Separating Before Divorce

By Leah Johnson

Why should I consider a separation from my spouse before I file for a divorce? A separation could provide insight into how you will support yourself and your children, if you have any. A separation could also help determine what to do about marital property and debts. Separating before filing for divorce allows both parties a chance to work out disagreements regarding those issues before filing an action in court. This may help the parties come to a stipulation instead of going through a difficult trial.

Do I need to legalize the separation or file anything in court? No. You can separate by:
• moving out
• separating bank accounts
• creating a custody and visitation schedule for children
• establishing boundaries with your spouse

How do I legalize the separation? You may file a petition in court for legal separation if you are planning to be separated for a long time and want the court to address support, property or debts during the separation. However, this process is similar to filing for divorce and may take a long time. At the end, you will still be married. If you want to divorce in the future, you will need to file a new action. This can be costly because you will pay for two different court proceedings.

Will I be responsible for debts acquired by my spouse after the separation? The Court may look at why the debt was incurred in determining whether it should be considered marital debt. For example, if it was for normal family expenses, the court may be more likely to allow it as a marital debt. If it is a debt incurred because the spouse hired an attorney to represent the spouse in the divorce, it may not be allowed as a marital debt.

What is the difference between a legal separation and annulment? Annulment means the marriage was never valid and should never have happened. Annulment happens in very limited situations. Those situations include marriages prohibited by law or where either person was already married to someone else. If you believe your marriage needs to be annulled, you should contact an attorney.

When should I consult an attorney about a separation? There are many factors that may make separation difficult. If the separation creates new issues with your spouse, you should consult an attorney. If you are a victim of domestic violence or feel you may be in danger, you should contact Iowa Legal Aid for more information.

Human Trafficking: Modern-day Slavery

By Brooke Chesney

There is a form of slavery happening throughout the country called human trafficking. Human trafficking is when a person uses force, fraud, or coercion to make another perform commercial sex acts or other labor. Human trafficking affects children and adults, men and women. It happens in urban and rural areas. Here is some information on the types of trafficking, indications that a person is a victim of trafficking, and some resources to help victims of trafficking.

There are two types of trafficking: labor trafficking and sex trafficking. The federal Trafficking Victims Protection Act defines them as follows:
• Labor trafficking is:
  • the recruitment, harboring, transportation, provision, or obtaining of a person
  • for labor or services through the use of force, fraud, or coercion
  • for the purpose of involuntary servitude, debt bondage, peonage, or slavery.
• Types of labor trafficking can include:
  • domestic work, such as landscaping or house cleaning
  • farm labor
  • sweat-shop factory work
  • janitorial, food service, or other service-industry work
• Sex trafficking is:
  • the recruitment, harboring, transportation, provision, or obtaining of a person
  • for commercial sex acts
  • where the sex acts are induced by force, fraud, or coercion
• or the person has not yet reached 18 years of age.
• Sex trafficking can include:
  • prostitution
  • escort services/lake massage businesses
  • strip clubs
  • mail-order brides
  • truck stops
  • pornography

There could be a variety of different relationships between a trafficker and a victim. Traffickers could be:
• strangers
• employers
• acquaintances
• family members
• spouse or significant others
• gangs or other criminal networks

Traffickers keep victims under control by various methods, including:
• Psychological control
  • Threats
    • to beat or rape the victim
    • to hurt family members
  • to tell family members what the victim has done (e.g. sex trade)
  • to report the victim to the police or immigration
• Keeping the victim under constant supervision
• Physical control, such as assault, rape, drugging, confining, or kidnapping

Continued on page 2
Diane Kutzko, Long-Standing Volunteer, Joins the Iowa Volunteer Hall of Fame

Diane Kutzko, right, one of Iowa Legal Aid’s long-standing supporters, has been selected to join the Iowa Volunteer Hall of Fame. She was honored April 13 in a ceremony with four other inductees at the Iowa State Capitol as part of the National Volunteer Week celebration. Other’s participating in Diane’s recognition include Gov. Terry Branstad, center, and Dennis Groenenboom, left, Iowa Legal Aid executive director.

The state of Iowa, through its Commission on Volunteer Service, recognizes citizens’ volunteer contributions. The most prestigious award given to volunteers is the induction in the Iowa Volunteer Hall of Fame. Inductees receive an engraved award and their names are added to plaques on permanent display in the State Historical Museum. Since the Volunteer Hall of Fame started in 1989, fewer than 165 Iowans have been honored with this distinguished award.

