Finding Housing Is a Concern for Those With a Criminal Record

By: Larry Dempsey

A past criminal case can make it hard to find housing. Many landlords will not rent to someone with a criminal record. Public housing agencies have policies that screen out people with certain criminal records. In those cases, the Department of Housing and Urban Development (HUD) has found that sometimes the screening policy may violate the Fair Housing Act (FHA) to deny a person housing due to a criminal record.

Access to criminal records

Landlords have ways to see a future tenant’s criminal history. Iowa posts court records online. These records generally include all crimes ever charged in Iowa—even if a person was found not guilty or the case was dismissed. There are also private companies that screen tenants. The reports made by these companies have information on a person’s credit history, rental history, and criminal record.

What to do about errors in criminal background screenings

If you are denied housing based on a criminal background screening, ask for a copy of the criminal record. You need this information to find out if the report is correct. Often criminal background checks have inaccurate or incomplete information.

If you have been a victim of an inaccurate criminal background check, you have a remedy. The Fair Credit Reporting Act (FCRA) applies to companies that provide tenant-screening services. The FCRA requires the tenant-screening services to provide copies of the information about a person if the person asks for it. Review the copy and you will know if the information is correct or not.

• If there is incorrect or misleading information on the report or important information is missing, you should immediately notify the company that produced the background check.

• When the company receives notice that you disagree with the report, it is required to start an investigation to determine whether or not the information is correct.

• Within 30 days of being notified of incorrect information in the report, the company must erase the errors from its files.

• If the company does not remove errors from the report, the FCRA gives you the right to sue the company for money.

Criminal background checks and the Fair Housing Act (FHA)

The FHA says a landlord cannot refuse to rent to a person on the basis of the person’s race, national origin, or sex. However, federal law has rules for companies that screen tenants. The Department of Housing and Urban Development (HUD) has found that sometimes the screening policy may violate the Fair Housing Act (FHA) to deny a person housing due to a criminal record.

Divorce in Iowa Without an Attorney

By Torey Robinson

Many people worry about the cost of hiring a lawyer when deciding whether or not to get divorced in Iowa. The Supreme Court now has developed forms for people who cannot afford an attorney or do not want to hire one to get divorced.

Don’t get an attorney if I can’t afford one?

No. Unlike when a person is a defendant in a criminal case, no one is entitled to an attorney in a divorce case. An individual must hire an attorney if he or she wants legal representation.

How much does an attorney cost?

It depends. Attorneys typically charge by the hour and can cost a lot of money, especially when the spouses will not agree on a lot of the issues. Most attorneys will also want you to pay a retainer, which is a lump sum of money you pay up front. When you pay a retainer, the attorney will be paid out of that money as the work is done, instead of sending you the bill. If there is money left in your retainer at the end of the case, the remaining funds are returned to you. If the retainer is used up before the case is over, then the attorney will send you a bill each month for the work he or she did on your case.

Some attorneys will take a divorce case for a specific amount of money, called a flat fee. This is usually done if the divorce is simple or if the parties are already in agreement on all the issues.

Many attorneys will meet with you about your case for free or for a small fee and will discuss their rate with you at that time.

Do I have to have an attorney to get divorced? Not necessarily. Hiring an attorney may not be an option or necessary for everyone going through a divorce. Sometimes people getting divorced cannot afford an attorney. Sometimes spouses reach an agreement on all issues and do not want to spend money on an attorney.

What can I do if I do not want or need an attorney?

The Iowa Supreme Court made forms for people who cannot afford an attorney or want to represent themselves in a divorce case. When people choose to use these forms and represent themselves, it is called appearing pro se, or without an attorney. The forms are often referred to as pro se forms, because individuals representing themselves use the forms.

Who can use the pro se forms?

The pro se forms can be used by one or both parties in a divorce. There are two sets of forms: one for those getting divorced and do not have children together and one for those getting divorced but do have children together.

Where can I get the pro se forms?

The forms and a guide on how to use the forms are available on the Iowa Judicial Branch’s website at iowacourts.gov/For_the_Public/Representing_Yourself_in_Court/DivorceFamily_Law/Forms/index.asp. It is important that anyone using the pro se forms reads the guide published by the Iowa Supreme Court before using the forms. This guide explains what each form is, how to use it, and when to file it.

