

Message from the Director

Justice in the Balance: Low-income Iowans and the Courts

By Dennis Groenenboom, Executive Director
Iowa Legal Aid

Iowa Legal Aid's Board of Directors looked at the various challenges facing low-income Iowans with civil legal problems. The group also considered the reduced funding and smaller staff for Iowa Legal Aid. As a result of this review, the Board adopted the "Justice in the Balance: Low-income Iowans and the Courts" initiative.



Access to our court system is important for everyone, but especially to low-income people. Every day, the courts and state and federal agencies decide crucial issues affecting the safety, security and stability of low-income families. Iowa Legal Aid helps Iowans with civil legal problems who have limited income and assets.

Why is there a need for "Justice in the Balance"?

More People Are in Need of Help:

- The most recent census data shows 499,474 Iowans meet Iowa Legal Aid's income guidelines and qualify for free legal help. This is up 39% compared to 2000.
- Iowa Legal Aid closed 19,357 cases in 2012, serving an estimated 46,625 Iowans, 20,175 of whom were children.
- The number of cases closed in 2012 is more than 27% less than the number of cases closed by Iowa Legal Aid in 2010. This is not because of reduced need, but rather because of reduced resources.
- A projected 13,500 families were turned away or underserved in 2012, due to lack of staff resources.

Revenue is Down:

- In 2012, federal funding from the Legal Services Corporation was down \$500,000 compared to the level in 2010. Federal funding for 2013 is not yet known. It will be subject to potential overall federal budget cuts.
- Funding from the Supreme Court's IOLTA Commission to Iowa Legal Aid and its subgrantee of LSC and state funds, HELP Legal Assistance, is \$135,380. This is 85% less than the \$935,195 received four years ago.
- As of January 1, 2013, Iowa Legal Aid has 20 fewer attorneys, 2 fewer legal assistants and 8 fewer support staff than it had at the beginning of 2010. As a result, Iowa Legal Aid had to restrict intake in several areas of law.

The "Justice in the Balance" initiative is a three-pronged approach.

More Financial Resources

- State funding of \$2.4 million has been requested. This is up from the \$1,814,831 currently received. The Governor has recommended \$2,107,416 in FY14 and \$2.4 million for FY15.
- The Iowa Legal Aid Foundation is working to increase financial support from the legal community as well as the public at large.
- Other initiatives are also being considered to bring more revenue to the table.

More Volunteer Resources

- Rule changes impacting the ways retired attorneys and law students can contribute are being considered.
- Non-attorney volunteers are needed to assist with reception, intake and a variety of office functions.

Awareness of the Role of the Courts for low-income Iowans

- Iowa Legal Aid staff and volunteers in all parts of the state would like to speak to community groups.
- Organizations including rotaries, Kiwanis, faith-based groups and others are welcome to ask for a program about how access to the court system improves the lives of low-income Iowans and helps address community problems.

For details on Iowa Legal Aid and "Justice in the Balance", go to <http://iowalegalaidfoundation.org/2012/11/17/justice-in-the-balance-low-income-iowans-and-the-courts/>.

Important law protects federal benefits in a bank account from being frozen or garnished

By Jan Rutledge*

It can be difficult to manage day-to-day finances without a bank account. However, sometimes people are afraid to put money in the bank.

They are afraid a creditor may try to take the money. There

are some important protections in the law for people who owe money, including a change made in 2011. This article will explain the new law,

"in these situations, even where the garnishment protections are not automatic, you may still be able to get your money back by doing something like filing in court. If you need to do this, it is important that you take action as soon as possible."

and how to make sure its protections are in place.

First, it is important to know that a creditor generally cannot try to take money from a bank account ("garnish" the funds), unless the creditor has already sued the person, and obtained a judgment. Even then, the law protects some kinds of income from the reach of creditors.

There are a number of exemptions. This article will not talk about all of them. Iowa Legal Aid has information on its website about exempt property. This article is

about certain federal benefits (such as benefits from the Social Security Administration, Veteran's Administration or the Railroad Retirement Board) that are protected by the 2011 regulation.

Even though these federal benefits are protected under both state and federal law, the creditor may still try to reach them. Although the funds are considered "exempt," (protected from creditors), the creditor may still try to garnish funds in a bank account.

In the past, federal benefits protected under both state and federal law would have been frozen. If that happened, the person would have to file a paper with the court, called a "motion to quash" in order to make the funds available again. Even though the exempt funds should be released by the court, the person may have had checks that were dishonored in the meantime, or the person may have been unable to withdraw money needed for the rent or other necessities. To try to prevent that from happening, people were able to file a sworn statement ("affidavit") in advance, saying that the money is exempt. However, in the past, the person might still have to ask the court to help get the money released.

Why was there a need for this regulation?