Among Diane’s many contributions is her service on the Legal Services Corporation of Iowa/Iowa Legal Aid Board from 1992 until 2012. In 1996, Diane played a key role in obtaining Iowa’s first state appropriation to support civil legal aid, which has continued every year since. She served as president of the board from 1998 to 2002 and was vital in facilitating the successful merger of the Legal Services Corporation of Iowa and Legal Aid Society of Polk County to form Iowa Legal Aid in 2003. Diane was also instrumental in the creation of the Shuttlesworth & Insogna Intake Project in the Cedar Rapids Regional Office and participates in Iowa Legal Aid’s Volunteer Lawyers Project.

Human Trafficking continued from page 1

- Failing to provide necessities, such as food, water, and medical treatment.
- Physical signs: unexplained or poorly explained injuries, medical neglect, malnutrition, tattoos or brands, intense fear or depression, new sexually transmitted infections diagnosted.
- Material signs: multiple cell phones and hotel access keys, has a fake ID card, has nice clothes, jewelry or other items all of a sudden.
- Psychological signs: has lost time, cannot speak for his/herself, avoids eye contact, has lost control of his/her life, no control over money or has no money, no control over ID card, not free to come and go as he/she wants, transported by someone else to go to work, cannot say for certain where he/she lives, not allowed contact with family.
- Sleep deprivation appears fearful, depressed, anxious, or tense.
- Because traffickers can be extremely dangerous, it is important not to try to force a victim to admit to being trafficked, or to leave. For more information, or to get specialized victim services, call the National Human Trafficking Resource Center Hotline: 888-373-7888 or go to its website traffickingresourcecenter.org. Another resource is the Coalition Against Trafficking In Women, catinternational.org.
- Iowa Legal Aid can help victims of trafficking with civil legal remedies that can improve their lives. For example, it helps clients to get civil protection orders, civil injunctions, and benefits. A civil injunction can keep the trafficker from having contact with the victim. Disability and other benefits can help victims become financially independent, making it easier for them to leave. Victims seeking assistance with civil legal matters related to trafficking or abuse may contact Iowa Legal Aid.
- 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 there can talk with you for a fee of $25 for 30 minutes of legal advice.

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 annual subscription fee. The EJJ is available in a larger print edition upon request.

All correspondence should be sent to:

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

© 2016 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).

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 on line at iowalegalaid.org.

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

FREE Legal Help
800-992-8161 (282-8161 in Des Moines)

The Legal Hotline for Older Iowans (60 & Over)
An Iowa Legal Aid Project

Separation continued from page 1

- 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 there can talk with you for a fee of $25 for 30 minutes of legal advice.

Brooke Chesney is a staff attorney in Iowa Legal Aid’s Intake Unit.

Leah Johnson is a staff attorney in Iowa Legal Aid’s Intake Unit.
Equal Justice After Hours 2016, the Iowa Legal Aid Foundation’s signature annual fund-raising event, was held March 31 at American Enterprise Group in downtown Des Moines. Equal Justice After Hours 2016 highlighted Iowa Legal Aid’s partnerships in communities throughout the state, with special focus on Iowa Legal Aid’s partners in the health care field that are working together through Health and Law Projects in Iowa.

A special thanks to Skip Kenyon, president-elect of the Iowa State Bar Association (ISBA), for this year’s Board of Governors challenge. It was a dollar-for-dollar challenge from Skip and individual members of the Board of Governors of the ISBA. Pledges from the Board of Governors totaled $4,300. The challenge raised nearly $15,000 total.

Preliminary figures show that more than $175,000 was raised through sponsorships and donations at Equal Justice After Hours 2016.

Funding for Persons with Mental Illness, Intellectual Disabilities, or Developmental Disabilities

By Elizabeth Norris

Some Iowans have mental illness, intellectual disabilities, or brain injuries. They may need help paying for services. The regional Mental Health and Disability Services system can help.

What is Iowa’s Mental Health and Disability Services (MHDS) system?

MHDS started in July 2014. There are several Iowa regions; each region has at least two counties. Only Polk County is its own region. Disability services for children and some adults are covered by Medicaid. Adult mental health and intellectual disability services not covered by Medicaid are under MHDS.

What types of services can I get help with?