Are there negatives to using the pro se forms? Divorces can be complicated. The forms do not work for all situations. The pro se forms...
Divorce in Iowa continued from page 1

may not help with an issue you have. It also may not be in your best interest to use the forms if you and your spouse will disagree about many issues in the divorce. If you do not have a lawyer, your rights may not be addressed or protected in the final divorce decree. It can be difficult and cost more money to change divorce paperwork after the divorce decree is final.

When should I not use the pro se forms?

You may want to consider consulting with an attorney if:

• You have questions about the pro se forms
• Either of you own real estate and cannot agree on who should get it
• You do not agree about how to divide your property
• You do not agree about which parent your children should live with
• One party thinks the other party owes him or her money

Can I use the pro se forms for a custody case?

Unfortunately, there are not forms for individuals wanting to start a custody case, but the Iowa Supreme Court is in the process of developing the forms. They should be available for use soon.

Can Iowa Legal Aid help me?

If you think you may need an attorney, are a victim of domestic abuse and are low-income, Iowa Legal Aid may be able to help in a divorce case or with the pro se forms. Some Iowa Legal Aid offices also have Pro Se Clinics where clients can come in and meet with volunteer attorneys to get help filling out the pro se forms.

• Iowa Legal Aid provides help to low-income Iowans.
• To apply for help from Iowa Legal Aid:
  • call 800-532-1275
  • Iowans age 60 and over, call 800-992-8161
  • or
  • apply online at iowalegalaid.org

If Iowa Legal Aid cannot help, you can look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at iowabar.org. A private attorney can talk with you for a fee of $25 for 30 minutes of legal advice.

Torey Robinson is a former staff attorney in Iowa Legal Aid’s Central Iowa Regional Office in Des Moines.

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religion, sex, familial status, or national origin. Under certain circumstances, the FHA may also stop a landlord from doing something that creates a major burden for one particular group of people. Recently, HUD published a memo warning landlords that it may violate the FHA if a landlord refuses to rent to a person because that person has a criminal conviction on his or her record, regardless of:

• when the conviction occurred,
• the nature of the criminal offense, or
• what the convicted person has done since.

HUD explained that across the country, African-Americans and Latinos are convicted and jailed at higher rates than anyone else. So, if a landlord has a policy to not rent to people with any past criminal conviction, a landlord is creating a major burden for African-Americans and Latinos.

Access to federal-funded housing programs

For people who have been charged or convicted of a crime in the past, acceptance to the housing program. The law requires some criminal background restrictions. However, many are imposed by the public-housing agency itself. Federal law limits the types of criminal activity for which you can be denied housing benefits. In general, a public housing agency can refuse a person based on past criminal conduct for:

• drug-related criminal offenses,
• violent criminal offense,
• offenses that result in a person being place on a sex-offender registry, or
• criminal activity that threatens the health or safety of the management or other tenants.

A public housing agency can only deny participation if the criminal offense occurred within a reasonable period of time before admission to the housing program. The law does not define how many months or years is a “reasonable period of time,” but it should have some connection to the seriousness of the charge and the circumstances of the case. Different public housing authorities have different policies. The public housing agency must consider your particular circumstances when deciding what constitutes a reasonable period of time. Often, however, the public housing authority will simply say that someone is disqualified for a certain number of years for certain types of crimes—for example, for a misdemeanor or a felony. You may challenge a denial if the public housing authority’s policy is not reasonable. Finally, although you don’t need a conviction to be denied, an arrest alone is not enough. If you have been denied housing assistance, or denied on a rental application, call Iowa Legal Aid to learn your rights in this matter.

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  • Iowans age 60 and over, call 800-992-8161
  • or
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If Iowa Legal Aid cannot help, you can look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at iowabar.org. A private attorney can talk with you for a fee of $25 for 30 minutes of legal advice.

Larry Dempsey is a former staff attorney with the Central Iowa Regional Office of Iowa Legal Aid.

The information in this newsletter was correct as of the date it was printed. The laws may have changed. DO NOT ASSUME THAT THE INFORMATION IS CORRECT AFTER THE DATE PRINTED ON THE FIRST PAGE.