A new Treasury regulation law came into effect in 2011. Its purpose is to keep the federal benefits available to the person. The new regulation

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Law protects federal benefits in a bank account from being frozen or garnished
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requires that banks protect certain federal benefits directly deposited into their bank. That way, the federal benefits will not be garnished and frozen. The person will not have to go to court to get the funds released. The new regulation says that a financial institution (such as a bank or credit union) that receives a garnishment inquiry must do an “account review” to see if any federal benefits have been directly deposited within the prior 60 days. If so, the account holder must be allowed access to at least the amount of the federal benefits. This is so even if the money currently in the account has been mixed with other funds, even if those other funds are nonexempt. So, this new regulation does a much better job of preventing the financial chaos created by an attempt to garnish federal benefits. The person would not have to file anything with the court or wait for a court hearing. The money will remain available to the person.

Do I have to do anything to make sure an account is protected?

A person who receives federal benefits may have to pay special attention to a few things. The new regulation only applies if:

1. the federal benefits are directly deposited into an account.
2. the funds are left in the same account they were directly deposited into, and not transferred into another account.

How does this work?

Let’s say that someone gets SSI. If the SSI check is directly deposited into the person’s savings account, the bank will have to protect it. Creditors will be turned away. If there are other funds in the account, the person will have access to the full amount of the SSI. But, if the person then transfers some of the federal benefits to the person’s checking account, the funds in the checking account are not protected by the new law. Once the funds are transferred to a different account, even if owned by the same person, the transferred funds are not protected by the new law. The creditor may be able to garnish the funds, freeze the account, and force the person to go to court to get the funds released.

What should someone who gets federal benefits do?

If the person only has one account (either checking or savings), the person does not need to do anything. However, if the person has more than one account, the person should be sure to have the SSI or other federal benefit directly deposited into the account the person wants to protect. For most people, that would be the checking account, not the savings account.

Are there any other situations where the protections may not apply?

The new regulation applies only to garnishment by a formal legal process. Sometimes, a person may owe money to the bank or credit union. The bank or credit union may try to “offset” money owed to it by taking the money owed from the person’s account. The new regulation does not deal with that situation.

Also, while common federal benefits like Social Security and Veteran’s Benefits are definitely protected, certain benefits (for example military retirement) are not automatically protected. Also, any money in your account over the protected 60 days worth of federal benefits is not automatically protected.

Finally, this automatic protection does not apply to certain garnishments where you owe the federal or a state government.

Please keep in mind that in these situations, even where the garnishment protections are not automatic, you may still be able to get your money back by doing something like filing in court. If you need to do this, it is important that you take action as soon as possible. You can call Iowa Legal Aid (1-800-532-1275) to ask for help if your bank account is frozen or garnished.

**Jan Rutledge is Managing Attorney of the Iowa Legal Aid Iowa City Regional Office.*

Common Myths About Family Law

By Shelley R. Whitcher*

At Iowa Legal Aid, we talk to new clients daily. While each person’s situation is unique, we hear many of the same concerns over and over again. Often people have been misinformed about the law, especially family law, like divorce and custody. Below is a list of common misunderstandings about family law.

Myth: “I have to file first.”

Fact: It makes no difference to the court who files for divorce or custody. The person who files this type of court case is called the “petitioner” and the other person is called the “respondent.” It has no bearing on the judge’s decision as to who is the petitioner and who is the respondent. There are some advantages to being the one who files the case, however. For instance, the person filing may file the case in the county in which the person lives. If the petitioner and respondent live in different counties, the respondent may have to travel to another county for hearings. Another advantage to being the one to file is that you know it is going to happen. As the respondent, you might not be prepared for a custody or divorce case when the other person files the case. You may not be in the most stable living environment or you may have just lost your job. Therefore, if you believe your spouse or the parent of your child may be considering filing for divorce or custody, you will want to be in the most stable situation possible.

Myth: “I can’t file the court case because I don’t know where she/he lives.”

Fact: If you don’t know where your spouse or the parent of your child lives, it does not mean that you can’t file for divorce or custody. You can submit a sworn statement to the judge explaining you have no contact information for the person and that you have taken steps to try to find him or her (such as talking to their friends or family members). The judge can then allow you to serve the other person by publishing notice of the court case in a newspaper where the case is filed. Notice must be published for three weeks in a row and then the other person has 20 days to respond to the court case. If there is no response, you can proceed.

Myth: “He won’t sign the papers.” or “She won’t give me a divorce.”

Fact: In Iowa, if only one spouse wants to get a divorce or one parent wants to have custody decided by the court, it can happen. The spouse or other parent does not have to agree. If the spouse or other parent doesn’t want to participate in the divorce or custody case, the court is still going to proceed. This is called a “default” order. Alternatively, if the spouse or other parent participates but doesn’t “sign the papers,” then the case will go to trial and a judge will make the decisions about custody, visitation, child support, and property issues.

Myth: “The other parent is going to take my child and file in another state.”

Fact: Generally speaking, only one state at a time has the power to issue a custody order. Usually the only state that has the power to make a custody decision for a child is the state where the child has lived most recently for at least 6 months. This is called the child’s “home state.” If the child has lived in Iowa for the last six months, then Iowa is the child’s home state. If your spouse or the child’s parent takes the child to another state,



the other state likely won’t have the power to issue a custody order until the child has lived in that other state for six months. Where a case can be filed is part of a legal term called “jurisdiction.” Determining jurisdiction can be very complicated and very dependent on the facts of the situation. There are exceptions to the general 6-month rule. You should talk with an attorney if you have questions about where a case should be filed.

