

Make Smart Decisions When Choosing a Mechanic

By Laura Jontz*

When Sally, the family sedan, starts groaning and wheezing, it's time to visit a mechanic. But, which mechanic should you choose? Should you take Sally to your neighbor, who manages to fix almost anything with duct tape, or should you pay to take your car to a fancy repair shop or dealership? The following tips will help you make an informed decision when faced with expensive car repairs.

Get several estimates – in writing!

When a mechanic says your car can be repaired for \$100, make sure you get that in writing. You have the right to get an estimate for any repair over \$50, and you should always ask for a written estimate. A mechanic cannot charge you more than the estimate unless you approve the additional costs.

Review the estimates –

Make sure you are not being charged for unnecessary repairs. If you do not understand the repairs listed on the estimate, talk to the mechanic. If the mechanic does not answer your questions, you may want to take your car to another mechanic.

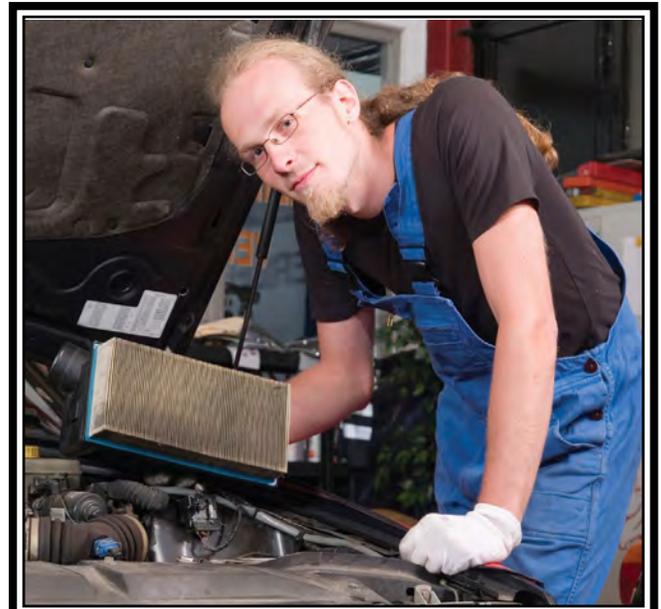
Do online research –

Before you agree to pay a mechanic to fix your car, do some basic research. Check out the Better Business Bureau's web page and Google several mechanics in your area. If a mechanic has many bad customer reviews, use another mechanic. Also, try to choose a mechanic that has experience repairing your car's make and model.

Ask about warranties –

Before you choose a mechanic, ask if the repairs come with a warranty. A mechanic that provides a warranty

Continued on back cover...



Inside

Changes in Federal Law Impact Iowans in Same-Sex Marriages

Nursing Homes Can't Just Boot People Out

Rent Reimbursement and Property Tax Credits for Iowans Who are Elderly or Have a Disability

Cell Phone Contracts

New Federal Laws Help Homeowners Behind on Mortgage Payments

Rules Change for Medicaid and HAWK-I Appeals

Can a Creditor Put Me In Jail For Not Paying A Debt?

Generous donors provide new telecommunications system for Iowa Legal Aid

What Can I Do When I Owe Taxes, Court Debt or Other Debts to the State of Iowa?

Hotlines to Prevent Suicide
and MORE!

Make Smart Decisions When Choosing a Mechanic

Continued from outside front cover

may cost more, but you won't have to pay more money if the same problem happens again. You should keep all warranty paperwork in organized folders so you know which car parts are under warranty. If you lose important warranty information, you might wind up paying for repairs that could have been free.

Don't automatically choose the mechanic with the lowest estimate –

The lowest estimate may look good on paper, but it may not be the best way to get your car back on the road. A mechanic may be able to get your car started for a small amount of money, but that doesn't mean your car is safe to drive. If your car hasn't been properly repaired, it may break down again or cause an accident soon after you drive away from the repair shop.

Discuss payment arrangements with the mechanic –

After you get a written estimate from a mechanic, tell the mechanic how much you can afford to pay. If the mechanic agrees to take payments from you every week or every month, get the payment arrangement in writing. Make sure the mechanic gives you a receipt every time you make a payment. Keep your receipts organized so you have written proof of each payment.

****Laura Jontz is a staff attorney with Iowa Legal Aid. She works at the Central Iowa Regional Office in Des Moines.***

The *Equal Justice Journal* is published four times a year by Iowa Legal Aid. The *Equal Justice Journal* is free to low-income people in all counties of Iowa. All others must pay a \$10.00 annual subscription fee. The newsletter is available online at iowalegalaid.org.

All correspondence should be sent to:

**The *Equal Justice Journal*
Iowa Legal Aid
1111 9th Street, Suite 230
Des Moines, Iowa 50314-2527**



© 2014 Iowa Legal Aid

Note: Photographs in this newsletter are produced independently of text and bear no relationship to cases or incidents discussed herein (except where noted below a picture).

"Ayla" avatar © 2008 Illinois Institute of Technology, Chicago-Kent College of Law and Center for Computer-Assisted Legal Instruction. A2J Author is a federally registered trademark of Illinois Institute of Technology, Chicago-Kent College of Law and Center for Computer-Assisted Legal Instruction and is used here with their permission. For more information about A2J Author please visit www.a2jauthor.org.

LOW-INCOME READERS OF THE EQUAL JUSTICE JOURNAL..

If you have a question about something you read in this newsletter, call **THE EJJ HOTLINE** at 1-800-992-8161. When your call is answered, tell the receptionist you want **The EJJ Hotline**. Your call will be transferred to a staff member who will be able to respond to inquiries from persons who are eligible for free legal help from Iowa Legal Aid.