You should see a lawyer to get complete, correct, and up-to-date legal advice. Do not rely on the general information in this newsletter for your specific case. If you need a lawyer but can’t afford one, contact Iowa Legal Aid. You may be able to get free legal help. Call or write Iowa Legal Aid, or apply online at iowalegalaid.org.

AS YOU READ THIS NEWSLETTER, REMEMBER IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE.

New Food Assistance Hotline

Are you and your family struggling to have enough to eat?

You may be eligible for Iowa’s Food Assistance Program and don’t know it.

The Iowa Food Bank Association has a new hotline phone number to help people apply for the Iowa Food Assistance Program.

CALL: 855-944-3663 to find out if you may be eligible for the Iowa Food Assistance Program.

The Food Assistance Hotline is open 8:00 a.m. – 4:30 p.m. Monday through Friday.

The Iowa Food Assistance Program is part of the federal Supplemental Nutrition Assistance Program (SNAP) and is administered by the Iowa Department of Human Services.

PUBLIC NOTICE

Meetings of the Iowa Legal Aid Board of Directors are open to the public. The Board of Directors meets at least four times each year. The public is encouraged to attend.

The next meeting of the Board of Directors is scheduled to take place on Saturday, February 18, in Des Moines. For details on the next meeting of the Board, call toll-free: 800-532-1275, and ask for Arlys.
Can the School Make Me Get a Guardianship to Enroll Children I Am Caring for?

By Jenny Tegeler

Sometimes, parents are unable to take care of their kids. The parents may have died, or be ill, or absent. When parents can’t take care of their kids, it often means the family is thrown into crisis. The children may have to leave their home; they have to get used to new people and places; they may have to relocate to new communities. Often, grandparents, aunts, uncles, and others help out by providing a temporarily or long-term home for the children.

Sometimes, these substitute parents may have problems enrolling the children in school. The school may tell the substitute parents that they have to get a guardianship over the children before the school can enroll them.

When is a guardianship a good idea?

If it looks like you will be caring for the children for an extended time, it may be more important to get a guardianship. Also, if neither parent is available to sign documents or give consent for medical care, there will likely be a stronger need for a guardianship.

Is there any downside to getting a guardianship?

Setting up a guardianship requires court action. The substitute parents will likely need a lawyer, and they may not have the funds to pay a lawyer. If either or both parents will not agree, a trial will likely be needed. This can be even more expensive and time-consuming. Sometimes, the location of one or both parents is unknown, making it hard to notify them about the guardianship case. Also, as guardians, the substitute parents have to file a report every year with the court.

A guardianship continues until the court terminates it. This means a guardianship can also be difficult and time-consuming to end if a parent and a guardian have difficulty communicating and getting along with each other.

Can the school force me to become a guardian before I enroll the children?

The answer is no. Schools cannot keep children out because the substitute parents do not have a guardianship. It does not matter whether or not the child is living with a parent or legal guardian.

The McKinney-Vento Homeless Assistance Act is a federal law that was enacted to protect the educational rights of children who may be experiencing homelessness. The act requires states to take steps to make sure that children and youth are not delayed or prevented from enrolling in school [42 U.S.C. §11432(g)(1) (H)]. Iowa has the same requirements [IAC 281-33.8(1)]. The McKinney-Vento Homeless Assistance Act does not require a substitute parent to establish a guardianship before a child experiencing homelessness is enrolled in school.

Where can I enroll the children?

The law defines a child who does not live with a parent or legal guardian as an “unaccompanied youth.” The law allows a child in this situation to attend school in either the district where the child is actually living, or the district where the child was last enrolled, whichever is better for the child.

Are there other laws that protect children living with a substitute parent?

Before the McKinney-Vento Act became law, there was an important case about the right to enroll in school. In that case, two Arkansas families were not allowed to enroll children in school. The substitute parents were told by the school that they could not enroll the children unless they obtained a guardianship. One of the substitute parents tried to get the mother to agree to a guardianship but the mother refused. The substitute parents filed a lawsuit in federal court. The case was appealed to the Eighth Circuit Court of Appeals. The court ruled that the school’s policy of not allowing children to enroll unless they have a parent or legal guardian living in the district was unlawful. The name of this case is Horton v. Marshall Public Schools. The legal citation for the case is 769 F.2d 1323 (8th Cir. 1985).

