

§1329 Motions

**11 U.S. Code § 1329 - Modification of plan after confirmation**

(a) At any time after confirmation of the plan but before the completion of payments under such plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim, to—

- (1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;
- (2) extend or reduce the time for such payments;
- (3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim other than under the plan; or
- (4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

(A) such expenses are reasonable and necessary;

(B)

(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325 (b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.

(b)

(1) Sections 1322 (a), 1322 (b), and 1323 (c) of this title and the requirements of section 1325 (a) of this title apply to any modification under subsection (a) of this section.

(2) The plan as modified becomes the plan unless, after notice and a hearing, such modification is disapproved.

(c) A plan modified under this section may not provide for payments over a period that expires after the applicable commitment period under section 1325 (b)(1)(B) after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years after such time.

After confirmation a plan may be modified on 21 days notice of a motion brought by the debtor, the trustee or an unsecured creditor, notice cannot be shortened. Notice must be given to all creditors, the trustee and the debtor.

The motion must clearly state the reasons that it is necessary to amend the plan.

If a debtor seeks to reduce payments, the debtor must file amended schedules I and J and document the changes in income or expenses that necessitate the change.

If the debtor alleges that their income has change they must provide recent pay advices.

If the debtor seeks to defer a default the debtor must resume payments before an order can be entered deferring the default.

The prayer for relief must clearly state which section(s) of the plan are to be amended and in what way.

The proposed order must clearly and concisely state the change(s) that are to be made to the plan.

If the initial term of the confirmed plan is 60 months and the motion seeks to change the plan payment and or defer a default, the order must state the new 60 month plan base.

It is important to note that §1329(b) does not incorporate §1325(b); the Means Test does not apply to calculation of disposable income and plan payments for motion brought under §1329.

It is not necessary nor is it useful to file an amended plan after confirmation. An amended plan filed after confirmation has no effect.

§1325(a)(4) still applies. If the best interests of creditors test dictated a minimum distribution to unsecured creditors, that minimum cannot be reduced after confirmation.

Click link below for examples of properly drafted 1329 orders.

[1329 Orders](#)