Changes in Federal Law Impact Iowans in Same-Sex Marriages

By Joe Ferrentino*

Getting married is one of the biggest decisions in a lifetime. In 2009, the Iowa Supreme Court's decision in *Varnum v. Brien* (known as "*Varnum*") made Iowa one of the first states where same-sex couples could get married. Since then, many same-sex couples in Iowa have decided to marry. Some may face complicated legal questions the *Varnum* decision raises.

While Iowa recognized these marriages, the federal government did not. The Defense of Marriage Act (DOMA) prevented persons in same-sex marriages from getting the same federal benefits as other spouses. In 2013, the United States Supreme Court found DOMA unconstitutional in the *U.S. v. Windsor* case.

Iowans in same-sex marriages may want to know more about their rights after the *Windsor* decision. Unless stated otherwise, the information below concerns how federal rules apply to persons in same-sex marriages. To find out what any changes mean for you, talk to a lawyer.

New Federal Tax Rules

Normally, if a couple is considered legally married in the state where they live they are considered married for federal tax purposes. This is known as "the domicile rule."

There are a few exceptions to this rule. The IRS considers couples that are "common



law" married to be married for federal tax purposes even when the couple moves to a state that doesn't have common law marriage. The IRS decided to treat same married couples the same way. If a same sex couple enters into a valid marriage in a state that recognizes same-sex marriages, then that couple's marriage is considered valid for federal tax purposes even if they move to a state that doesn't recognize their marriage. If the couple had unfiled returns for 2012, 2011 or 2010, as of September 13, 2013, and they choose to file those returns now, they will need to file as married filing separately or married filing jointly.

Other aspects of the tax code should also benefit married couples.

This area of the law is changing quickly as the government implements the *Windsor* decision finding DOMA unconstitutional. Find out if new rules and regulations impact your household.

- The standard deduction for married couples filing jointly is twice what single filers get.
- Married couples filing jointly may pool income and expenses to get their itemized deductions.
- Married same-sex couples should no longer have to pay income taxes on the value of employer-provided insurance to an employee's spouse.
- The amount of money from the Earned Income Tax Credit (EITC) may be greater.

Continued on Next Page...

Can a Creditor Put Me in Jail For Not Paying a Debt?

By Mike Tulis*

The laws of many states allow a judge to jail someone who fails to pay a fine imposed as part of a criminal conviction. What about a failure to pay a private civil debt? Up until the mid-19th century, it was legal for creditors to imprison debtors in "debtors' prisons" for failure to pay a civil debt. The practice was ended in the United States in 1833. Some state constitutions include provisions banning these "debtors' prisons."

In recent times, many creditors and collection agencies are increasingly using a debtor's failure to show up at a court ordered "debtor's examination" as a reason to jail the debtor. According to the *Wall Street Journal*, more than a third of all U.S. states allow jailing of debtors who can't or won't pay. Its survey of nine counties with a total population of 13.6 million showed that judges have signed off on more than 5,000 such warrants since the start of 2010.



What Is a Debtor's Examination?

In Iowa, as in many states, a creditor must first sue a debtor in court to obtain a money judgment for a debt. Once a court enters a money judgment against a debtor, the creditor can attempt to collect the judgment through garnishment of the debtor's wages or bank accounts. If the creditor is unable to collect the debt through garnishment, the creditor can ask the court to order a "debtor's examination."

The court will then issue an order to the debtor requiring the debtor to appear in court at a specific date and time for an examination. The examination is before a judge and allows the creditor to find out:

- where a debtor works,
- what wages the debtor makes,
- the debtor's other sources of income,
- where the debtor has bank accounts, and
- what other nonexempt property the debtor owns.

If the debtor fails to obey the judge's order and appear for the examination, the creditor can ask the judge to issue an arrest warrant for the debtor. Most Iowa courts will consider a debtor's failure to attend a debtor's exam to be contempt of court and will issue a bench warrant to have the debtor arrested and brought before the judge.

If the arrest takes place at night or in a different county than where the lawsuit occurred, the debtor may be put in jail until he or she can be brought before a judge. Some of

Continued on Next Page...

Medicaid Program Changes for Iowans in Same-Sex Marriages

Before Windsor	After Windsor
A spouse did not count as a family member.	A spouse DOES count as a family member.
The income of a spouse did not count as family income when applying for Medicaid.	Income of a spouse DOES count as family income when applying for Medicaid.
A spouse with a low income might qualify for Medicaid as a one-person household, even when the income of the other spouse was too high to be eligible.	Counting both incomes might make a person who now gets benefits no longer eligible for Medicaid.
To qualify for home health services, resources had to be spent down until meeting the asset limit.	When one spouse gets home health care through Medicaid, now the spouse who does not get benefits can keep more of the couple's assets to avoid becoming impoverished.
To qualify for help with nursing home costs from Medicaid, resources had to be spent down until meeting the asset limit.	The spouse not getting Medicaid is also allowed to keep more of the couple's assets when the other gets benefits for nursing home care.

Changes in Federal Law Impact Iowans in Same-Sex Marriages Continued from page 1

- Some tax-advantaged fringe benefits from employers will be handled differently now.

Amended Returns

- For couples married prior to 2013, the IRS has said couples that were married in any of the prior three years, may choose to amend a prior year's return using either married filing jointly or married filing separate status. Filing an amended return could generate a refund.
- Couples are not required to file an amended return.

Keep in mind:

- If there were problems with the original return and you file an amended return, then the IRS may find and correct errors.
- Not everyone will get a refund. Married filing status won't be as good a deal for some high-income individuals. In households where both parents got the Earned Income Tax Credit, filing as married might lower the credit.