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Harry Potter Stands Trial in Youth Link Project Elementary Mock Trial

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awyers, a judge, and a court reporter celebrated Law Day 2016 in Council Bluffs with the fifth graders of Rue Elementary School. Iowa Legal Aid staff and community volunteers performed the mock trial of Draco Malfoy v. Harry Potter. The Honorable Craig M. Dreismeier presided over the trial.

Draco Malfoy filed a civil case against Harry (or Potter in more formal reporting). Malfoy claimed that he was hurt after Potter used a spell to turn him into a ferret. However, Potter stated in his rebuttal that he cast the spell to protect Hermione Granger from Draco.

“The students and volunteers really enjoyed the Harry Potter-themed trial. All of our volunteers went above and beyond with their costumes and gave stellar performances,” said Cat Nelson, a staff attorney at the Southwest Iowa Regional Office. Cat played the part of Professor McGonagall in the mock trial.

Using the popular book and movie series as the basis for the mock trial allowed area legal professionals to teach nearly 50 fifth graders about the process of a civil legal trial. The attorneys selected all of the students as the jury for the trial. After the mock trial, students asked the volunteer lawyers, judge, and court reporter questions about the responsibilities of an attorney, law school, and jury selection.

“After the jury delivered their verdict—in favor of Harry Potter, of course—the students had a chance to talk to the volunteer attorneys. I spoke to several students who had very thoughtful opinions about what they observed and why they voted the way that they did,” Cat said.

Performing a mock trial for the Rue Elementary School fifth graders each year is a tradition of the Southwest Iowa Regional Office. Iowa Legal Aid staff, with the help of volunteer lawyers, judges, and court reporters from the community, have performed other mock trials for past classes including Gold E. Locks v. Three Bears.

The mock trial is part of the Youth Link Project, a special program in Iowa Legal Aid’s Southwest Iowa Regional Office. The Project educates youth on their legal rights and responsibilities and exposes them to the law in a positive way. The Youth Link Project is made possible by the generous support of the Iowa West Foundation, Promise Partners, and the Dodge Trust.

Area legal community members who participated in the mock trial included Rich Arnold, assistant attorney general representing the Child Support Recovery Unit (Malfoy’s attorney); Zach Winter, Stuart Tinley Law Firm (Draco Malfoy); Chad Primmer, Primmer Law Firm (Severus Snape); Mimi Dobson, assistant Pottawattamie County attorney (Potter’s attorney); Sarah Jennings, assistant Pottawattamie County attorney (Harry Potter); Bri Shiver, assistant Pottawattamie County attorney (Hermione Granger); Cat Nelson, staff attorney at Iowa Legal Aid (Minerva McGonagall); Macz Norton, AmeriCorps member at Iowa Legal Aid (Hermione Granger); Laura Andersen, court reporter for the district associate judges (court reporter).

Law Day is a national event celebrated every May 1 to highlight the importance of law in our society and honor those responsible for making the legal system work on a daily basis. The idea of a national Law Day came about with the American Bar Association in the mid-1950s. President Dwight D. Eisenhower established the first Law Day in 1958. Congress issued a joint resolution in 1961 designating May 1 as the official annual celebration of Law Day. Many schools and communities take part in the celebration to educate community members about their civil liberties and rights.

Are You Prepared for the Future?

Do you have these must-have documents?

What are these documents?

- Healthcare Power of Attorney (HCPOA) Names someone to make your medical decisions if your physician declares you incompetent, such as in a coma or unable to communicate.
- Durable Power of Attorney (DPOA) Allows a trusted representative to handle your finances and property. Unlike the HCPOA, it goes into effect immediately unless you say otherwise.
- Iowa Physician Orders for Scope of Treatment (IPOST) Form you complete with your physician that states what you want for life-sustaining treatments such as CPR or feeding tube.
- Last Will & Testament Legal document that states who you want to receive your property after your death.

