

Debt settlement is unlike almost any other financial services product. In 2010, the Federal Trade Commission transformed the industry's business model to better protect consumers. States found these rules, which the AADR supported, rendered fee caps unnecessary.

1 The Obama era FTC's 2010 advance fee prohibition rule dictates when a debt resolution company may lawfully collect a fee from a consumer. For each debt the consumer enrolls, a fee may only be collected on that debt when:



Company negotiates a settlement with one of the consumer's creditors



Client accepts terms of negotiated settlement



Client makes at least one payment to creditor

2 Almost immediately after the FTC rules, Colorado, along with other states, repealed its fee cap for debt settlement services. In 2011, the Colorado General Assembly passed House Bill 11-1206 to remove the fee cap because it was no longer necessary under the federal rules and would have restricted consumers' access to debt settlement services.



States with fee caps make access to debt resolution highly restrictive and inaccessible.

Federal law allows consumers to reject a settlement or leave their program at any time with no penalty.

3 In 2023, after a 4-year study period, the Colorado Department of Regulatory Agencies (DORA) conducted a sunset review of the state's Debt Management Services Act. After a thorough review, DORA recommended that the debt resolution industry continue to operate under the DMSA for an additional 11 years without fee caps. The FTC rules and Colorado law have provided sufficient consumer protections and fee caps remain unnecessary.

4 Federal and state law protect Colorado consumers who take advantage of debt resolution programs.

The FTC rules¹ require debt resolution service providers to make meaningful disclosures to consumers, including:

- how much the service costs as well as any material restrictions, limitations or conditions on the debt relief service. If the sales presentation includes a statement about the refund policy, you must also include a clear and conspicuous disclosure of all terms and conditions of the policy;
- how long it will take the consumer to achieve the represented results based on a good faith estimate;
- how much money a customer must save before you'll make a settlement offer to creditors;
- the possible consequences if the customer fails to make timely payments to creditors; and
- the customer's rights regarding dedicated accounts if you ask or require your customers to set aside funds in a dedicated account.

Additionally, Colorado's Debt Management Services Act² requires providers to:

- Register with the Colorado Department of Law.
- Provide the consumer with education about the management of personal finance and an individualized financial analysis
- Comply with additional disclosure requirements to the consumer.

FTC rules and Colorado law protect consumers.

New fee caps limit consumer options. The DMSA should be continued as recommended by DORA with no new fee caps.

¹ Complying with the Telemarketing Sales Rule, <https://www.ftc.gov/business-guidance/resources/complying-telemarketing-sales-rule>

² Colorado Code Title 5, Article 19, Part 2,

<https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=ae9608df-693d-44ff-9723-15a3de05c6ac&pdistocdocsliideraccess=true&config=014FJAAyNGJkY2Y4Zi1mNjgyLTRkN2YtYmE4OS03NTYzNzYzOTg0OGEKAFBvZENhdGFsb2d592qv2Kywlf8caKqYROP5&pddocfullpath=%2fshared%2fdocument%2fstates-legislation%2furn%3acontentitem%3a61P5-X0M1-DYDC-J2PC-00008-00&pdcomponentid=234177&pdtoctnodeidentifier=AAFAAGAAEADAAT&comp=g2vckkk&prid=bfc3f886-4d59-44b2-93e3-585689c440f5>