Some tax preparers think taxpayers should be able to go back further than 3 years and claim a refund. It is unlikely that the IRS would grant refunds for claims going back more than 3 years without going to court first.

Benefits for Spouses of Veterans

Same-sex spouses of veterans may now be entitled to the same benefits that opposite-sex married couples have always received. In part, this is determined by state law. The VA should consider you married if the state where you live recognized same-sex marriage:

- When the marriage took place OR
- When veteran's benefits took effect or will start.

If neither of the above applies, the VA is not likely to consider you married. However, some retirees may get some benefits from the VA and some from the Department of Defense (DOD). The DOD uses a different rule, the "place of celebration" rule. The only factor of concern to the DOD is where the marriage took place. This means some same-sex spouses may get their benefits from the DOD, but not from the VA.

FAFSA

The Free Application for Federal Student Aid (FAFSA) is the form students use to apply for federal student aid such as loans, grants and work study. In the past, applicants with married same-sex parents were required to treat their parents as divorced for purposes of the form, and applicants married to same-sex partners were not permitted to list their spouses on their applications. For school year 2014-15 and beyond, applicants with married same-sex parents who live together and are the applicants' legal parents will be required to list both parents on the form, and married applicants will need to list their spouses. Applicants in domestic partnerships or civil unions will not need to list their partners.

Family and Medical Leave Act (FMLA) Leave for Non-Federal Employees

The Family and Medical Leave Act (FMLA) provides important protections for employees not working for the federal government. It allows eligible workers to:

- Take up to 12 weeks of unpaid leave in a 12-month period to care for a spouse with a serious medical condition
- Take up to 26 weeks to care for an eligible servicemember spouse with a serious injury or illness
- Take job-protected leave for the birth or adoption of a child or to care for a child who has a serious health condition, regardless of whether the child is biologically related to the employee.
- Get the same or an equal job back after you take FMLA leave.

If the state where you live recognizes your marriage, like Iowa, you should be eligible to take FMLA leave now.

Temporary Assistance for Needy Families (TANF)

The TANF is a program run by states using federal funds. It provides limited cash assistance to very low-income parents with children. If you live in a state where your marriage is recognized, your marriage will now be recognized for all TANF purposes.

Issues When Working in the Private Sector

It is important for same-sex couples to review who is designated as beneficiary and if the benefit selections now in place are the best choices. The health plan you have at work might also cover your spouse. Money spent for health insurance will not be treated as taxable income for either of you. Your spouse and children may be able to stay covered by COBRA if you lose your job or divorce your spouse. Under COBRA, health insurance can continue after job loss or divorce. Many of these benefits will depend on your employer and benefits. Check with the person at work who is in charge of those benefits.

SSI Benefits

"Appropriate State law" is used by SSI to determine marital status. This means married couples who consider Iowa to be their domicile should be considered married.

People who live together find it harder to get SSI than those who live alone. Some of the reasons are:

- If a married couple lives together and one spouse is 65 or older or meets the Social Security Act disability standard, the income and resources of both spouses are used to determine eligibility.
- The limit on allowable resources is 50% higher for a couple than for an individual. In most states, the limit on allowable income for a couple is also 50% higher than for an individual.
- A person who is married, but not living with the spouse, is treated like an unmarried person for SSI purposes.

Social Security Retirement & Disability

Three types of benefits are available to married people:

- Spousal Benefits
- Widow(er)'s Benefits or
- Lump Sum Death benefits.

Anyone who is married may be eligible for these Social Security benefits as long as the state of "domicile" recognizes the relationship as a marriage. The same is true for couples in a civil union or a registered domestic partnership if you have the same right to inherit from your partner as a spouse would. "Domicile" is the place you consider to be your permanent home. If you live outside of the United States, Washington, DC law applies. Social Security looks at your domicile at the time you apply for spousal benefits. They look at your domicile at the time a spouse dies for widow(er)s and lump sum death benefits.

Benefits are awarded based on the day you apply, so if you think you might be eligible for a benefit, you should always apply. There is no cost to apply, there is no punishment if Social Security finds that you are not eligible, and you always have the right to appeal Social Security's decision if you disagree with it.

This area of the law is changing quickly as the government implements the *Windsor* decision finding DOMA unconstitutional. This means you need to check to make sure rules and regulations have not changed. This article was accurate as of 1-10-14.

** Joe Ferrentino is a staff attorney at the Iowa Legal Aid Northeast Iowa Regional Office in Dubuque.*

Can a Creditor Put Me In Jail For Not Paying a Debt? Continued from page 1

these jail stays may last for days. The cash bond to be released from jail may be the amount of the judgment itself, which is often impossible for the debtor to pay. When the debtor is brought before a judge, the examination takes place. If the debtor has no money or property available to pay the debt, he or she is released without further proceedings. But the consequences of being arrested, perhaps placed in jail and being brought before a judge can be severe to someone's employment and family life.

What Should I Do If I Get a Court Order For a Debtor's Exam?

Never ignore an order from a court. If you get an order for a debtor's examination:

- Always appear on time for a debtor's examination.
- Carefully read the order to make sure you bring copies of any financial records ordered by the court (paycheck stubs, tax returns, bank account statements).
- Do not bring any cash, checkbooks, jewelry, or other valuables with you. The reason for this is a creditor can ask the court to order you to turn over any money or valuables on your person.

If you get any court orders or papers you do not understand, contact Iowa Legal Aid to find out if free legal help is available.

**Mike Tulis is a senior staff attorney at Iowa Legal Aid's Southwest Iowa Regional Office in Council Bluffs.*

If you or someone you know is at risk of suicide, reach out and contact a hotline to get help.