When should I prepare these documents?

- You need to prepare them before you need them. You can only sign the documents if you have the capacity to understand the powers you are assigning. For example, if you are in a coma, you cannot sign a DPOA to allow someone to pay your bills.

How can I get these documents prepared?

- Contact Iowa Legal Aid or a private attorney for help with preparing these forms. You can also talk to your medical professional for help completing an IPOST.
Iowa Legal Aid Disaster Relief App

By Lisa Gavin and Josh Gaul

Iowa Legal Aid Disaster Relief App Available in the iTunes and Google Play Stores.

It is important to plan ahead for disasters. The more you can prepare ahead of a disaster, the easier it will be to recover. If you are experiencing the effects of a disaster, you may have many different problems. The Iowa Legal Aid Disaster Relief app is designed to help people who want tools to prepare in advance for a disaster and tools for people who are experiencing the effects of a disaster.

To help you prepare for a disaster, the app contains:

• A preparation kit checklist that suggests important items you should have ready to go at a moment’s notice.
• The checklist allows you to check off each item so that you can keep track of what is ready to go.
• An emergency-plan feature that helps you and your family think about where to meet in the event of a disaster, plus:
  • where you can stay, and
  • who you should contact to notify where you are and whether you are okay.
• A rally location feature that provides GPS navigation to a meeting spot selected by the user.
• A code is then generated that can be shared with other app users.
• If the other users enter that code into their own rally location feature, they will receive GPS navigation to the same meeting spot.
• The tool could be particularly helpful in the event a family is separated when a disaster hits.
• An insurance-records area allows you to upload important insurance information so that you will have it when you need it.

After a disaster strikes, the app allows you to get information on Iowa’s latest disaster declarations. That includes information on:
• sources of aid, where to apply, and any deadlines you may be facing.
• real-time weather alerts through a news feed in the app.
• In the event of a major disaster, the app allows you to:
  • chat Iowa Legal Aid staff,
  • locate emergency shelters, and
  • receive push notifications (similar to text messages) with vital information.

The app also contains:
• Articles and information on disaster recovery and your legal rights and responsibilities.
• Links to other websites that contain helpful disaster relief information.
• You can also find and contact many different disaster relief and human services agencies using the app.

If you’re involved in disaster response, you can use the app to refer a survivor to Iowa Legal Aid using the disaster responder referral form.

Using this app, you will be better prepared if a disaster affects you. Share this information with your friends and family so more Iowans can be better prepared when the need arises.

For iOS (Apple) devices, find the app in the iTunes store here: itunes.apple.com/us/app/iowa-legal-aid/id1127371245?ls=1&mt=8

For Android devices, find the app in the Google Play store here: play.google.com/store/apps/details?id=in.bitcode.iowalegalaid

This App was developed with funds provided by a Legal Services Corporation Disaster Grant and the Greater Cedar Rapids Community Foundation.

Lisa Gavin is a staff attorney in Iowa Legal Aid’s Cedar Rapids Regional Office. Josh Gaul is a staff attorney in Iowa Legal Aid’s Central Iowa Regional Office in Des Moines.

Right to Call for Assistance

There is a law that tells landlords that they cannot evict a tenant for calling the police for help. A landlord cannot evict or penalize a tenant for calling for help. A city also cannot tell a landlord to evict a tenant because the tenant reasonably asked for help from the police. A tenant should not be punished for calling for help for the following reasons:

• The person calling is the victim of crime.
• The person calling is the victim of domestic abuse.
• The person calling is a victim of medical emergency.
• The person calling is on behalf of someone in need.

If you have any problems with your landlord trying to evict you for calling for help, call Iowa Legal Aid to learn about your rights.

Iowa Legal Aid provides help to low-income Iowans.

To apply for help from Iowa Legal Aid:
• call 800-532-1275
• Iowans age 60 and over, call 800-992-8161

OR

• apply online at IowaLegalAid.org
• If Iowa Legal Aid cannot help, you can look for an attorney on “Find A Lawyer” on the Iowa State Bar Association website at lowaBar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.

UTILITY SHUTOFFS

LIHEAP and the Winter Moratorium

Your utilities may not be shut off during the winter moratorium if you qualify for the Low-Income Home Energy Assistance Program (LIHEAP).