MHDS covers a variety of services. The type of disability a person has determines the kinds of services available. Some examples of services are: targeted case management, supported community living services, crisis response, health homes, medication management, and payee services.

How do I apply for help?

You may contact your county or regional coordinator. The DHS website has a list of regions: dhs.iowa.gov/mhds-providers/providers-regions/regions. Each county or region will have its own list of additional places where you can apply for help.

What can I do if my application for funding is denied?

If your application is denied, you must be given a written notice. If you have funding and it is going to be stopped or reduced, you must be given a written notice. The notice must explain how to appeal. It should say the deadline. If you disagree with the decision, you should appeal.

You should read all notices carefully. Appeal any decision you think is wrong or unfair.

Check the county’s or region’s management plan for more about appealing. The plans are available on the DHS website: dhs.iowa.gov/mhds-providers/providers-regions/regions/policies-procedures.

Where can I get help?

- 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 try “Find A Lawyer” on the Iowa State Bar Association website at IowaBar.org. A private attorney will talk with you for a fee of $25 for 30 minutes of legal advice.

Elizabeth Norris is a senior staff attorney in the Iowa City Regional Office of Iowa Legal Aid.
A new Iowa law will give more protection for juveniles who have been charged with a delinquent act by keeping the records of the proceedings confidential. A delinquent act is the term used in juvenile proceedings for an act that is a crime if done by an adult.

The juvenile court can be given evidence that the juvenile did something against the law. The court may enter an order accusing the juvenile of committing a delinquent act. This is similar to being charged with a crime in an adult court, which is where adult cases are heard. If the juvenile court then decides that the allegations are true, a juvenile may be adjudicated delinquent. The juvenile court uses the word adjudicated instead of convicted.

CURRENT LAW
Currently, the law allows for juvenile court records in these cases to be a public record, unless the court later finds grounds to seal the record. The records can be accessed at the county clerk’s office or Iowa Courts Online, an electronic database. Schools and colleges often conduct background checks before admitting a student. Potential employers, landlords, and lenders also often conduct background checks. As long as the record remains public, it will be available for people to access.

Currently there are very limited circumstances in which the court may order the records to be kept confidential. Either the court or the person who is the subject of the case can file a motion. Then the court must find that the case has been dismissed and that making the records confidential is in the best interest of the person and the public.

CHANGE TO THE LAW
A new law goes into effect on July 1, and will apply to juvenile proceedings already pending or arising after that date. It requires that records and files of all juvenile delinquency cases remain confidential with only one exception: an act that would be a felony if committed by an adult. A felony includes child endangerment, assault, murder, sexual abuse, kidnapping, robbery, human trafficking, arson in the first degree, or burglary in the first degree. Not all of these acts automatically amount to a felony. There are often various degrees for each of these crimes.

Confidential records are different than sealed records in juvenile court. While confidential records are not public records, they may still be inspected without a court order by many different people. These include the judge, professional court staff, the child and the child’s attorney, the child’s parent or guardian, the court attorney, the superintendent of the school district attended by the child, state or local law enforcement, and the alleged victim of the delinquent act.

Under the new law, there are still some limited circumstances when the juvenile court can order the records to remain public in cases that do not involve the allegation of a felony. But these circumstances exist only if any person or the court files a motion and any of the following apply:

• the public’s interest in keeping the records public is greater than the juvenile’s interest in keeping the records confidential;
• the case will be transferred to the district court for sentencing before the child’s eighteenth birthday due to the seriousness of the crime; or
• the juvenile court case is still open and the juvenile has since been adjudicated delinquent for a different act or there is a pending juvenile case for an act that would be a serious misdemeanor, aggravated misdemeanor, or felony if committed by an adult.

In cases where the alleged act would be a felony if committed by an adult, the court can still order that the records be kept confidential, but only in limited circumstances. The process is similar to the current law about all juvenile delinquency cases. Either the court or the person who is the subject of the case can file a motion. The court will only order the records be kept confidential if it finds that the case has been dismissed and that the child’s interest in making the records confidential is greater than the public interest in the records remaining public.

SEALING OF RECORDS
Sealed records are even more protected than confidential records. Both currently and after the law changes, the court is required to schedule a hearing either two years after the last official action was taken in the case, or the date the person turns 18, whichever is later. After the hearing, the court will order the record sealed if it makes the following findings:

• the person is 18 years of age or older;
• two years have passed since the last official action in the case;
• the person has not since been convicted of a felony or aggravated or serious misdemeanor; and
• there are no pending charges seeking conviction or adjudication of a felony or aggravated or serious misdemeanor.

