

# I'm Having Trouble Opening a Checking Account

*Credit Issues & Check Verification Systems*



## **Dear ALRP:**

I have disabling HIV and had to take disability-leave from work. While I was waiting for my benefits to be approved, I ran into some credit problems, bounced some checks, and eventually my bank closed my account. I finally received approval for my benefits and needed to open a new bank account for depositing my benefits checks. The bank asked for my ID and Social Security number. They typed it in, and then told me: "We don't want your money. You are a problem account." Now I can't open an account in any bank. What's going on?

Sincerely,

- *Bewildered*

## **Dear Bewildered,**

You have entered into the vindictive, unforgiving world of **check verification systems**. Any time a bank closes your account for bounced checks, excessive over-drafting or financial mismanagement, your name goes into a database. There are two, Telecheck and Chexsystems. Telecheck is the "kinder and gentler" of the two. You pay up with the bank, and Telecheck takes the mark off of your record. However, Chexsystems is the database used by the overwhelming majority of banks. As far as Chexsystems is concerned, even if you pay off your debts, your previous history is still a blemish on your record for a minimum of five years. You may have to negotiate with a bank in order to open a checking account during this five-year period (up to eight years if the bank decides to renew the report).

### **Does this mean I'm stuck with "check cashing stores?"**

Not necessarily. You do have some options, but a traditional checking account is probably not one of them. These options are not perfect, but they are better than check cashing stores and their very high fees. The following options all allow for direct deposit of your benefits check:

#### *Credit Unions:*

They operate on a different principle than banks: you are not an "account holder," but rather a "shareholder." You need to have a "common interest" with other members (e.g., living in a specific city, or being a member of the same labor union). San Francisco Federal Credit Union and Patelco Credit Union are local examples of San Francisco residency satisfying the eligibility requirement. There are a number of other credit unions with different membership requirements. Your grandparents' dairy farm may even allow you to be a member of a "grange" credit union.

Credit unions and banks function similarly. Most credit unions use Chexsystems. This means you can open a savings account, but not a checking account. However, you may be able to arrange for automatic bill paying, which serves part of the function of a checking account.

*Pre-paid Credit Cards:*

Yes, you can have a Visa or a MasterCard despite your credit problems, but you have to secure it with a deposit. There are several pre-paid credit cards available (e.g., EuFora). A credit card can be helpful to someone who doesn't have a checking account because you can send in any amount of money via money order, and then withdraw money throughout the month by making charges.

*Investment Accounts:*

Beg or borrow \$1,000 - \$5,000 and open up an investment account through a company like AmeriTrade. This alternative is for people who have discharged their Chexsystems debt, are waiting for the time to pass, and do not feel like going through the major negotiations required to open up a checking account in a commercial bank. You get a checking account with the investment account, which you can use just like a regular checking account. Just be careful – remember what got you into debt in the first place.

**Am I free from any liability associated with my bounced checks?**

No. Bouncing checks is a crime, and you can be prosecuted for it. Different counties handle the offense in different ways. You can also be sued in civil court for the amount of the check plus steep fines. This article focuses on how to manage when you are prevented access to bank accounts. What to do (or not do) about the debt you owe is another matter and you should consult ALRP or another legal services agency to learn about your options and possible consequences.

**If I find a way to open a checking account, can I ignore my debts?**

Absolutely not. The best way to avoid trouble with banks is to be practical. Do not try to live beyond your means. If you do get into another bind, don't write a check that you know will bounce, even if it does "buy you more time." Instead, try to work something out with the person or company to whom you owe the money. They may accept installments or let you pay late. This will allow you to stay on good terms with your creditors and also avoid falling into that black hole of check verification systems.

**This Legal Q&A Guide was last revised in July 2011.** It is intended to provide general legal information to people living with HIV/AIDS in California. However, because laws change frequently ALRP cannot ensure the complete accuracy of the information included. Please call ALRP at (415) 701-1100 to consult with an ALRP attorney about your legal rights in your particular situation.