Myth: “I’ll agree to something now to get the divorce or custody case over and then I’ll just modify the order later.”

Fact: Only a court can modify an order, and the court won’t modify an order for just any reason. To modify a divorce decree or custody order, the person requesting the modification must show that there has been a substantial and material change in circumstances that happened after the order was issued. The change in circumstances is one that the court would not have considered when the order was issued and the change should be relatively permanent. Under Iowa law, a parent moving more than 150 miles away is an automatic reason to ask the court to modify the order. Examples of other possible substantial and material changes could be a parent’s drug use, abuse or neglect of the child, or a military parent going to active duty. Be aware, however, that just because you ask the court to modify the order does not mean that the order will be modified in the way you want it modified. The court still must determine what is best for the children.

If you have a question about a legal issue, be sure to talk to an attorney to make sure you haven’t been misinformed. Legal advice depends on the specific facts in your unique situation, so be sure to discuss it fully with a lawyer before making assumptions about your legal options.

**Shelley R. Whitcher is a staff attorney at Iowa Legal Aid’s Southwest Iowa Regional Office in Council Bluffs.*

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 4, 2013. 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.

Rent Reimbursement and Property Tax Credit 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, you must:

- Have household income during 2012 of less than \$21,335; and
- 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 \$21,335 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 2012 household income. Household income includes:

- social security;
- wages;
- pension; and
- interest income.

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 2012.

- 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 2013 to get a rent reimbursement for 2012 or property tax credit or reduced tax rate for 2013.

- 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 for the property tax credit or reduced tax rate forms.
- You can find the forms and how to apply for all these programs on the Iowa Department of Revenue website. Go to <http://www.iowa.gov/tax/taxlaw/PropertyTaxCredits.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.*



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

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 Georgia?

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 1-800-532-1275

Iowans age 60 and over, call Iowa Legal Aid's Legal Hotline for Older Iowans at

1-800-992-8161



HOPE. DIGNITY. JUSTICE.

Visit us
online at

iowalegalaid.org

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. Our 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;
- 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.

Changing a Child's Birth Certificate After a Divorce

By Shelley R. Whitcher*

If your divorce decree changes your child's name, you will need to take steps to change the child's name on his or her birth certificate as well. Once you have changed his or her name on the birth certificate, you will need to take steps to change the name on the social security card (if a social security number has been issued) and on any other documents or accounts the child has. This article will step you through the process of changing names on an Iowa birth certificate. Of course, if the child was not born in Iowa, you will need to contact the state where the child was born to determine the steps you need to take.



Letter and Supporting Documents: Either parent can request that the child's name be changed by taking the following steps. You will need to send a notarized letter asking for your child's name to be changed to the Iowa Department of Public Health. The letter needs to include the following information:

- Child's name on current birth certificate: first, middle, last, suffix (if any, such as Jr., II)
- Sex of child: male or female
- Child's birth date: month, day, year
- Child's place of birth: city, county, and state
- Child's name on birth certificate after legal change of name granted: first, middle, last, suffix (if any)

The letter must be signed by you, and your signature must be notarized (you can often find a notary at your bank). Send the letter, along with a certified copy of the decree that contains the court's seal stamped on it (discussed below), a copy of your photo identification, and payment (discussed below) to:

Iowa Department of Public Health
Vital Records
Attention: Lisa
321 E 12th street
Des Moines, Iowa 50319

Certified Copy: You can obtain a certified copy of the divorce decree at the clerk's office in the courthouse where your decree was filed. This copy has the court's seal stamped on it. It will likely cost \$21.50 plus copying costs (approximately 50 cents per page).

Fee: It will cost \$15 to process the name change for each child's birth certificate and \$15 for a copy of each new birth certificate (total of \$30 per child).

NOTE: If the child's birth certificate did not include the name of the child's father (meaning it was left blank on the certificate), then the child's father's name can be added and the child's name can be changed at the same time for free. Take the same steps above, but explain that the original birth certificate did not include a name for the child's father and that the father's name should be added. Include the father's full name, date of birth, and place of birth (city, state, country) in the letter. No processing fee for the birth certificate is due, but the fee for each copy of the birth certificate requested needs to be included with the letter. Either parent can request this change.

*Shelley R. Whitcher is a staff attorney at Iowa Legal Aid's Southwest Iowa Regional Office in Council Bluffs.

Paying for Utilities

By Jim Kringle*

Utility bills can strain the budgets of many Iowans. This is especially true for Iowans who are elderly or have a disability and are living on fixed incomes. If you cannot afford to pay your natural gas and electric utility bills, you have certain rights and remedies that may help you avoid having utilities shut off.

The Winter Moratorium

Your utilities may not be shut off during the "winter moratorium" if you apply for and qualify for the Low-Income Home Energy Assistance Program (LIHEAP). This program 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. As of 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: http://www.dcaa.iowa.gov/bureau_weath/how_apply.html or call your local Community Action Agency.