After the law goes into effect, the court must also find, in addition to the above findings, that the juvenile was not adjudicated for operating a vehicle while under the influence.

There are some cases when the court may decline to order that the record be sealed. These are cases where a person was adjudicated delinquent of an offense that if committed by an adult would be an aggravated misdemeanor or a felony. In such a case, the court will only order the records sealed if it also finds that sealing the records is in the best interests of the person and the public.

Once a record is sealed, it no longer exists as a matter of law. The juvenile court and any other agency with the records will respond to any request for the records as if they do not exist. The only exception is if the court issues an order disclosing the contents of the records at the request of the person who is the subject of the records. Once the records are sealed, they are not available to the general public. Even those who once had access to the confidential records, such as court staff and law enforcement, can no longer access them.

There is a possibility that evidence of the record may appear on a background check even after the record has been sealed. This is because there are businesses that create databases of criminal records and then sell these databases to parties such as employers and landlords. These businesses initially get their information from the official public record. The problem is that they often then fail to update and correct the information. This means a charge may remain in these databases and show up on a background check even after the official public record has been sealed. If this situation arises, you should contact an attorney for assistance with disputing the accuracy of the information.

Where Can An Individual Get Help With Issues Related to Disclosure of His or Her Juvenile Record

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 there can talk with you for a fee of $25 for 30 minutes of legal advice.

Jenny Tegeler is a staff attorney in Iowa Legal Aid's Central Iowa Regional Office in Des Moines.

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, August 13, in Des Moines. For details on the next meeting of the Board, call toll-free: 800-532-1275, and ask for Arts.
Iowa Legal Aid Honors Award Recipients

Each year, in recognition of the many and varied contributions made to our work, Iowa Legal Aid presents awards in two categories:

The Excellence in Service Award honors individuals who have worked to promote justice and / or to ensure that society becomes more hospitable to low-income people.

The Outstanding Client Service Award honors individuals whose courage and strength of character epitomize the standards to which Iowa Legal Aid aspires. This year’s award recipients were recognized at the Annual Meeting and Awards Luncheon of Iowa Legal Aid’s Board of Directors held on April 30.

Suzanne Stroud, Outstanding Client Service Award, and Todd Schmitt, staff attorney, North-Central Iowa Regional Office, Mason City

Autumn King, Outstanding Client Service Award, and Evelyn Ocheltree, Senior Staff Attorney, North-Central Iowa Regional Office, Mason City

Jennifer Donovan is a staff attorney in Iowa Legal Aid’s Central Iowa Regional Office.

Assistive Technology and Protecting Rights in Education

By Jennifer Donovan

Any children with disabilities use assistive technology (AT) to help them learn or function at school. The need for some AT devices or services may be easy to see. For example, if a child requires a wheelchair to get around, the need is clear. If a child has a reading disability, it may not be as clear an AT is needed. Thousands of AT devices are marketed to help with learning. Some of them could help children who cannot learn to spell or do not have readable handwriting. Other devices may help impulsive children pay attention to the part of the page they are supposed to work on.

Several federal laws provide rights to students with disabilities. These laws help students with disabilities get access to AT devices and services that they need to help them succeed in school.

Including Assistive Technology Devices and Services in a Child’s Individualized Education Program (IEP)

The Individuals with Disabilities Education Act (IDEA) requires that schools give children with disabilities a free appropriate public education. This includes three things:

- specialized education to meet the child’s needs;
- related services (such as transportation, speech therapy, physical therapy, or counseling); and
- supplementary aids and services that can include AT to help the child function better in regular classrooms.

The possible use of AT for a child needs to be considered and written in the child’s Individualized Education Program (IEP). This is the plan the school will use to educate the child. The IEP is reviewed at least once per year. The parents (and if appropriate, the student) are supposed to be full partners in developing the IEP.

Although those participating in the IEP meeting may not think of asking about AT, parents should bring it up at the meeting. Parents who want to know about AT for their child may want to make a written request for an AT evaluation. The parents can do this at any time. In Iowa, schools can get help from the Area Education Agency (AEA). Each AEA has an assistive technology team that can perform an AT assessment. If the school—for whatever reason—does not follow through with an assessment, the parents should call the AEA directly. The family does not have to pay for the assessment. Parents who do not agree with the AT evaluation by the school can request an independent evaluation at the school’s expense.