LIHEAP helps many low-income households pay their heating costs. If you are certified eligible for LIHEAP, utilities cannot shut off your gas or electric services from November 1 through April 1.

You should try to pay as much as you can on your utility bills, even during the winter moratorium. After April 1, however, if a balance remains past due on a utility bill, the utility company can stop your service if the bill is not paid or a payment plan arranged.

To find the nearest place to apply for LIHEAP, go to this website: humanrights.iowa.gov/dcacs/where-apply or call your local Community Action Agency.

Deployed Service Members

If the utility is informed that one of the heads of household as defined in Iowa Code section 476.20 is a service member deployed for military service, the utilities may not be shut off during the deployment or the 90 days after the end of the deployment.
Changes to Custody Law Affecting Deployed Service Members
By Megan Norberg

Beginning July 1, service member parents who are deployed may ask that a nonparent take over their parenting responsibility during their deployment. The nonparent must be an adult family member of the child or an adult with whom the child has a close and substantial relationship. The deployment must be more than 90 days but less than 18 months. The deployment must be one where family members cannot accompany the service member.

What is the process?
First, the deploying parent must notify the other parent of the deployment within seven days of the deployment notice. Then, the parents may enter into a temporary agreement about the nonparent’s power and duties during the deployment. This agreement must be in writing and signed by both parents and the nonparent. The agreement must provide specific information about the deployment. The agreement must explain the powers and duties of the nonparent during the deployment. No agreement needs to be filed with the court if there is an existing child support or custody ruling. Instead, if the parties desire, the parties may assign a power of attorney during the deployment. This power of attorney must be signed with the court.

If the parents do not agree about parenting during the deployment, then the court can decide the nonparent’s role. Either parent may file the motion in a pending custody case or child-support case. If there is no pending case, then a new case may be filed. The court will then conduct an expedited hearing. Testimony by phone or video conference is allowed. The hearing will determine the power and duties of the nonparent during the deployment.

Whether the order is agreed to or entered by the court, the order is temporary. The temporary deployment order ends when the parties file an agreement to end the order or 60 days after the deploying parent gives notice of return.

What type of powers and duties can a court grant a nonparent?
The nonparent may be granted custodial responsibility. This means the nonparent has the same power and duties related to child-care taking and decision-making as the deploying parent had. The nonparent could be granted physical custody, legal custody, and parenting time. The nonparent can have parenting time equal to what the deploying parent had. If there is a permanent custody order, then the nonparent could have up to the same amount of time as that custody order gave the deploying parent. If there is no custody order, then the court may give the nonparent the same amount of time the deploying parent usually spent with the child. This temporary agreement may also provide for electronic contact between the parent that is deployed and the child, contact between the child and a nonparent, and child support.

How does a court determine whether a nonparent should have parenting responsibility?
The court will look at the best interest of the child. The court must also make other determinations. First, the court must determine that granting the nonparent these powers allows the child to continue an important relationship. The nonparent must be able to personally and financially support the child. Third, the nonparent must support the child’s relationship with both of the child’s parents. Finally, the court will make sure that the nonparent is a safe person for the child to live with. The nonparent may not be a sexual offender, have a history of domestic violence, and may not have a record of founded child or dependent abuse.

Megan Norberg is a staff attorney in Iowa Legal Aid’s Central Iowa Regional Office.

Medicaid continued from Outside Front Cover
Managers who don’t work for the MCO. The other two MCOs (United Healthcare and Amerigroup) did not sign contracts with existing case managers. Instead, those two MCOs have hired their own case managers. Medicaid patients may have to form a relationship with a new case manager.

I am in a nursing home. How will managed care affect me?
If you are in a nursing facility and Medicaid is paying for your stay there, you may or may not see a difference from the change to managed care. Your client participation rate should not change. You may be assigned a different case manager, as mentioned above.

How will my Medicaid waiver services be affected?
Medicaid waiver programs help people remain in the community instead of moving into a nursing home. Iowa has eight Medicaid waiver programs. Those programs are for people who have physical or mental conditions that make it difficult to stay in their own home without help. With services from the Medicaid waiver program, people can stay in their own home or a group home instead of living in a nursing facility or an intermediate-care facility.