National suicide prevention lifelines

1-800-SUICIDE (1-800-784-2433)

If you are a veteran or you know someone who came back from active duty and has trouble with memories and experiences of the war - call 1-877-VET-2-VET (1-877-838-2838)

Youth America Hotline: 1-877-YOUTHLINE (1-877-968-8454)

1-800-273-TALK (1-800-273-8255)

For veterans, press 1. For Spanish, press 2.

With *Lifeline Chat* available from 1:00 am to 1:00 am at suicidepreventionlifeline.org

Iowa hotlines:

United Way - dial 2-1-1

Northeast Iowa hotline: 1-800-362-8255

* Toll Free in Wisconsin, Minnesota and Iowa

* TTY Accessible

Ames area - 1-800-830-7009

Cedar Rapids area - (319) 362-2174, 1-800-332-4224

Davenport area - (563) 421-2975

Dubuque - (563) 588-4016

Johnson County area - (319) 351-0140

Sioux City area - (712) 252-5000

Iowa Teen Line - 1-800-443-8336

Toll-free line Iowa teenagers can call to discuss issues they are facing 24/7

Iowa Concern - 1-800-447-1985

To assist you, Iowa Concern has stress counselors who can talk with you over the phone or in one-on-one Live Chat. Referrals for mental health counseling can also be accessed through Iowa Concern.

If the number is no longer good in your area or you cannot get help through the hotline, then either call 411, dial 0, or look in the phone book for suicide prevention, crisis intervention, county mental health center. Or, call 911 and tell the operator you are in danger of committing suicide.

Rent Reimbursement and Property Tax Credits for Iowans Who are Elderly or Have a Disability

By Fred Nelson*

Each year, Iowans who are elderly or have a disability may be able to benefit from:

- A property tax credit on their home; and
- Rent reimbursement on apartment or mobile home lot rent.

To be eligible for these programs in 2014, you must:

- Have household income during 2013 of less than \$21,698; and
- In 2013, be at least 65 years old OR at least 18 years old and have a disability.
- Iowans over 23 years old with income less than \$21,698 may also benefit from reduced taxes on a mobile, manufactured or modular home in a manufactured home community or mobile home park.

Remember, you must apply each year for these programs!

The Iowa Department of Revenue and Finance sets the formula for the credit or reimbursement. Property tax credit, rent reimbursement, or tax reduction programs are based on your 2013 household income. Household income includes:

- social security;
- wages;
- pension;
- interest income;
- money received from others.

If you get a rent subsidy, the amount of your subsidy also counts as income. If you earn income from a business, only the net profit from the business is included.

What "property" can qualify?

The credit or reimbursement may only be used for your homestead. Your homestead is the dwelling you owned or rented as your home during 2013.

- If you own a mobile home and live in it on a rented lot, you may apply for both rent reimbursement for the lot rent and a reduced tax rate on your mobile home.



- If you live in a mobile home on your own property, you may apply for a property tax credit.
- If you live in an apartment, the building must be subject to property tax. Apartments owned by non-profits (like a church) or government entities (like a city, county or state) do not generally pay property taxes.
- If you are not sure whether your apartment pays property taxes, ask your landlord or county treasurer.
- In some cases, residents of a nursing home may also be eligible for rent reimbursement or a property tax credit.
- If you are in a nursing home but still own and maintain your homestead, you can apply for the property tax credit.
- If you live in a nursing home and no longer own a home, you may be eligible for rent reimbursement.
- To apply for rent reimbursement, you will need to find out from the nursing home how much of your total payment is for rent.

When and How to Apply

Although deadlines are sometimes extended, you should apply between January 1 and June 1 of 2014 to get a rent reimbursement for 2013 or property tax credit or reduced tax rate for 2014.

Rent reimbursement is money that will be sent directly to you. The property tax credit

will show up as reduced property taxes for next year. If you have a mortgage on your home this could mean a reduction in your future monthly payments if money to pay your property taxes is included in your payment.

- To get the form to apply for rent reimbursement, call the Iowa Department of Revenue and Finance at 1-800-367-3388.
- Contact your county treasurer about forms for the property tax credit or mobile home reduced tax rate.
- You can find the forms and instructions on how to apply for all these programs on the Iowa Department of Revenue website. Go to: <http://www.iowa.gov/tax/forms/propexcredit.html>

The Legal Hotline for Older Iowans at 1-800-992-8161 also has the forms you need to apply and can answer questions.

*Fred Nelson is a staff attorney with Iowa Legal Aid's Legal Hotline for Older Iowans in Des Moines.



FREE Legal Help

1-800-992-8161
(282-8161 in Des Moines)

**The Legal Hotline
for Older Iowans
(60 & Over)**

An Iowa Legal Aid Project



The following Consumer Advisory is from Iowa Attorney General Tom Miller.

Are you thinking about signing up for new wireless phone service, changing your wireless plan or changing carriers?

New Plans

There are countless plans available, with different features to suit your usage needs. Do you think you'll spend a lot of minutes—or very few minutes—talking? Will you use the phone locally, regionally, nationally or even internationally? Will you use the phone mostly during the day, at night or on weekends? What about texting? If it's a smartphone, how much time will you spend on the Internet and how much data allotment do you think you'll need for uploads and downloads? Will others share your account, and how will they use their phones? How does the wireless provider charge when a phone exceeds monthly usage allotments for talking, texting or data usage? Ask friends and co-workers in your area about their wireless providers and their level of satisfaction.

Cell Phone Contracts

Contracts

Wireless providers typically encourage consumers to sign long-term contracts. In exchange for "free" or heavily discounted phones, providers will typically require a two-year commitment. If you cancel or switch providers before the contract expires, the contracts may impose a hefty early termination fee, which could be several hundred dollars per phone line. Be sure to understand what's in the written contract, as opposed to what someone verbally claims or promises. Written contracts override verbal representations and promises.