Regular Payment Plans

Gas and electric utilities are required to offer you a reasonable payment plan if you have not been able to pay your gas or electric bills. Whether a payment plan is "reasonable" depends on a number of factors, including your ability to pay. At a minimum, utilities must give you the option of spreading payments evenly over at least 12 months if you have not been disconnected, or have been disconnected for less than 120 days. If you have been disconnected for more than 120 days, then the utility must give you the option of spreading payments evenly over at least 6 months.

If you have been unable to keep up with your utility bills, you should contact your utility to negotiate a reasonable payment plan. You must be offered this type of payment plan unless you are behind on an existing payment plan (and sometimes, even if you have defaulted on an existing plan, as explained below). While you are on the payment plan, you also have to pay your current bill.

Second Payment Plans

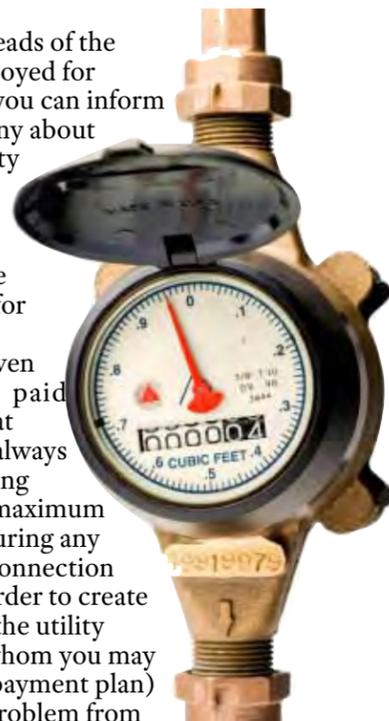
A second payment plan must be offered to you by the utility if you made at least two full payments in a row, and on time, under the first payment plan before getting behind in payments. If this happened to you, you should contact your utility and request a second payment plan. This second payment plan must be for the same amount of time as the first plan, or longer. While you are on the second payment plan, you also have to pay your current bill. The utility may require you to make the first payment up front before allowing you to make a second payment plan.

Health Hazards

Regardless of the time of year, utilities can be required to delay disconnection for 30 days if it would present a special danger to your health or to the health of anyone who lives with you. Contrary to what some believe, a health hazard is not limited to life-threatening situations or those where a customer needs electricity to operate a medical device. A health hazard can happen if a member of your household has a physical or mental impairment (including depression) or developmental delay (also known as mental retardation). Sometimes, just having very young or very old members of the household may be enough to delay disconnection. If the utility company is given a doctor's statement stating that a person living at the residence faces a special danger if they go without gas or electric service, the utility must delay disconnection for 30 days. If the gas or electric service has already been shut off, but for 2 weeks (14 days) or less by the time the utility receives the doctor's statement, the utility must reconnect service immediately. Then, they must wait 30 days before disconnecting again. During the 30 day delay, a payment plan must be entered into and you must continue to pay your current bill, or else the utility may be allowed to disconnect you after 30 days pass (unless the winter moratorium is in effect and you are certified as eligible for LIHEAP, as discussed above).

Deployment

If one of the heads of the household is deployed for military service, you can inform the utility company about that, and the utility company is prohibited from disconnecting service during the deployment and for 90 days after that person returns, even if nothing is paid the bill during that time. Again, it is always best to keep making payments to the maximum extent possible during any period when disconnection is prohibited in order to create "good will" with the utility company (with whom you may be negotiating a payment plan) and to keep the problem from being harder to solve.



Good Samaritan Rule

Someone else may set up new service where you live in his or her name if you have fallen behind in payments to the utility company. The only requirement is that the person be "credit-worthy." This arrangement can avoid gas and electric service shut-offs or get service turned back on if it has been shut off. The utility company cannot require the new customer to pay your old bill as a condition for giving him or her service, but the company can require that the standard deposit be paid (up to the highest bill for one month's service at that address in the previous year).

Statute of Limitations

Gas and electric utilities cannot refuse service to a person because of an old bill if the statute of limitations on that debt has run. Most utility debts are based upon unwritten contracts, which carry a 5-year statute of limitations (on written contracts, it is 10 years). Knowing when the 5-year period expires can be complicated legally, so legal advice should be sought if you think your debt should be too old for the utility to give that as a reason to refuse service).

Limitation of Service

Utility companies that provide electric service have the option of providing service limiters for customers who are behind on their utility bills and facing disconnection. This is a device that would limit the amount of electricity provided to a house. The utility company can only install this device if the customer agrees, and it is an alternative to disconnecting the electricity service. This could be something the utilities will use in the future, but seek legal advice about options before agreeing to this.

Other Possible Assistance or Payment Options.

Some County General Relief Departments, Area Agencies on Aging, Community Action Programs, churches and other local charitable organizations may have funds to help Iowans who are low income, have a disability, or are elderly. You should contact your local Area Agency on Aging, churches and charities for program availability.