About the same time as the switch to managed care, Iowa also made some changes to its Medicaid waiver programs. Iowa is now using new assessment forms to determine whether a person qualifies to receive waiver services. The assessment is done each year. Iowa has contracted with Telligen, an Iowa-based company, to perform the assessments for most of the waiver programs. For the Children’s Mental Health Waiver and the Habilitation Program, the person’s case manager will do the assessment.

If someone is approved for waiver services, the MCO will then use the information in the assessment to develop a service plan. A service plan says what kinds of services you will receive under the waiver. That means that the answers and information provided to Telligen and your case manager are important. The assessment needs to capture a true picture of what the individual’s daily life—areas of need as well as areas of independence. If you need help with showering/bathing, dressing, or using the bathroom, the MCO will need clear to the Telligen assessor or your case manager.

The MCO will approve or deny the waiver services plan. The MCO may decide that you don’t need a particular service, or that you need a particular service, but that you don’t need as much as you requested or feel you need. The MCO will send you a written copy of the service plan.

Iowa’s Medicaid Waiver Programs:
- Elderly Waiver
- Physical Disability Waiver
- Health and Disability Waiver
- AIDS/HIV Waiver
- Intellectual Disability Waiver
- Brain Injury Waiver
- Children’s Mental Health Waiver (for children with chronic mental illness)
- Habilitation Services (for adults with chronic mental illness)

Important: If you disagree with any part of the MCO’s decision, you can file an appeal with the MCO. The MCO will then make a decision about whether its initial decision was correct. If you disagree with the MCO’s decision, you can then request a State Fair Hearing. At a State Fair Hearing, an Iowa Administrative Law Judge (ALJ) will conduct a hearing. At the hearing, both you and the MCO’s representative may testify and present evidence. After considering all the evidence, the ALJ will issue a written proposed decision. If either party disagrees with the proposed decision, they can request the Iowa Department of Human Services (DHS) review the decision.

Once you are approved for a waiver program, you may have a period of time before your service plan is approved. Ideally, this should be a month or less, but it can sometimes take longer. If you believe that the waiting period is too long, you can file a grievance with your MCO.

Important: If you want someone else to file a grievance or appeal for you, you must give him/her written permission to do that. This is something the MCOs require.

Where can I get help with an appeal?
- Iowa Legal Aid provides help to low-income Iowans.
- To apply for help from Iowa Legal Aid: call 800-992-8161
- To apply online at IowaBar.org. A private attorney there can talk with you for a fee of $25 for 30 minutes of legal advice.
Planning For Your Future: Ensuring Your Family Can Access Your Digital Assets

By Joshua Weidemann

New technologies are developing faster and faster. Emails have replaced handwritten letters; blogs have replaced leather-bound journals; Facebook and text messages have replaced phone calls; e-statements have replaced paper bank statements; and the cloud has replaced photo albums. What happens to your photos and information when you are incapacitated or die? Unless you make a plan, your family could be left in limbo with respect to many of your digital assets.

What are digital assets? Digital assets are things that exist in an electronic format. This includes images, videos, and text files.

Do I have any digital assets? If you have an email account, social-media account, blog, financial account, or photo account that you access electronically, you have digital assets. It is easy to forget about your digital assets, but they are more than just computer data. Your family may not only want this information, but they may need access to pay bills or prove ownership of property.

What happens if I die or become incapacitated? When a person signs up for a new email account or social media account, they usually agree to certain terms of service. Many of these terms of service agreements allow the provider to delete your account if you die, if another person uses your account, or if your account is unused for a period of time. It may be impossible to recover the information from your account once it has been deleted.

Additionally, federal laws make it a criminal act for service providers to release information about your account or to allow someone else to access the account without the consent of the original account holder.

While the question about who can access digital assets has come up in federal courts, it will likely take a U.S. Supreme Court case to answer the question definitively.

My Refund Was Taken: What Can I Do?

The Iowa Department of Revenue and the Internal Revenue Service can seize tax refunds. Your refund can be seized for debts including past-due taxes, child support, court fines, or student loan debt. What you can do about it depends on what agency seized the refund and why it was taken.

