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Prebankruptcy Credit Counseling

Noreen Clancy, Stephen J. Carroll

Prepared for the National Institute of Justice



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1776 Main Street, P.O. Box 2138, Santa Monica, CA 90407-2138
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Summary

Introduction

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) provided new requirements for bankruptcy filers and gave the U.S. Trustee Program (USTP) new areas of responsibility. One of the new requirements is that any individual who files for bankruptcy must have received credit counseling during the 180 days prior to filing. When a consumer completes such prebankruptcy credit counseling, he or she receives a certificate that must be submitted at the time of bankruptcy filing.

USTP is now faced with having to decide whether to reapprove or remove agencies that are on the approved list of credit-counseling agencies. To do this, USTP must develop criteria for measuring the effectiveness of counseling-agency services that may be used to evaluate whether agencies qualify for approval or reapproval. Complicating the issue of effectiveness is the increased use of Internet-based credit counseling and whether the mode of delivery, particularly delivery through the Internet, affects the adequacy and effectiveness of the counseling provided.

The basic questions that the Executive Office for U.S. Trustees (EOUST), which manages USTP, is attempting to explore related to prebankruptcy credit counseling are as follows:

- What constitutes effective credit counseling in the prebankruptcy context?
- What are appropriate operational measures of effective prebankruptcy credit counseling?
- Does the mode of delivery of prebankruptcy credit counseling, particularly delivery through the Internet, influence the effectiveness of the counseling?

USTP asked RAND for assistance in examining the issue of what constitutes effective prebankruptcy credit counseling and how it could be measured. We reviewed the relevant literature that could inform the three questions and consulted with a bankruptcy study group of academic, government, and private-sector experts formed as part of a joint National Institute of Justice–USTP (NIJ-USTP) project to study bankruptcy fraud, abuse, and error to get feedback on the literature-review results.

Conclusions

To address these questions and to eventually develop operational measures of effectiveness, we conclude that **USTP's first step should be to explicitly identify the goals of prebankruptcy credit counseling. The other suggestions depend on the goals being defined.**

Even if goals are defined, we conclude that **there are no common standards or accepted sets of metrics for USTP to adopt in whole as it attempts to assess prebankruptcy credit-counseling agencies, but there may be many transferable pieces from some of the research studies reviewed.** Although many of the approaches had similarities, every field approached the assessment of effectiveness somewhat differently based on its specific goals.

We also conclude that **there are no accepted views on the various modes of delivery. The research shows that the effectiveness of the modes seems to vary depending on the type of counseling being delivered and its purpose.** More specifically, we found no empirical research on the effectiveness of Internet delivery of prebankruptcy credit counseling, nor did we discover relevant studies from the fields of credit counseling, financial literacy, or pre-purchase homeownership counseling. Most of the available research studies relating to delivery of information through the Internet are geared toward higher education, and we conclude that this research has little transferable value. Additionally, we did not come across instances in which this delivery method was used to handle specific personal information. Whether an online session alone, which by its nature is somewhat standardized, can effectively take into account an individual's specific financial situation and all its nuances is questionable. The blended programs in which online sessions are paired with telephone calls with actual counselors could be an effective method but should be studied further.

Recommendations

Based on these conclusions, we recommend that USTP use a series of upcoming reviews and reports to help it inform the processes of developing operational measures of effectiveness and of approving or reapproving credit-counseling agencies. These include its own quality service reviews, the results of ongoing work by Staten and Barron (2006) that should lend insight into operational measures of prebankruptcy credit counseling, and the results of the upcoming National Foundation for Credit Counseling (NFCC) Outcomes and Impact Task Force to develop performance metrics to assess the effectiveness of its counseling and education services.

There are other suggestions that USTP may want to consider as it contemplates reapproving providers and develops a process for constructing operational measures of effectiveness. These suggestions, which stem from discussions at the study-group meeting and are expanded in this report, include the following:

- In evaluating agencies for reapproval, consider whether the agency is providing the services stated in its application to become an approved credit-counseling agency. Also consider any pre- and post-testing that the agency may conduct and factors such as complaints from clients.
- Consider conducting a broad-based survey of prebankruptcy credit counselors.
- Choose a few demonstrably effective indicators in developing a set of operational measures of effectiveness.
- Consider developing means to take into account debtors' characteristics in measuring the effectiveness of a credit-counseling agency.
- Consider which debtor characteristics ought to be taken into account in evaluating the performance of a counseling agency.