In addition to the above, utilities must comply with other requirements. These include providing certain notices and a list of customer rights and responsibilities. If you propose what you think is a reasonable payment plan to the utility, and the utility rejects it, or if you otherwise feel that disconnection or refusal of service is not appropriate, you can file a complaint with the Iowa Utilities Board. Contact them at:

Iowa Utilities Board: (877) 565-4450
customer@iub.iowa.gov

Iowa Utilities Board
1375 E. Court Avenue, Room 69
Des Moines, Iowa 50319-0069

You can also file a complaint by fax (515-725-7399), or online at the Iowa Utilities Board website: http://www.state.ia.us/government/com/util/forms/CustServ/form_Complaints.html

You can contact Iowa Legal Aid toll-free at (800) 532-1275 to apply for legal help.

*Jim Kringle is Managing Attorney of Iowa Legal Aid's Cedar Rapids Regional Office.

Important Tax News For Tax Year 2012!

By Tamara Borland*

When Can I File My Federal Return?

Each year many taxpayers anxiously await their refunds to help pay crucial bills like utilities and rent. For tax year 2012, the tax filing season will start on January 30, 2013.

Where Can I Find Free Tax Preparation?

Most free tax preparation sites will open on or just after this date. Finding a free site is easy. To find a VITA (Volunteer Income Tax Assistance) site you can go to <http://irs.treasury.gov/freetaxprep/> to find an AARP Tax Counseling for the Elderly site you can go to <http://www.aarp.org/applications/VMISLocator/searchTaxAideLocations.action>

Where Is My Refund?

To find out the status of your refund, taxpayers should first try the IRS website page "Where's My Refund?" located at <http://www.irs.gov/Refunds>. Information about your refund should be available within 24 hours of the IRS receiving your e-filed return or four weeks after receiving a paper return. Your refund will normally arrive in less than 21 days. Taxpayers using e-filing and direct deposit will normally receive a refund within two weeks.

To use the IRS website, you will need:

1. Your social security number
2. Filing status on your tax return; and
3. The exact amount of the refund expected.

The Website will sometimes tell you to call the IRS. This may mean that your return has hit a processing snag. A snag may be caused by a math error on your return, a wrong address, incorrect banking information, and when your return is selected for an audit. Tax refunds can also be intercepted to pay child support, federal student loans, other federal debts, and tax debts.

My Information Isn't Showing Up On The IRS Website. Why?

If the IRS has no information about your return, it is possible that your tax preparer has not e-filed it yet. A preparer should submit your return as soon as possible, but no later than three days from when he or she has all the necessary information or documentation needed to file.

For the 2012 tax year, returns claiming certain credits or have certain schedules will not be processed until mid-February thru March. This delay in processing includes returns with education credits and the residential energy credit.

Your return could have been rejected for e-filing because of an error. Make sure you respond to any calls from your tax preparer.

What Is My Next Step?

If your information is still not available on the website 3 to 4 days after you completed your tax return for electronic filing, you can always check with your tax preparer to see if there are any problems.

My Return Was Rejected From E-Filing. What Do I Do?

A return can be rejected from e-filing for a number of reasons. Most common errors are errors made entering a taxpayer's or employer's name, identification number or address. These errors are normally caught quickly and easy to fix.

A return can also be rejected when another taxpayer has already filed a return using your dependent's social security number. This problem is a fairly common one for separated or divorced parents who both claim the same child. A parent who believes he or she is entitled to the dependency exemption can mail in the return. The IRS will either process the return or will request more information to decide who should claim the dependent.

A non-custodial parent will need a release from the custodial parent granting the non-custodial parent the dependency exemption. This release will need to be mailed into the IRS with a signature document (currently a Form 8453) even though the return is e-filed. The IRS has a release (Form 8332) the custodial parent can sign and give to the non-custodial parent.

If you are having tax problems, you may be able to get help from Iowa Legal Aid's Low-Income Taxpayer Clinic (LITC). Call Iowa Legal Aid at 1-800-532-1275.

The information in this article was not intended or written to be used and cannot be used to avoid penalties under the Internal Revenue Code.

**Tamara Borland is project manager of Iowa Legal Aid's Low-Income Taxpayer Clinic.*

Need health insurance? File your taxes!

A new federal program for middle and low-income households may be available to help you purchase affordable health insurance in 2014. Information from the tax return you file in 2013 will help determine whether you qualify. Enrollment for the health insurance program will start in fall 2013. Information about how to obtain health care insurance will be available thru <http://www.healthcare.gov/>.



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 visit our website at iowalegalaid.org

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

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 EJJ is available in a larger print edition upon request. 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

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FREE LEGAL TAX HELP

- Claim 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

Be on the Lookout for Tax Preparer Fraud

By Tamara Borland*

Unfortunately, some unscrupulous preparers have falsified claims for the American Opportunity Credit on tax returns using the promise of large refunds to attract customers.

Who are some of the taxpayers who have been affected?

- Some immigrants for whom English is not their first language and who are not as familiar with the U.S. tax system.
- Lower income taxpayers needing money for school who were told that this credit could be claimed ahead of filing a tax return. The preparers used the taxpayer's information to file false returns and steal refunds.

What can happen to the taxpayers?