- Read the contract and any other documents that the carrier claims will govern your agreement. Clarify any terms you don't understand, including claims you see in promotional materials.
- If you are paying a promotional rate, be sure you understand the duration of the promotion and how much costs will increase after the promotional rate ends.
- Find out exactly what it will cost to cancel or change your plan before the contract expires.
- Find out how the provider prorates its early termination fees.
- Ask for a coverage map, and ask about extra charges for roaming outside of the home service area. Be sure you understand how you know whether you are roaming.
- Ask about the trial period, which enables you to cancel and seek a refund without an early termination fee. When you first get your new phone, make sure you are satisfied with it and also your wireless carrier's service. Test your phone in places where you'll most likely use it.

Early Termination & Contract Changes

- Know when your contract expires. If your carrier makes a promotional offer before your contract expires, ask whether it requires you to extend your agreement.
- Your wireless provider may not require you to sign a new contract if you extend or make changes to your existing plan, including upgrades. Be sure you understand the terms if you change or extend your agreement.
- Ask what you need to do to end, continue or change your agreement at the end of the contract. It's possible that your provider will automatically renew or extend your agreement unless you ask to terminate it.
- Men and women who are serving on active duty in the U.S. military, including members of the National Guard and Reserves called to active duty status, can suspend long-term contracts when deployed for at least 90 days, or when permanently transferred, if the change results in an inability to use the service or an inability to satisfy the terms of the contract.

Pre-Paid Phones & Plans

- You may avoid facing early termination fees if you buy the phone up front at full price.
- Pre-paid and monthly phone service is not subject to long-term contracts.

The Consumer Protection Division is at the Hoover Building in Des Moines 50319. You may call 1-888-777-4590 or 515-281-5926 and the website is IowaAttorneyGeneral.gov

New Federal Laws Help Homeowners Behind on Mortgage Payments

By David M. Loetz*



New federal laws help homeowners who are behind on mortgage payments or face foreclosure. To comply with the Dodd-Frank Act, some regulations of the Consumer Financial Protection Bureau had to change. The new rules took effect January 10, 2014.

You now have an easier way to ask for information about your home loans and to dispute errors.

- Your mortgage company must now have a single address for you to request information about your loan. Your mortgage company must also allow you to use the same address to resolve errors in handling payments. Your mortgage company must tell you about this address in writing. This address must also be posted on your mortgage company's website.
- Your mortgage company must confirm receipt of your requests for information or requests to correct an error within five business days.
- Your mortgage company must reply to all requests for information and investigate all requests to correct an error within 30 days.

Your mortgage company must try to contact you sooner if you fall behind on payments. Your mortgage company must stay in touch with you if you are behind on payments.

- If you fall behind on payments, your mortgage company must try to make

Iowa Legal Aid is a not-for-profit organization providing free legal help to low-income Iowans. Financial support comes from a wide range of sources including federal, state and local governments as well as individual donors and private organizations. Iowa Legal Aid's services are supported by contributions from many United Way Agencies in Iowa.



personal contact with you within 36 days of your missed payment.

- If you fall behind on payments, the mortgage company must give you a written notice within 45 days after your missed payment. The written notice must:
 - ▷ Encourage you to contact the mortgage company,
 - ▷ Provide you with a phone number to contact the mortgage company,
 - ▷ Let you know about any options (including loan modification) to help you become current on the payments, and
 - ▷ Must tell you how to reach a HUD-certified housing counselor.
- The mortgage company must give you the contact information for a specific person or specific people that you can contact to discuss your mortgage problems. The mortgage company must tell you if they change your contact people.

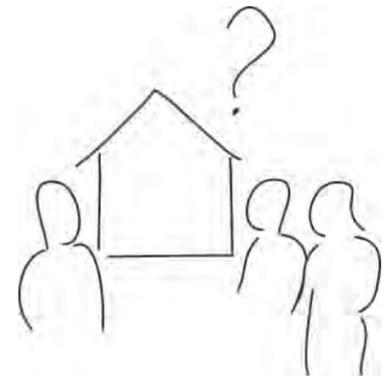
You must have a chance to apply for other plans or programs before foreclosure of your home.

- Your mortgage company must normally wait until you are at least 120 days behind on payments before starting a foreclosure.
- In most cases, your mortgage company has only five business days to let you know it received your application to modify your loan.

You now have an easier way to ask for information about your home loans and to dispute errors.

- If you give your mortgage company an incomplete application and it is more than 45 days before any foreclosure sale, the mortgage company must tell you what information is missing from the application. The mortgage company must also give you a reasonable amount of time to provide any missing information before moving forward with a foreclosure.
- If your mortgage company receives a complete application and it is more than 37 days before any foreclosure sale, the mortgage company must see if any plan could help you avoid foreclosure before taking any action to move forward. The mortgage company has 30 days to make a decision after getting your complete application.
- If your mortgage company has not received a complete application at least 37 days before any foreclosure sale, then they are not required to review your application.
- After it approves a plan to avoid foreclosure, the mortgage company must give you an opportunity to accept the plan before moving forward.
- If your mortgage company denies a plan, it must give you specific reasons why. If your complete application was submitted more than 90 days before any scheduled foreclosure sale, you must have the chance to appeal.

*David M. Loetz is a senior staff attorney working with the Iowa Legal Aid Foreclosure Defense Project.



Will I lose my home?

If you cannot make your house payments, you may be able to get free legal help from Iowa Legal Aid. Call toll-free: 1-800-532-1275 or apply online at iowalegalaid.org.