Did you file a joint return with your spouse? If yes, is it your debt, your spouse’s, or a joint debt? Federal refund: If the debt is only your spouse’s debt, you can file a Form 8379 to get your share of the refund. To be entitled to a share, you must have reported income, had income tax withheld, and/or qualify for a tax credit.

Iowa refund: There is no injured-spouse form. You have to file married filing on a separate form to keep from losing your state refund for a spouse’s debt.

Who do I contact? If the debt is not taxes and your federal refund was withheld:

• You should receive a letter from the Federal Payment Management System with a telephone contact number. This office will tell you what agency took your refund and how to contact that agency. If you don’t receive a letter, call the IRS general number at 800-829-1040.

• if money is owed to the state of Iowa: The Iowa agency responsible for the seizure should send you a letter explaining why your refund was withheld. Call the Iowa Department of Revenue at 800-367-3388 with questions.

• if federal tax is owed: You may call the Internal Revenue Service at 800-829-1040 for more information about the debt. If you owe the debt but losing your refund will result in an economic hardship, the Taxpayer Advocate Service (TAS) may help get all or a portion released. Hardships that may qualify include evictions, foreclosures, and utility shut-offs. The TAS number is 877-777-4778.

At the federal and state levels, the agency that seized your refund will have rules about when and what allows you to challenge the seizure. Usually there are short deadline windows to request a hearing or review.

Where can I get legal help if I cannot resolve the tax refund matter on my own?

• If you have questions about your tax rights and responsibilities, Iowa Legal Aid’s Low-Income Taxpayer Clinic may be able to help.

• To apply for help from the Low-Income Taxpayer Clinic:

  • call 800-532-1275

  • apply online at iowalegalaid.org

• NOTE: The information in this article is not a substitute for legal advice. As a general rule, Iowa Legal Aid’s Low-Income Taxpayer Clinic does not prepare tax returns.

Apply Online for Help from Iowa Legal Aid

People wanting help from Iowa Legal Aid can apply online. You will find the Apply Online for Help link in a yellow box on the right side of website pages at iowalegalaid.org.

Iowa Legal Aid staff will review the request for assistance within a day or two and call the applicant. If the matter is urgent or involves a short deadline, DO NOT APPLY ONLINE. Call 800-532-1275 to apply for help. Offices are open from 8:30 am to 4:30 pm (emergencies taken when open).

Telephone intakes: Regular telephone intake hours are Monday through Friday from 9 to 11 am and 1 to 3:30 pm, except Thursday afternoons.
**Medicaid Managed Care and Long-term Supports and Services**

Iowa’s change to Medicaid Managed Care has brought many changes for Medicaid members. How is the change affecting people who receive long-term supports and services like nursing home care and Medicaid waiver services in their own homes?

**How long can I keep my case manager? Why do I have a new case manager?**

Managed Care started on April 1, 2016. People who have long-term supports and services (LTSS) have a case manager who helps coordinate their care. Many times, the case manager has worked with the Medicaid member for many years. Case managers might work for an agency or an Iowa county or region.

People who receive LTSS could keep their case managers for six months after Managed Care started, or until September 30. After September 30, the Managed Care Organizations (MCOs) can require those case managers to sign new contracts with the MCOs if they want to keep being Medicaid providers.

If the case managers don’t want to sign a new contract with the MCO, then the Medicaid members may have to switch to case managers who work for the MCO. Currently, only one MCO (Amerihealth Caritas) is allowing people to keep case managers.

**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 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 assist you in getting your questions answered.

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**Iowa Legal Aid helps low-income Iowans**

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 Kentucky? **Don’t be misled**...

- Iowa Legal Aid provides FREE legal assistance to those who qualify.
- Iowa Legal Aid helps low-income Iowans with civil legal problems including:
  - Domestic violence
  - Housing
  - Public benefit programs

The intake number for Iowa Legal Aid is 800-532-1275 (se habla espanol) Iowans age 60 and over, call Iowa Legal Aid’s Legal Hotline for Older Iowans at 800-992-8161

Visit us online at IowaLegalAid.org

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