- Taxpayers may be required to pay back refunds they received with penalty and interest.
- Problems with tax returns that are not fixed can lead to problems with adjusting immigration status.
- Taxpayers who didn't get refunds will have to try to prove that they didn't get the stolen refunds and shouldn't have to pay back the IRS.

Fraudulent preparers are hard to catch.

- Paid preparers must sign a tax return and provide a Practitioner Tax Identification Number (PTIN) under U.S. tax law. Fraudulent preparers often do not sign the tax return.
 - ▷ If a paid preparer isn't willing to sign a return, take back your documents and go somewhere else.
- If you learn that your preparer did something wrong, you can report your preparer by completing an IRS Form 14157 which is available at www.irs.gov. This may help to stop the preparer from hurting other taxpayers.
 - ▷ Note: You should know that if the preparer is investigated, it may lead the IRS to review your return.
- If there are problems with your return, you may end up owing money to the IRS.
- Taxpayers who fix the problem before the IRS finds the problem, are less likely to be charged high penalties for filing a return with large mistakes.

**Tamara Borland is project manager of Iowa Legal Aid's Low-Income Taxpayer Clinic.*

Do You Really Need a Bankruptcy?
Continued from Outside Cover

- Will **NOT** necessarily improve your financial situation. A Chapter 7 bankruptcy only deals with debts that arose before the time of filing the petition. Debts which arise after the filing are not covered. If you are likely to continue to have money problems in the future, you may want to wait. You can only file a Chapter 7 bankruptcy every eight years.

It is important to carefully consider alternatives to bankruptcy. There are other ways to end the constant calls from creditors asking for payment that a debtor cannot afford. Some debtors have strong defenses to the debt which can be resolved in court. Some debtors are “collection proof” and creditors can do nothing to harm them. Sometimes becoming educated and learning how to budget can be enough. These alternatives are discussed in more detail below.

If You Are “Collection Proof”

The fact that a creditor or debt collector has a judgment against you (has taken you to court and won) does not always mean you can be forced to pay. “Collection proof” means your income and property are “exempt” from collection. Income considered exempt includes Social Security and SSI benefits, pensions, unemployment benefits, child support, student loan proceeds and FIP. Even wages are protected to a certain degree. The law places limits on how much of your wages can be taken or garnished. These limits are based on federal minimum wage. Your net (gross pay minus Social Security and taxes) must be more than \$217 a week before a creditor can garnish and they can only take income above that amount.

Most of your personal property and your house will also be exempt. Exempt personal property includes clothing, household furnishings and

household goods (TV, appliances) not to exceed \$7,000, equity in a car not exceeding \$7,000, books, wedding and engagement rings, etc. One very important exemption is cash, bank deposits, or the value of any other property up to \$1,000. This is known as the “wild card” exemption.

Protections Under Garnishment law

If your wages or bank account are garnished, you must receive a “Notice of Garnishment.” You will have ten days from the date you receive it to file a written “Motion to Quash” and a hearing will be scheduled. At the hearing you can argue that the money taken is exempt or should be considered exempt in the interest of justice. In making that determination, the Court must consider the age, number and circumstances of your dependents, the federal poverty level guidelines and your maintenance and support needs as well as any other relevant information.

What is an “Affidavit of Exemption”?

This is a document you can file with the court and/or provide to debt collectors explaining that you are judgment proof and that all of your property and earnings are exempt. The Affidavit form is available online or through the Clerk of Court in small claims cases.

You Can Stop Creditor Calls

A simple “cease communication” or “stop contact” letter should stop the calls from creditors. There are both federal and Iowa fair debt collection practices laws which require collection agencies, attorneys and creditors to stop contacting you after they receive such a letter. These laws also provide penalties for violating these provisions.

Defend Against the Creditor’s Collection Efforts

If you do not raise all your claims in response to a debt collection lawsuit, you may never get

another chance to do so. Raising a defense can also increase your chances of working out a favorable settlement. The following is a partial list of claims that may be raised:

- **Sales practices.** Unfair, deceptive or fraudulent sales practices in the purchase of the consumer goods.
- **Warranty performance.** If the goods are later discovered to be defective or the work is not completed or the work is found to be substandard.
- **Problems with the credit contract or loan.** Both federal and state laws set up various requirements as to what the creditor must tell the consumer about a loan. If this is not done, a defense may be raised if the creditor sues.
- **Problems with how a creditor tries to collect on a judgment.** Failure to follow proper procedure can lead to consumer claims against the creditors.

Getting Help.

You may be eligible for help in paying certain types of debts such as medical debt and property taxes. You may also have the right to ask for a reasonable payment plan. For example, you may be able to ask for a reasonable payment plan for income tax debts and some student loans.

Bankruptcy may be the way for you to get a fresh start but there may well be other options that would work better for you.

**Evelyn Ocheltree is a senior staff attorney at Iowa Legal Aid’s North Central Iowa Regional Office in Mason City.*

Equal Justice After Hours supports Iowa Legal Aid

Equal Justice After Hours is the Iowa Legal Aid Foundation’s annual signature event to raise funds to support the work of Iowa Legal Aid. The event has been held annually since 2004.



