

Sixth District Department of Correctional Services POLICY	Issue Date 04/17/15	Effective Date 04/07/17	Policy Number 169-17
Subject <b>INSTALLMENT PAYMENT PLAN (Field Services)</b>		Review Month December	Author 0344 (CFR)
Rescinds 169-15	References Iowa Code Chapters 321J.2(9b), 356.7, 815.9, 906, 907, 909, 910.2, 910.5 & Chapter 26 Iowa Court Rules		

**POLICY:**

Plans of Payment are prepared by Department staff when ordered by the Court.

**DEFINITIONS:**

1. Offender's ability to pay - Assessed by either the Court or the Agent/Counselor who considers the offender's income and debt.
2. Pecuniary damages - means all damages to the extent not paid by an insurer, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, "pecuniary damages" includes damages for wrongful death and expenses incurred for psychiatric or psychological services or counseling or other counseling for the victim which became necessary as a direct result of the criminal activity.
3. Installment Payment Plan - Offender payment schedule, as established in the sentencing order.
4. Restitution means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. "Restitution" also includes fines, penalties, and surcharges, the contribution of funds to a local anticrime organization which provided assistance to law enforcement in an offender's case, the payment of crime victim compensation program reimbursements, payment of restitution to public agencies pursuant to section 321J.2, subsection 9, paragraph "b", court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when the offender cannot reasonably pay all or part of the court costs including correctional fees approved pursuant to section 356.7, or court-appointed attorney fees ordered pursuant to section 815.9, including the expense of a public defender.
5. Victim - Person who has suffered pecuniary damages as a result of the offender's criminal activities. An insurer is not a victim.

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**PROCEDURE:**

1. Upon case assignment, staff reviews the sentencing court order. The sentencing order establishes an Installment Payment Plan pursuant to the provisions of Chapter 26 of the Iowa Court Rules ([www.legis.iowa.gov/law/courtRules/courtRulesListings](http://www.legis.iowa.gov/law/courtRules/courtRulesListings)). Major provisions of Chapter 26 include the following:
  - A. A judicial officer shall not order an Installment Payment Plan if the total amount of court debt due at the time of imposition is \$300 or less. If a plan is ordered, the first payment is due no later than thirty (30) days from the date of imposition, with subsequent payments due once a month.
  - B. If an offender fails to make an installment payment within thirty (30) days after the due date, the remaining debt is deemed delinquent and the judicial branch immediately assigns the debt to Centralized Collection Unit (CCU) for additional collection procedures.
  - C. A judicial officer may modify an Installment Payment Plan only to correct an error or omission regarding the amount of court debt owed by an offender.
  - D. A judicial officer may allow community service in lieu of monetary payment of court debt if the offender's court debt is not already deemed delinquent. An order for community service requires the offender to perform the number of hours of community service that are equal to the total amount of court debt divided by the current minimum State of Iowa wage rate. The order establishes a date by which the offender is expected to have completed the community service. Community service is not ordered in lieu of victim restitution.
  - E. If the judicial officer orders probation under Iowa Code chapter 907, the offender is subject to the conditions established by the Judicial District Department of Correctional Services subject to the approval of the court, including a Restitution Plan Of Payment. The probation plan of payment shall not incorporate any delinquent court debt obligations of the offender.
2. Staff monitors the offender's compliance with the Installment Payment Plan utilizing receipts submitted by the offender and/or Iowa Courts Online.
3. If staff determines willful non-compliance on the part of the offender with regard to the provisions of the Installment Payment Plan, a Report of Violation (0411) may be submitted.
4. Offenders that are delinquent in restitution, as a result of willful non-compliance with the established installment payment plan, are ineligible for placement in SSP or MMP until they've become compliant.

BY ORDER OF:

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Bruce Vander Sanden, Director