

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

IN RE:)
)
CHAPTER 13 RESERVE FUND)
)
)

GENERAL ORDER 20-1

WHEREAS Schedule J, detailing a Chapter 13 debtor's estimation of monthly expenses, contains monthly estimates for expenses that may not be incurred monthly, such as, but not limited to:

- Maintenance, repair and upkeep expenses,
- Childcare and children's education costs,
- Medical and dental expenses,
- Transportation expenses,
- Insurance expenses, and
- Taxes,

WHEREAS in the experience of the Chapter 13 Trustee and attorneys for Chapter 13 debtors, individuals do not generally budget for such expense items by setting aside money, on a monthly basis, to meet such expenses when they arise,

WHEREAS, the failure to budget for such expense items often results in motions to modify plans, motions to suspend plan payments, or other activity as may be necessary for the Chapter 13 debtor to pay such expenses as they arise,

IT IS HEREBY ORDERED that a Chapter 13 Reserve Fund is established, which is governed by the following rules and procedures:

A. Participation in the Reserve Fund is voluntary by a Chapter 13 debtor and the Chapter 13 Trustee.

B. A Chapter 13 debtor may participate in the Chapter 13 Reserve Fund process and procedures by inserting the following language, or language that is substantially similar, into Section 8.1, Non-Standard Provisions, of the District's Model Chapter 13 Plan:

The Debtor will establish a reserve fund with the Chapter 13 Trustee to assist the Debtor in paying for intermittent, reasonably necessary living expenses. The procedures and rules governing the use of the Reserve Fund are as set forth in General Order 20-1 of the Bankruptcy Court for the Northern District of West Virginia, as that General Order may be amended or reissued from time to time.

C. Reserve Funds paid to the Chapter 13 Trustee are subject to the Chapter 13 percentage fee as in effect at the time of deposit.

D. The Debtor may make a request directly to the Chapter 13 Trustee for use of the Reserve Funds to pay for intermittent expenses. The Clerk will provide a model form on the Court's website for this purpose. The Chapter 13 Trustee retains the discretion to distribute Reserve Fund monies directly to the Debtor's attorney, the Debtor, or the proposed creditor / service provider if the Chapter 13 Trustee is satisfied that the request for Reserve Fund deposits is necessary to meet a reasonably necessary living expense of the Chapter 13 Debtor.

E. No motion to release Reserve Fund monies should be made to the Court unless the Debtor previously made a request for the Reserve Funds to the Chapter 13 Trustee, which, in the Debtor's view, the Chapter 13 Trustee unreasonably denied. The Clerk will provide a form motion for a debtor to request review of the Trustee's refusal to release of Reserve Fund deposits on the Court's website.

F. The Chapter 13 Trustee may use the Reserve Fund deposits to satisfy an arrearage in payments required under a proposed or confirmed Chapter 13 Plan.

G. Reserve Funds on deposit with the Chapter 13 Trustee are plan payments and are subject to garnishment, attachment and distribution to the same extent as other plan payments held by the Chapter 13 Trustee that have not yet been distributed.

H. The Trustee shall return any Reserve Fund deposits to the Debtor upon a dismissal or conversion of a Chapter 13 case, upon the completion of a Debtor's payments under a Confirmed Plan, or upon the granting of a Hardship Discharge.

SO ORDERED this 17 day of March, 2020



Hon. David L. Bissett

Chief Judge, United States Bankruptcy Court, N.D.W. Va.