This year the event takes place on Thursday, March 28th at the Temple for Performing Arts in Des Moines with featured speaker Peter Edelman. Peter Edelman has been one of the nation’s foremost advocates for poor and low-income Americans since the 1960s. Edelman is a longtime law professor at Georgetown

University Law Center who specializes in poverty, welfare, juvenile justice and constitutional law. He was a key aide to Robert F. Kennedy, and is the author of numerous articles and books, including *So Rich, So Poor: Why It’s So Hard to End Poverty in America*.

Equal Justice After Hours will also honor Robert C. Oberbillig. Robert C. Oberbillig is being inducted into the Iowa Legal Aid Hall of Fame for his long and illustrious career of service to low-income Iowans. Bob’s leadership and legal work helped shape a new landscape of law furthering the rights of low-income Iowans.



For details on *Equal Justice After Hours*, contact Terri Bennett at 515.243.2980 x 1611 or tbennett@iowalaw.org. Order tickets online at <http://www.iowalegalaid.org/link.cfm?46> Select “buy tickets to an event” as the donation type.

Outstanding Iowans Who Have Been Inducted into the Iowa Legal Aid Hall of Fame

2004



Governor Robert D. Ray



Elizabeth S. Kruidenier



Congressman Neal Smith



Senator Tom Harkin



Naomi Mercer

2005

2005



Robert N. Downer

2006



Attorney General Tom Miller



Addison M. Parker



George Wittgraf



Lois Eichacker

2007



Gary Lane



The Linn County Bar Association



The Principal Financial Group Legal Department

2008



Roxanne Barton Conlin



Bonnie Campbell

2010



Representative Jim Leach

2012



Nicholas T. (Nick) Drees

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

Prioritize Your Insurance Needs

By Bill Nassif*

Insurance helps protect you from loss when things go wrong. For example, if a tree fell on your car and you couldn't drive it, insurance could help pay for repairs. Or if you fell and broke your arm and couldn't work, insurance could pay for your treatment and even part of your wages until you could return to work.

There are many different kinds of insurance to help protect us from loss. There are some that most people should have, like home, auto, and health. There are other kinds that you might need, like disability, life or long-term-care insurance. Last, there are the kinds almost nobody needs because they are seldom worth the cost. This article gives some information about the main kinds of insurance and whether they make sense for you.

□ Auto Insurance.

If you drive or own a car in Iowa, Iowa law says you must have auto liability coverage to pay for damages that you cause. There are several things that can happen if you don't have it and all of them are bad. First, if you are stopped by an officer for any reason, you could get a ticket simply for not being able to show you have liability coverage. Second, if you are in an accident that is your fault and can't afford to pay the other parties losses, your license or registration will probably be suspended. In addition, you could be sued for damages and possibly lose some of your property and income.



□ Property Insurance.

If you own your home, you should strongly consider "homeowners" insurance. Homeowners insurance will pay for many different kinds of losses to your home. For example, it will pay losses from fire, theft, hail and many other risks. Without it, you can lose your place to live and literally everything you own. Homeowner's insurance does not protect from flood loss. If you live in a flood zone, you should contact an insurance agent to discuss a special flood insurance policy. You may be required to buy this insurance if you have a mortgage in order to protect the lender from loss.

If you rent an apartment or other housing, you should consider "rental" or "contents" insurance. If you have rental insurance and your property is damaged in a fire or natural disaster, this insurance could pay to replace your belongings. If you don't have it, you could lose everything. A landlord will have insurance to protect his or her apartment or house from loss, but not your property.

We sometimes forget how much we have, so take a moment to look around your home or apartment and in your closets, nooks and crannies and think about the cost to replace it all. If you cannot afford to replace your property, then you should strongly consider property insurance.

□ Health Insurance.

Health insurance pays for medical treatment if you are sick or hurt. For example, if you fall and break your leg or have a heart attack, health insurance could pay most of your hospital and doctor bills and follow-up treatment. There are several ways to get health insurance. First, and most commonly, many employers offer health insurance to their employees. If they do, they may ask you to pay part of the premium. Second, you may also be able to get insurance through public programs. For example, the Iowa Department of Human Services provides health insurance to low-income Iowans through several different Medicaid and other programs. Third, if you are disabled or at least 65 years old, you may get health insurance under the federal Medicare program. If you do not get health insurance in any of these ways, contact a health insurance agent about an individual policy. Note that most health insurance plans only pay part of the cost of treatment. For example, you may have to pay a "deductible" or "copay" before the insurance starts providing benefits.

Health insurance is very important. If you get sick or hurt and don't have it, medical providers including hospitals, can refuse to give you non-emergency treatment. Even if you are treated, a single uninsured illness or injury could result in bills that can eat up your savings, cause the loss of your property and take years to repay. There are likely to be changes in health insurance as the Affordable Care Act is being implemented.

□ Insurance Covering Specific Diseases or Conditions.

Some insurance policies are designed to cover a specific type of disease or condition. For example, some policies just provide benefits if you get cancer; others might cover just a heart attack. Most people do not need these kinds of policies as long as they have comprehensive health and major medical insurance. These specific disease or condition policies can cost a lot for the benefits they offer.