For help with your financial problems, call the Iowa Mortgage Help Hotline: 877-622-4866 or visit the website: iowamortgagehelp.com. They may be able to help you find out if a loan modification or other solution is available.

Rules Change for Medicaid and HAWK-I Appeals

The Affordable Care Act changes how the Iowa Department of Human Services (DHS) handles Medicaid and HAWK-I appeals. Now the programs allow more time with more ways to appeal. Rules effective March 1, 2014 include:

- You have 90 days instead of 30 days to appeal an adverse decision in the Medicaid and Hawk-I programs.
- Your appeal of a Medicaid or Hawk-I decision no longer needs to be in writing. It can go to the appeals section, the local DHS office or the DHS department office taking the adverse action. Ways to file an appeal are:
 - ▷ by telephone
 - ▷ in person
 - ▷ in writing
 - ▷ online at the DHS website
 - ▷ by mail
 - ▷ by email
 - ▷ by fax
- You can continue to get benefits while an appeal is pending if you file the appeal within 10 days after getting notice of an adverse decision.
- New rules apply to who may represent you or access your electronic record.

Iowa Legal Aid may be able to assist but asking for legal help is not the same as filing an appeal. The appeal must go to the agency that made a decision with which you disagree.

- Contact the Iowa Department of Human Services to appeal a decision.
- Contact Iowa Legal Aid to ask about help with the appeals process.

PUBLIC NOTICE

Meetings of the Iowa Legal Aid Board of Directors are open to the public. We encourage the public to attend.

The next meeting of the Board of Directors is scheduled to take place on May 3, 2014. The Board of Directors meets at least four times each year. For details on the next meeting of the Board, call toll-free: 1-800-532-1275.

Iowa Legal Aid helps low-income Iowans. How to apply for free legal help from Iowa Legal Aid:

Did you know...

After calling what looked like a local number for "legal aid" in the phone book, some Iowans got return calls from somewhere in Georgia?

Don't be misled...

Iowa Legal Aid provides FREE legal help with civil law problems to low-income Iowans who qualify for services. The Legal Hotline for Older Iowans serves Iowans 60 and over.



IN PERSON

Office hours

8:30 a.m. to 4:30 p.m.
Monday – Friday. Closed on holidays

BY PHONE

Intake hours

9:00 to 11 a.m. and 1:30 to 3:30 p.m.
Monday–Friday except Thursday afternoon
Emergencies taken when offices are open

ONLINE



Call 1-800-532-1275

Apply online anytime
iowalegalaid.org

Generous Donors Provide New Telecommunications System for Iowa Legal Aid

By Cathy Reynolds*

Iowa Legal Aid will soon have a new telecommunications system! It replaces one that is over ten years old and is increasingly more difficult to maintain. This upgrade is possible by the generous support of the organizations below:

- Fred Maytag Family Foundation
- Union Pacific Foundation
- Linn County Witwer Trust
- Community Foundation of Franklin County
- Greater Jefferson County Foundation
- Theisen's
- United Way of Mahaska County.

The new system will help reduce costs and increase access to the program for clients. Features include:

- Compatibility with the latest networking capabilities
- Unified communication so staff can get and make phone calls to clients from multiple devices
- Ability to get and send voice mail via email.
- Providing call data for the program to monitor and analyze call traffic.

Iowa Legal Aid would like to thank these organizations. The new system that their financial support makes possible will provide reliable telecommunication services for years to come.

*Cathy Reynolds is the development associate at Iowa Legal Aid's Central Office in Des Moines.

Justice in the Balance Initiative includes finding ways to increase resources for Civil Legal Aid

Throughout the state, people are looking for ways to increase access to the justice system for low-income Iowans as part of the *Justice in the Balance* initiative. Meeting the increasing need for legal assistance with problems involving basic issues like shelter, safety and survival requires more resources. Financial contributions from supporters of equal justice help keep the doors open at Iowa Legal Aid. A few of the donors supporting Iowa Legal Aid's work in 2013 are recognized on this page.

MANY PHILANTHROPIC ORGANIZATIONS AROUND THE STATE HELP OFFICES PROVIDE SERVICE, INCLUDING:



Iowa West Foundation: The Iowa West Foundation granted Iowa Legal Aid \$76,134 to be spent over a three-year period to help support the work being done by Iowa Legal Aid on behalf of at-risk youth in the Council Bluffs area.



Prairie Meadows: Iowa Legal Aid received a grant for \$6,329 to the Legal Hotline for Older Iowans to conduct an elder law seminar over the Iowa Communications Network in November 2013 and a \$5,650 grant to upgrade Iowa Legal Aid's Volunteer Lawyers Project case management system and purchase equipment to enable Iowa Legal Aid to broadcast continuing legal education seminars to volunteer attorneys over the Internet.



Principal Financial Group Foundation: Iowa Legal Aid received a grant of \$15,000 to help support Iowa Legal Aid's Legal Hotline for Older Iowans and the Central Iowa Unified Intake Project.



Theisen's: Theisen's stores located in Linn County, Jasper County and Jackson County granted Iowa Legal Aid \$2,500; \$1,000; and \$500 respectively for the purpose of addressing domestic violence in their counties.

These contributions are helping Iowa Legal Aid provide the most effective and efficient service possible to its clients.

Iowa Legal Aid Helps With Pension Problems

Iowa Legal Aid provides **FREE** help with your pension issues! You can call our toll-free number at 1-800-992-8161. Des Moines area residents can also call 282-8161.

The **Pension Rights Project** provides help with employer, union and government pensions. This includes traditional defined benefit plans as well as plans like 401(k)'s. Services include:

- Contacting pension administrators on your behalf;
- Finding "lost" pension funds when companies merge or go out of business;
- Helping you apply for your benefits;
- Helping with appeals if your pension is denied;
- Getting survivor benefits;
- Checking benefit calculations;
- Assisting with pension issues in divorces; and
- Sending out information about pension issues.