If your child needs the AT to succeed in school—either in special education or regular education—the school will probably pay for it. However, the school isn’t required to do everything possible to compensate for the student’s disability. The school does have to ensure that your child benefits from instruction. Also, the school must put your child in the least-restrictive environment that is appropriate for your child. This means your child will be in regular education classes, and with students who do not have disabilities, as much as possible.

Assistive Technology for Students with Disabilities Who Do Not Need Special Education

Some children with disabilities do not need special education. They may still need AT to help them succeed in school. They may need other changes to school rules or policies to accommodate their disability. For example, a child with a hearing impairment may need a device that blocks out background noise and makes the teacher’s voice louder. A high school student who uses a wheelchair may need extra time to get from classroom to classroom in a large school. These students are protected by another law: Section 504 of the Rehabilitation Act of 1973. This law protects people with disabilities from discrimination in federally-funded programs. Nearly all schools get federal funds, so Section 504 would apply to them. Section 504 also requires reasonable accommodation of a disability. If your child does not need special education, but needs some accommodations, you may want to ask for a 504 plan. A 504 plan can outline the types of accommodations your child needs to succeed in school. The reasonable accommodation requirement of this law may be used to get AT for your child in some cases. Both Section 504 and the IDEA have an appeal process.

Other Ways to Get Assistive Technology Devices for Children

Other means such as Medicaid or private insurance may help a family pay for the AT device a child will use in school. Schools cannot require parents to use these other resources to pay for AT that the school should provide, but parents may choose to do so. AT that the school pays for belongs to the school. So parents may prefer to use Medicaid or private insurance to pay for AT if they want to own the device. Keep in mind that Medicaid and private insurance only pay for AT that is medically necessary. So they may not pay for some types of AT that children need for school.

If you have problems with your child’s school not providing AT devices or services that your child needs, you may want to contact the Iowa Program for Assistive Technology (800-779-2001) or Iowa Legal Aid.

- Iowa Legal Aid provides help to low-income Iowans.
- To apply for assistance from Iowa Legal Aid: call 800-992-9161 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 there can talk with you for a fee of $25 for 30 minutes of legal advice.

Jennifer Donovan is a staff attorney in Iowa Legal Aid’s Central Iowa Regional Office.
Iowa Medicaid Managed Care and Changing Your MCO via IA Health Link

By Elizabeth Norris

Iowa’s Medicaid program, formerly operated by the state, changed to managed care on April 1. Iowa has contracted for-profit Managed Care Organizations, which are also called MCOs. Iowa’s MCOs are:
- AmeriHealth Caritas
- United Health Care
- Amerigroup

Most Iowans who have Medicaid are in managed care now. If you have Medicaid in Iowa, you have probably been assigned to one of these three companies. There are a few Medicaid programs that are not under Managed Care.

What If I Want to Change My MCO?

People who had Medicaid before April 1 can change their MCO for any reason until June 16. If you want to change your MCO after June 16, you will need a good-cause reason. Good cause includes that your provider is not enrolled with your MCO, you need services that your MCO does not cover, or you have a change in eligibility (for example, changing to the Medicaid PACE program).

People who enroll in Medicaid after April 1 will receive a letter from DHS assigning them to an MCO. This is called a tentative assignment. You can request a different MCO within 10 days of receiving that letter. Enrollees may also request a different MCO within 90 days of enrollment.

How Do I File an Appeal?

1. Calling their Member Services line
2. Sending an appeal letter to:
   - Amerigroup will respond with a decision within 30 days of receiving your appeal.
   - AmeriHealth Caritas will respond with a decision within 30 days from when they receive your appeal.
   - United Health Care writes to you within 10 calendar days of when you call; or
   - You can appeal by:
     - using a DHS form located at dhs.iowa.gov/sites/default/files/470-5356.pdf.
     - The form should be sent to you with your enrollment packet along with a self-addressed stamped envelope. Send the form by mail using the envelope, by fax to 515-725-1353 or by email to IMEMemberservices@dhs.state.ia.us;
     - calling Iowa’s Medicaid Member Services line at 800-338-8366; or emailing
     - Department of Human Services (DHS) at the following link: uhccommunityplan.com/ia/medicaid/community-plan-health-link/member-information.html

United Health Care will make a decision within 30 days of receiving your appeal.

