



Elder Law NEWS

JUNE 2020

SOME NURSING HOMES AND ASSISTED LIVING FACILITIES ARE SNATCHING RESIDENTS' PANDEMIC RELIEF CHECKS, FTC WARNS

The Federal Trade Commission (FTC) is warning residents of long-term care facilities and their families that some facilities may unlawfully require residents who are on Medicaid to sign over their \$1,200 pandemic relief checks.

“This is not just a horror story making the rounds. These are actual reports that our friends in the Iowa Attorney General’s Office have been getting—and handling. Other states have seen the same,” writes Lois Greisman, the FTC’s Elder Justice Coordinator, in [a May 15 alert](#).



The Coronavirus Aid, Relief, and Economic Security (CARES) Act included one-time payments of up to \$1,200 to millions of eligible individuals, based on their income. Ordinarily, nursing home and assisted living residents receiving Medicaid benefits must [give all their income to the facility](#), minus a small “personal needs allowance.” However, the economic impact payments that are part of the CARES Act are a tax credit. According to tax law, tax credits don’t count as “resources” for federal benefit programs like Medicaid. The money belongs to the resident, not the facility.

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Elder Law NEWS

JUNE 2020

The FTC says that if a loved one lives in a nursing facility and you're not sure what happened to their payment, talk with them soon. If the facility took the payment already, get in touch with [your state attorney general](#) and ask them to help you get it back, and then tell the FTC at [ftc.gov/complaint](https://www.ftc.gov/complaint).

For the FTC's alert to consumers, [click here](#).

For the agency's companion alert to businesses, titled "Nursing homes and assisted living facilities: Hands off residents' stimulus checks," [click here](#)

For a fact sheet from the National Center on Law & Elder Rights (NCLER) titled "Nursing Home Residents, Medicaid, and Stimulus Checks: What You Need to Know," [click here](#).

For an NCLER fact sheet for those receiving Medicaid in assisted living facilities or in the community, [click here](#).

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JUNE 2020

Seniors Affected by the Coronavirus Pandemic Have More Time to Apply for Medicare or Change Plans

The closure of Social Security offices has caused [problems and worries](#) for recently unemployed seniors who need to apply for Medicare after losing their employer coverage. In response, the federal government has announced that seniors affected by the crisis have additional time to enroll in Medicare or change plans.

With millions of people out of work and losing their employer health insurance due to the coronavirus pandemic, the need for Medicare coverage is critical. While it is possible for some seniors to apply for [Medicare online](#), others need to provide more information, including individuals who did not sign up for Medicare Part B initially because they had health insurance through an



employer. Seniors who are applying for Medicare Part B after losing their job need to provide proof of their employer policy along with their Medicare application to ensure they aren't subject to [substantial penalties](#). With [Social Security offices closed](#), Medicare applicants may have

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Elder Law NEWS

JUNE 2020

difficulty figuring out how to submit the necessary information or getting answers to their questions about their application.

The Centers for Medicare and Medicaid Services (CMS) has announced changes to Medicare enrollment periods to help seniors affected by the coronavirus pandemic. Those who missed their opportunity to enroll in Medicare will have additional time to apply. CMS is providing “equitable relief” to seniors who:

- were in their Initial Enrollment Period (IEP), General Enrollment Period (GEP), or Special Enrollment Period (SEP) between March 17, 2020, and June 17, 2020; and
- did not submit an enrollment request to the Social Security Administration (SSA).

Seniors have until June 17, 2020, to [submit an application](#). Applications can be submitted via fax to 1-833-914-2016 or mailed to the local SSA field office. Although SSA offices are closed for in-person service, offices are still processing applications received by mail. For the SSA’s Social Security Office Locator, go here: <https://secure.ssa.gov/ICON/main.jsp>.

For questions and answers on how to submit a Medicare application and what information is needed, [click here](#).

In addition, CMS has announced an SEP for people to make changes to their Medicare Advantage and prescription drug plans if they missed the open enrollment period or a special enrollment period due to the coronavirus pandemic. The SEP is available until July 13, 2020.

For more information from CMS, [click here](#).

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States May Not Terminate Medicaid Benefits During the Coronavirus Pandemic

Access to affordable medical care is especially important during a global health crisis. You should be aware that federal law prevents the states that have accepted increased Medicaid funding from terminating Medicaid benefits while the coronavirus health emergency continues.

The Secretary of Health and Human Services has declared a nationwide public health emergency for COVID-19. In light of the public health emergency, the Families First Coronavirus Response Act provides that if you were enrolled in Medicaid as of March 18, 2020, the state (provided it accepted expanded Medicaid funds during the crisis) cannot terminate your benefits even if there is a change in your circumstances that would normally cause your benefits to be stopped. The law states that your Medicaid coverage must continue through the end of the month in which the Secretary declares that the public emergency has ended. The only exceptions to this non-termination rule are if you choose to terminate your benefits yourself or you move to another state.

States that already terminated a Medicaid recipient's benefits should be contacting recipients and encouraging them to reenroll. If the state determined that you were "presumptively eligible" for benefits before March 18, 2020, this rule does not apply to you, and the state may terminate your



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Elder Law NEWS

JUNE 2020

benefits if it eventually concludes you are not eligible for benefits. However, if you have coverage because you are appealing a decision of ineligibility that was made before March 18, 2020, the state cannot terminate your benefits during the health emergency.

For an FAQ about the Medicaid requirements under the law, [click here](#).