The **Pension Rights Project** is partially funded by the U.S. Administration on Aging. Services are free to all Iowans without regard to age or finances.



Nursing Homes Can't Just Boot People Out

By Fred Nelson*

Being told to leave a nursing home can be upsetting for the resident and family members as well. No one may know what to do, especially when there are no other options for care. Transfer and discharge means moving a resident out of the current certified nursing home facility.

Transfer may mean moving into another nursing home or into a hospital. Discharge means going back home or moving in with relatives. The nursing home must have a good reason to tell the resident to leave.

Regulations are the same for transfer or discharge. They apply when someone does not want to move out. It is important to know state and federal legal rights and protections and to get legal assistance.

When can a nursing home transfer or discharge a resident?

- The facility is not able to meet the needs of the resident. This could happen when a person has failing health and needs to go to a hospital. Care at a facility with an Alzheimer's unit might be needed. A doctor must explain what needs cannot be met.
- Health of the resident improves and nursing home care is no longer needed. If a doctor says care is no longer needed, Medicare or Medicaid will no longer cover nursing home care expenses. If able to pay the costs of nursing home care, a person may be able to stay in the nursing home. **A person who gets notice that Medicare or Medicaid coverage will end can appeal the decision. If help is needed, contact Iowa Legal Aid.**
- The resident endangers the safety of others in the facility. This could be when a resident hurts or threatens another resident or staff member. The facility must keep a record of incidents and try to deal with problem behavior before turning to discharge.
- The resident creates a danger to the health of others in the facility. He or she might have a highly contagious disease. A doctor must document any such danger to the health of others.

Do not delay filing an appeal. Contact Iowa Legal Aid and the State Long-Term Care Ombudsman's office right away.

What are some of the rules a nursing home must follow if the facility wants to transfer or discharge a resident?

Advance Notice. Except in an emergency, the nursing home must give thirty (30) days advance notice to the resident and family member or legal representative if known. Notice also goes to the Iowa Department of Inspections and Appeals, State Long-Term Care Ombudsman's office and the resident's doctor. The notice must state:

- The resident has not paid the bill for nursing home care. Medicaid rules are complex. It can take a long time after applying to find out if benefits are available. Costs can build up fast. Should a person be found not eligible for Medicaid, the facility still expects the bill to be paid. This is a common problem when benefits are denied. **If Medicaid benefits are denied, talk to a lawyer with Iowa Legal Aid or in private practice who has experience dealing with Medicaid issues.**
- The nursing home closes.

- Reason for transfer
- Date of transfer or discharge
- To where the resident will be transferred
- Right to appeal and how to do it
- How to contact the State Long-Term Care Ombudsman's office
- Contact information for the protection and advocacy agency providing services to persons with a development disability or mental illness

Appeal Process. Information about the appeal process must be in the notice. The resident or resident's representative or family member can appeal and ask for a hearing. This must be done within 7 days of the notice. The hearing must be held within fourteen (14) days. The hearing is before an administrative law judge and a lawyer may represent the resident. The hearing may be by telephone with the judge. The resident and the nursing home may have witnesses and present evidence. The decision of the judge can be appealed to the Director of Inspections and Appeals within fifteen (15) days of the decision.

The facility cannot discharge or transfer a resident before the 30-day notice has expired or before the final decision is made after the hearing. The resident or nursing home can ask the Iowa District Court to review the final decision.

Counseling. The resident must get counseling about the transfer from the nursing home before it takes place.

Safe Transfer or Discharge Plan. The nursing home is required to have a safe and orderly

transfer or discharge plan for the resident. This means the nursing home must ensure the place to which a person is transferred or discharged will provide the care the resident needs. **Any concerns about where the person would go are very important points to make during an appeal hearing.** A nursing home cannot send a resident home if the resident cannot care for herself or himself. A nursing home cannot discharge a resident to a family member who is not able to provide the needed care.

To make sure the nursing home follows the rule about having a safe discharge plan, it is important to appeal the discharge. It is also important to contact the State Long-Term Care Ombudsman's office and talk to a lawyer with Iowa Legal Aid or in private practice. An attorney can represent you and provide support at the hearing.

Who should a person contact for help?

A resident who does not want to leave the nursing home and gets a notice for involuntary discharge or transfer from a nursing home should file an appeal right away. For help:

- Call the State Long-Term Care Ombudsman's office at 866-236-1430.
- Call Iowa Legal Aid at 800-532-1275 or apply online anytime at iowalegalaid.org. The direct number to the *Legal Hotline for Older Iowans* is 800-992-8161.
- Talk to a private attorney whose practice includes helping seniors or citizens with a disability for advice or to represent you.

If not paying the nursing home is the reason for the discharge and financial abuse by someone helping the resident is suspected, call the Iowa Department of Human Services Elder Abuse Hotline at 1-800-362-2178.

* Fred Nelson is a staff attorney with the Iowa Legal Aid Legal Hotline for Older Iowans in Des Moines.



FREE LEGAL TAX HELP

- Find out about the Earned Income Credit
 - Get Assistance With Tax Controversies
- Call Iowa Legal Aid for details on the **Low-Income Taxpayer Clinic.**
1-800-532-1275

What Can I Do When I Owe Taxes, Court Debt or Other Debts to the State of Iowa?

By Alex Kornya*

You cannot register your car. Your driver's, hunting, or professional license has been suspended. The State is garnishing your wages or bank accounts. The State is offsetting benefit payments and tax refunds. These are all signs that you may owe money to the State of Iowa.