Amerigroup allows members 90 days to file an appeal. You can appeal by:
1. Calling at 800-600-4441 (TTY 711) or 515-327-7012 (TTY 711). If you appeal on the phone, you must follow up with a written appeal within 10 calendar days of when you call; or
2. Sending an appeal in writing to:
   - Grievances and Appeals Department
   - Amerigroup Iowa, Inc.
   - 4800 West Parkway, Ste. 200
   - West Des Moines, IA 50266

Amerigroup will respond with a decision within 45 days from when they receive your appeal.

What If I Don’t Agree With the MCO’s Appeal Decision?

If you do not agree with the MCO’s decision, you may appeal to a State Fair Hearing. A State Fair Hearing is a higher level of appeal.

To file an appeal with your MCO:
- AmeriHealth Caritas requires that members file an appeal within 30 days of the date on the Notice of Action. File your appeal by:
  1. Calling their Member Services line at 855-332-2440 (TTY: 844-214-2471), and following up with a letter. You can call 24 hours a day, 7 days a week; or
  2. Sending an appeal letter to: AmeriHealth Caritas
     - P.O. Box 7128
     - Austin, TX 78767
     - ATTN: Member Appeals
     - AmeriHealth Caritas will respond with a decision within 30 days of receiving your appeal.

- United Health Care requires member to appeal within 30 days of the date on the Notice of Action.
  You can appeal by:
  1. Calling 800-464-9484 (TTY: 711) or
  2. Sending a written request for appeal to: Grievance and Appeals
     - P.O. Box 31364
     - Salt Lake City, UT 84131-0364

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 800-532-1275
  - if you are 60 or 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.

Applying for Medicaid 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 when open).

Telephone Intakes: Regular telephone intake hours are Monday through Friday from 9 to 11 am and 1:30 to 3:30 pm, except Thursday afternoons.
Finding a Nursing Home That Fits

By Fred Nelson

No one wants to go to a nursing home if they can live safely in his or her own home. However, if you require health-related care and services for your safety, you may need to go to a nursing home. For some, this may be temporary while recovering from surgery or an illness; for others it may be a long-term stay. In either case, the transition to a nursing home may be difficult for you as well as for your family and friends. Finding a nursing home that works best for you is important. Understanding the admission agreement before it is signed is also important.

Before deciding that a nursing home is right for you, check into the possibility of help for your care needs at home or look into an assisted living facility. You may be eligible for Medicaid help to pay for these services through one of the Home and Community Based Service waiver programs, including the Elderly Waiver Program if you are over age 65.

What do I look for in finding a nursing home?

Most people are looking for a nursing home in their home community that is close to family and friends. They are looking for a nursing home that provides quality care and a pleasant place to live. This includes caring nursing staff and other staff, a comfortable room, good meals, pleasant building and facilities, friendly residents, varied activities, and a welcoming attitude toward your family and friends. Some people may need a nursing home to provide specialty care such as a memory care unit.

A family member, power of attorney agent, or guardian may help select a nursing home. This information should be shared with them as you look for a nursing home to meet your needs.

What resources are available to check on the quality of a nursing home?

1. Check for recommendations of people you know who have family and friends in an area nursing homes. Ask about the quality of care and life for their loved ones in the nursing home. Ask what they like about the nursing home and what they don’t like.

2. Contact the Iowa Long-Term Care Ombudsman Office for information about nursing homes in your area. They have an excellent Nursing Facility Checklist for helping you evaluate a nursing home. This includes questions to ask the administrator and director of nursing, questions to ask nursing staff, questions to ask residents in the nursing home and their family members, and questions to ask yourself after visiting a nursing home.

3. Nursing homes in Iowa are required to be certified by the state. The Iowa Department of Inspections and Appeals (DIA) regulate them. What is found during an inspection is reported in a Statement of Deficiencies. The inspection reports and findings of complaints are available to the public. Nursing homes are required to have a copy of the Statement of Deficiencies on display for the public.

4. You can also view the complaints and reports by going to the DIA website below and clicking on Report Cards dia-hfd.iowa.gov/DIA_HFD/Home.do

5. You can also check on information reported to the federal government about nursing homes.

This is found on Medicare’s Nursing Home Compare website. The list has information about every Medicare and Medicaid certified nursing home throughout the country. They also have a Guide to Choosing a Nursing Home and a Nursing Home Checklist.

medicare.gov/nursinghomecompare/search.html

What’s next after I have a list of possible nursing homes?

