



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

July 2020

**Nursing Facilities and Other Congregate Settings  
Cannot Seize Residents' Economic Impact Payments**

The Consortium for Citizens with Disabilities (CCD) Financial Security Task Force is aware of complaints related to nursing facilities and other congregate settings, especially those who are organizational representative payees, seizing the Economic Impact Payments (EIPs) authorized for residents of those institutions by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. This fact sheet provides background on this issue and reporting resources for advocates.

**What are Economic Impact Payments (EIPs)?**

The CARES Act authorized stimulus payments, called EIPs, for certain categories of people in the United States based primarily on income thresholds which include many people with disabilities. Even certain categories of people who do not make enough money to file taxes usually are eligible for EIPs. People who are undocumented, lack Social Security numbers, file with an Individual Taxpayer Identification Number, or adults who were claimed as dependents are not eligible for EIPs. The CARES Act treats EIPs as a tax credit and thus they are not considered income or treated as assets for the first 12 months for the purposes of federal benefits programs like Medicaid.<sup>1</sup>

**Are there other people who may receive an EIP for people with disabilities?**

Sometimes, people with disabilities rely on “representative payees” to manage Social Security or Supplemental Security Income benefits.<sup>2</sup> Representative payees are often family members or friends, but sometimes the representative payee can be an organization. Many nursing facilities serve as the organizational representative payees for residents in that facility. The Social Security Administration has issued very clear guidance explaining that the EIP belong to the beneficiary: “The EIP belongs to the Social Security or SSI beneficiary. It is not a Social Security or SSI benefit. A representative payee should discuss the EIP with the beneficiary. If the beneficiary wants to use the EIP independently, the representative payee should provide the EIP to the beneficiary. If the beneficiary asks the representative payee for assistance in using the EIP in a specific manner

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<sup>1</sup> FEDERAL TRADE COMMISSION, CONSUMER INFORMATION, DID A NURSING HOME OR ASSISTED LIVING FACILITY TAKE YOUR STIMULUS CHECK? (May 15, 2020), <https://www.consumer.ftc.gov/blog/2020/05/did-nursing-home-or-assisted-living-facility-take-your-stimulus-check>.

<sup>2</sup> SOCIAL SECURITY ADMINISTRATION, REPRESENTATIVE PAYEE (last visited July 2020), <https://www.ssa.gov/payee/>.

or saving it, the representative payee can provide that assistance outside the role of a representative payee.”<sup>3</sup>

### **Can these payments be seized by nursing facilities or other congregate settings?**

No. The Centers for Medicare & Medicaid Services (CMS) stated in guidance on June 11, 2020: “This practice is prohibited, and nursing homes that seize these payments from residents could be subject to federal enforcement actions, including potential termination from participation in the Medicare and Medicaid programs.”<sup>4</sup> The guidance makes clear this is the case regardless whether or not the nursing home is an organizational representative payee.

### **Where should complaints about efforts to seize EIPs be made?**

CMS’ guidance directs residents to “to file a complaint with their state survey agency for investigation of the nursing home. State specific complaint contact information is available here: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Complaintcontacts.pdf>.

CMS and State investigators will make referrals to the States Attorneys General, as appropriate, if they find a nursing home in violation of these requirements. Residents and families are also encouraged to contact their State Attorney General, directly, for redress of their individual loss. State Attorneys General contacts are available here: <https://www.naag.org/naag/attorneys-general/whos-my-ag.php>.

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<sup>3</sup> SOCIAL SECURITY ADMINISTRATION, ECONOMIC IMPACT PAYMENTS PAID BY THE CARES ACT, REPRESENTATIVE PAYEE (Jun. 1, 2020), <https://www.ssa.gov/coronavirus/eip-cares-act/>.

<sup>4</sup> CENTERS FOR MEDICARE & MEDICAID SERVICES, NURSING HOME RESIDENTS’ RIGHT TO RETAIN FEDERAL ECONOMIC INCENTIVE PAYMENTS (Jun. 11, 2020), <https://www.cms.gov/newsroom/press-releases/nursing-home-residents-right-retain-federal-economic-incentive-payments>. See also, INTERNAL REVENUE SERVICE, IRS ALERT: ECONOMIC IMPACT PAYMENTS BELONG TO RECIPIENT, NOT NURSING HOMES OR CARE FACILITIES (Jun. 16, 2020), <https://www.irs.gov/newsroom/irs-alert-economic-impact-payments-belong-to-recipient-not-nursing-homes-or-care-facilities>.