

4-805B. Application for writ of garnishment (medical debt judgment).

[For use with Rules 1-065.2, 2-802, and 3-802 NMRA]

STATE OF NEW MEXICO
COUNTY OF _____
IN THE _____ COURT

_____, Plaintiff

v.

No. _____

_____, Defendant

**APPLICATION FOR WRIT OF GARNISHMENT
(MEDICAL DEBT JUDGMENT)**

The judgment creditor, _____, states:

- (1) The underlying judgment is based on a cause of action to recover judgment for medical debt under the Patients' Debt Collection Protection Act, NMSA 1978, Section 57-32-1 to 57-32-10.
- (2) The judgment creditor has a judgment dated _____ against the judgment debtor whose name is _____, and whose last known address is _____.
- (3) The total amount of the judgment including the principal, interest, costs, and attorney fees awarded by the judgment was \$ _____.
- (4) From the date the judgment was filed through the date this Application was signed, additional interest at the rate of _____% totals \$ _____. Judgment creditor has incurred additional costs of \$ _____ and additional attorney fees of \$ _____.
- (5) Payments totaling \$ _____ have been received.
- (6) The unpaid balance now due is \$ _____ (*Insert this amount on Form 4-806 NMRA as "Balance Due On Application for Writ."*) plus interest from the date this Application is filed.
- (7) Estimated costs would equal \$ _____ and the judgment creditor will seek \$ _____ in attorney fees.

(8) Judgment debtor, to my knowledge, does not have sufficient property within New Mexico subject to execution to satisfy the judgment. I understand that I have a duty to make a reasonable investigation into the truth of this statement and have done so as follows:¹

(This allegation is not necessary before garnishment of funds for child support or alimony obligations.)

(9) I have reason to believe, and do believe, that the garnishee, _____ (*name of garnishee*), _____ (*address*), holds or controls money or personal property which belongs to the judgment debtor or is indebted to the judgment debtor.²

(10) The money or property held by the garnishee is not exempt from garnishment because:

(check one)

In compliance with NMSA 1978, Section 57-32-4, and 13.10.39.9 NMAC, judgment creditor has determined that the judgment debtor is not now an indigent patient as defined in NMSA 1978, Section 57-32-2(G);

or

Judgment creditor has determined the judgment debtor is not now indigent based on information and belief, and was unable to determine otherwise due to the noncooperation by the judgment debtor. In compliance with 13.10.39.9(A)(b) NMAC, judgment creditor affirms that it made at least three documented efforts to contact the judgment debtor as follows:

(11) Therefore, the judgment creditor requests a Writ of Garnishment.

(12) On issuance of a Writ of Garnishment, judgment creditor will promptly serve the judgment debtor and the garnishee a copy of the application for writ of garnishment and the writ of garnishment, and also shall serve the judgment debtor with the following forms:

(a) a notice of right to claim exemptions;³

- (b) a claim of exemptions on garnishment;⁴ and
- (c) a copy of the current Attestation of Indigency form promulgated by the New Mexico Office of the Superintendent of Insurance.⁵

Judgment creditor or attorney for judgment creditor

Judgment creditor's or attorney's name printed

Address of judgment creditor or attorney

City, state, and zip code (*print*)

Telephone number of judgment creditor or attorney

Date of signing

AFFIDAVIT

*(application must be sworn to
unless signed by an attorney)*

Subscribed and sworn to before me this _____ day of
_____, _____.

(*seal*)

Notary or other officer authorized
to administer oaths

USE NOTES

1. The judgment creditor shall list any steps taken to investigate whether the judgment debtor possesses property within New Mexico subject to execution to satisfy the judgment. A reasonable investigation may be made, for example, by conducting a credit check or by asking the judgment debtor to identify all of the judgment debtor's assets during a court hearing.

2. See *Jemko, Inc. v. Liaghat*, 1987-NMCA-069, ¶ 10, 106 N.M. 50, 738 P.2d 922 (providing that a judgment creditor, acting under a writ of garnishment, may only seize property belonging to the judgment debtor); *Alcantar v. Sanchez*, 2011-NMCA-073, 150 N.M. 146, 257 P.3d 966 (discussing garnishment procedures in the case of joint bank accounts).

3. The judgment creditor must serve promptly on the garnishee and judgment debtor Form 4-808 NMRA, Notice of Right to Claim Exemptions (Garnishment).

4. The judgment creditor must serve promptly on the garnishee and judgment debtor Form 4-809 NMRA, Claim of Exemption from Garnishment.

5. The current Attestation of Indigency form, which must have been served on the judgment debtor, may be found via the link on the Office of Superintendent of Insurance's Patients Debt Collection Protection Act webpage at <https://www.osi.state.nm.us/pages/misc/patients-debt-collection-protection-act>. [Adopted by Supreme Court Order No. 08-8300-45, effective December 31, 2008; as amended by Supreme Court Order No. 09-8300-024, effective September 4, 2009; withdrawn by Supreme Court Order No. 12-8300-030, effective for all cases filed or pending on or after January 7, 2013; reinstated and amended by Supreme Court Order No. S-1-RCR-2025-00174, effective for all cases pending or filed on or after December 31, 2025.]