• Visit the nursing home with a family member or friend. Call to set up a visit. Talk with people there. Ask if you can eat a meal at the nursing home and see the rooms and facilities. Are staff members friendly? Are residents relaxed and friendly? Is the facility clean and in good repair? Is there an outdoor area for residents?

• Use the checklist of questions from the Iowa Long-Term Care Ombudsman or Medicare website to check out the nursing home or make your own list of questions. Ask about how the nursing home will handle your care needs. Also ask questions about other things that are important to you, such as: Can I decorate my room? What activities are available including options for religious activities? What is the food like and does it meet my dietary needs? Can I have visitors at any time? Are there meeting rooms for family meals or events? Can I keep my same doctor? Are pets allowed in the nursing home?

• Ask to take home for review a copy of the nursing home admission agreement as well as nursing home policies and rules.

• Before making a final decision on a nursing home, you may also want to drop in for a second visit without an appointment to confirm your first impression.

What should I look for before signing an agreement with the nursing home?

• Is the nursing home Medicare certified? Does it accept Medicare payments?

• Medicare pays for nursing home care for a limited time in certain situations such as for rehabilitation after surgery.

• Is the nursing home Medicaid certified? Does it accept Medicaid if you don’t have resources to pay your own way or if you run out of money?

• To be admitted to the nursing home, is it required that you pay the cost of nursing home care out of your savings for a certain period of time?

• Is there a room currently available?

• What is the cost for nursing home residence and care? How are costs and fees calculated and billed? Ask for a copy of the fee schedule.

• You should carefully read the nursing home agreement before signing. If you have a family member or power of attorney agent helping you, he or she needs to carefully read the agreement. Ask the nursing home administration staff to answer your questions.

• NOTE: A family member or your power of attorney agent may sign the admission agreement on your behalf. It is important that this signing makes clear that your agent is signing on your behalf and not his or her own. You, as the resident, and your spouse are legally responsible for the cost of the nursing home care. Your other family members and your power of attorney agent are not liable for the cost unless they sign to accept personal liability. Your power of attorney agent should sign as shown below to make clear they are signing on your behalf:

_________ ______________________
Your Name by ______________________ as Agent

Nursing homes do not have to accept all applications for residents. Civil rights laws provide protections, however, against illegal discrimination.

Payment for nursing home care

The cost of nursing home care is very expensive. The general rule is that you and your spouse must pay nursing home costs not covered by Medicare, by a Medicare supplement, by Long Term Care insurance, or by Medicaid. Medicaid coverage for nursing home care is available after your resources are spent down below a certain level. If you have a spouse, the rules allow for protections of resources and joint income for your spouse to maintain a home and independence. The Medicaid rules are complicated and it is very important that you review your options for paying for nursing home as soon as possible. Planning ahead is important. You need to talk to an attorney with expertise in the Medicaid issues.

Iowa Legal Aid’s website has several articles on this topic. Iowa Legal Aid’s Legal Hotline For Older Iowans has attorneys who can advise on Medicaid issues.

Where can I get legal help for a nursing home issue?

• Iowa Legal Aid provides help to low-income and elderly Iowans.

• To apply for help from Iowa Legal Aid: call 800-532-1275

• lowans 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 there can talk with you for a fee of $25 for 30 minutes of legal advice.

*As you read this information, remember this article is not a substitute for legal advice.

Fred Nelson is a staff attorney working with Iowa Legal Aid's Legal Hotline for Older Iowans.
Appealing a Managed Care Organization (MCO) Decision

By Elizabeth Norris

Iowa Medicaid has switched to Managed Care. Almost everyone who has Medicaid in Iowa is now assigned to a Managed Care Organization. Managed Care Organizations are also called MCOs. Your MCO will send you notices of its decisions from time to time. Those decisions are called Notices of Action. Sometimes an MCO may make a decision that you disagree with. If this happens, you may file an appeal.

What May I Appeal?
These are the things you may appeal:

- the MCO denies or limits authorization of a requested service, including the type or level of service;
- the MCO reduces, suspends, or terminates a service that they previously authorized;
- the MCO denies partial or whole payment of a service;
- the MCO fails to provide services in a given time.

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.

LOW-INCOME READERS OF THE EQUAL JUSTICE JOURNAL...