There are many kinds of debts that you can owe the State. These include:

- Unpaid taxes
- Unpaid court costs or fines from civil, juvenile or criminal cases
- Overpayments of State benefits like unemployment, FIP, etc.

If you owe money to the State, you will receive a notice. Do not ignore this notice. It is important for you to know how much you owe, why you owe it, and what State agency you will be dealing with.

The State can do things that normal creditors cannot. The most common of these is suspension of licenses or car registration. This includes drivers' licenses as well as hunting, fishing, and professional licenses. The State can also garnish wages, levy on accounts, and offset some State benefits.

Can the State garnish my wages to pay off the debt?

Yes, but within certain limits. The Iowa Department of Revenue and (sometimes a county attorney) can garnish a certain amount of your wages or a bank account to pay off the debt. For taxes, the State actually could garnish 100% of your wages but rarely does so. However, they will often accept a reasonable payment plan instead of such an extreme measure, if you request one.

For court debt and other State debt, the State can garnish the following amounts:

Weekly Disposable Wages	Weekly Maximum Garnishment
Less than \$217.50	\$0
\$217.50 to \$290.00	Your disposable wages minus \$217.50
More than \$290.00	25% of your disposable wages

"Disposable wages" is your pay after any withholdings required by law. Other things may affect how much the State can take, such as whether you have prior garnishments or are paying child support.

Can the State take my federal benefits?

The State cannot take federal payments such as SSI, SSD, Social Security, and several similar federal benefits. The only exception to this is that if you owe state taxes, the State can sometimes offset your federal tax refund.

Can the State take my State benefits?

The State may "offset" certain State benefits or payments against any State debt you may have. "Offset" means reducing your benefits to pay what you owe. These State payments include FIP, rent reimbursement, DHS payments for child care, or even gambling winnings. At this time, the State has agreed not to offset DHS payments for childcare.

Even if you have a payment plan, the State of Iowa can still take a part of your state tax refund to pay on a state debt.

Unless the debt to the state is for taxes, many of these payments are "exempt income" (that is, the state is not allowed to take them). Before the payments are offset, you will receive a notice. The notice is required by law to tell you how to appeal



the offset. In your appeal, you should gather evidence to show that your income is exempt.

How can I get them to let me renew my car registration or my driver's license?

In order to get your registration hold lifted, and to stop offsets, levies and garnishments, you will have to enter into a payment plan. Payment plans should be based on your ability to pay.

If your driver's license is suspended, you can enter into a special kind of payment plan with some county attorneys or the Iowa Department of Revenue. This can be a county attorney where you live, or the county where the case is filed. If neither of those counties has a county attorney who participates in this program, you may go to a third county.

If you have more than one option, you may want to determine which one has the most reasonable plan for your situation. Remember, your driver's license may be invalid for other reasons as well. You can identify reasons for your suspension at the website mymvd.iowadot.gov.

Steps to take when making a payment plan:

Get all your financial information together, like pay stubs, tax returns, and your bills, so you can prove what you can afford.

Figure out the agency you need to contact to make a payment plan.

Tax debt: If you have tax debt, you will need to set up a payment plan through the Iowa Department of Revenue. You can call the Department of Revenue to set up the payment plan or visit their website: PayDebt.Iowa.gov.

Court debt: If you owe court debt, the entity you set up a payment plan with will depend on the situation. It may be the judge, the clerk of court, the county attorney, the Department of Corrections, or the Department of Revenue. The rules about who collects these debts are complicated. If you owe court debt for more than one case, more than one of these agencies may be in charge of collecting the different debts.

Department of Corrections: If you are on probation, the Department of Corrections will often set up a court debt payment plan as part of your probation.

Clerk of Court: Court debt stays with the clerk of court for the first 30 days. You cannot get a payment plan with the clerk for a debt that is \$300 or less. If you already have a payment plan with

the clerk that you are current on, you may be able to add a new court debt of less than \$300 to that plan.

Department of Revenue: If you default on your court debt, it is first sent to the Department of Revenue. The Department of Revenue is under no limitations as to how low monthly payments may be, and there is no minimum total to qualify for a payment plan. They may charge a collection fee.

County Attorney: In some (but not all) counties in Iowa, the county attorney may collect delinquent court debt 90 days after it was imposed. Like the Department of Revenue, county attorneys are under no limitations as to how low monthly payments may be, and there is no minimum total to qualify for a payment plan. Many county attorneys have developed their own programs which have different rules. You should contact the county attorney in the county where your debt was assessed.

Other debt: If you owe other debt, you should first contact the agency you owe. You will work out a payment plan either with them or with the Department of Revenue.

Sometimes people have problems getting a payment plan that they can afford. They are told that a large down payment is required, or that the entire debt needs to be paid off within two years. Payment plans should be based on ability to pay.

Some State Debt Is Dischargeable In Bankruptcy

Child support is not dischargeable in bankruptcy, nor are costs associated with criminal cases where the defendant is convicted or pleads guilty. Civil fines are also generally not dischargeable.

On the other hand, many other state debts are dischargeable in bankruptcy. The debts could be to reimburse a court-appointed attorney in juvenile and civil cases. They could be from criminal cases where a defendant is acquitted or charges are dismissed. There may also be other costs associated with those cases.

Helping low-income Iowans maintain household income is a priority of Iowa Legal Aid. If the State of Iowa is garnishing your wages or bank account, or you need help with a State debt collection problem like filing an appeal, contact Iowa Legal Aid. You may be able to get free legal help. Call 1-800-532-1275 or apply online anytime at iowalegalaid.org.

*Alex Kornya is a senior staff attorney at Iowa Legal Aid's Central Iowa Regional Office in Des Moines.