests that they do so in writing.