□ Disability Insurance.

Disability Insurance pays a benefit to make up for part of your lost wages if you become sick or disabled and cannot work. Most people don't think much about becoming disabled, but accidents and illness happen all the time. In fact, studies show that a 20-year-old worker has a 3-in-10 chance of becoming disabled before reaching retirement age. If you or your family will suffer financially if you become disabled, then you should strongly consider disability insurance. Your employer may provide it for free or at low cost. If your employer does not offer it, check with a disability insurance agent. Do not assume that Social Security Disability payments will replace lost income if you become disabled. You need to be totally disabled to get Social Security Disability. Depending on your illness or injury, you may not be eligible. Social Security Disability will also not come close to replacing your employment earnings. For example, a person making \$50,000 a year for 20 years or more could expect his or her Social Security to replace only about 50% of income. A young person with lower earnings could get a much lower percentage.

□ Life Insurance.

Life insurance generally pays a lump sum benefit if you die. If someone currently depends on your income, you should strongly consider life insurance. You should



also consider insurance if you are planning to start a family. Your rates will be cheaper now than when you get older or have health problems. Since the idea of life insurance is to provide funds to take the place of income, how much you need depends on how much you earn. A rule of thumb is that you should try to have about 12 to 15 times your annual income in a combination of savings and life insurance. The more you have in savings, the less you will need in life insurance and vice versa. Even if you are single and responsible only for yourself, you may want to consider a small policy that will pay your funeral and burial expenses.

□ Credit/Mortgage Life and Disability Insurance.

These kinds of policies promise to pay off all or some of your credit or loan balance if you die or to make your payments if you become disabled. They are often more costly than basic life or disability insurance policies. Claims based on disability might be denied because you are already retired, have a pre-existing condition, or are not disabled enough. Most people are better off if they can buy adequate life or disability insurance coverage.

□ Accidental Death Insurance.

Unless you race cars or walk a tightrope for a living, you probably do not need accidental death insurance. If you do have a dangerous occupation or hobby, you may not be able to buy this kind of insurance anyway! If you need life insurance (see discussion above), it is probably best to have a policy that covers all risks.

□ Long Term Care Insurance.

People purchase long-term care (LTC) insurance to meet all or part of the cost of nursing home care. LTC insurance lets you use your income and assets for other purposes. Whether you should or can buy LTC insurance will depend largely on how you balance the following factors:

- **Objectives.** Valid objectives for buying a policy include protecting resources for a spouse or other dependents, leaving an inheritance, avoiding Medicaid and having more choice where you receive your care.
- **Risk Factors.** Women usually outlive their spouses and are at higher risk of needing nursing home care. Women, in fact, make up roughly 90% of current nursing home residents. Persons with a family history of Alzheimer's or other degenerative disease are also at higher risk.
- **Age and Health.** Your age and health will influence your ability to obtain and pay for LTC insurance. The older you are and the poorer your health, the more difficult to obtain coverage at an acceptable cost.

Continued on Next Page...

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Do you really need a bankruptcy?

By Evelyn Ocheltree*

A Chapter 7 (liquidation or discharge) Bankruptcy is a process under federal law designed to help people who can no longer afford to pay off the debt they have incurred and need a fresh start. Filing a Chapter 7 Bankruptcy stops collection efforts and completely wipes out most debt. The bankruptcy is not a “magical cure.” It is one of several options available to consumers.

What Are the Advantages and Disadvantages of Filing Bankruptcy?

ADVANTAGES:

- Discharge of most debts.
- Creditor actions STOP. Actions such as repossessions, garnishments, foreclosures, utility shutoffs and evictions must stop immediately after the petition is filed.
- Protection of exempt property from creditors who have sued you and won in court (they have a judgment against you). Exempt means that it is protected by the law and creditors and debt collectors cannot take it from you.

DISADVANTAGES:

- Some of your biggest debts will probably not go away. These include student loans, alimony and child support, restitution and criminal fines. Also, a Chapter 7 bankruptcy can only delay a foreclosure but it cannot prevent the foreclosure from occurring. Also, debts obtained after you file are not discharged.
- Possible loss of property that serves as security for certain debts such as home mortgages or car loan.
- Possible negative impact on credit rating and reputation. The bankruptcy will show up on your credit report for ten years.

Continued on Page Six...

Prioritize Your Insurance Needs

Continued from Page 7

- **Availability of Others to Provide Care.** If you have a spouse or other family members willing and able to provide care over an extended period of time, you are less likely to need LTC insurance.
- **Income and Assets.** If buying LTC insurance would make it difficult to pay other expenses, then you probably should not purchase it. A rule of thumb is that you should not pay more than 7% of your income on premiums. Also, ask if buying LTC insurance makes sense in your specific financial situation. If you have assets that produce enough income to pay for a nursing home, you may not need insurance to protect or preserve your assets. If you have only a small amount of assets, you will probably qualify for Medicaid in a short amount of time, and the cost of insurance may exceed the value of your assets. If you are married, there are special rules to preserve assets if only one spouse needs Medicaid for nursing home payment. (Request the Legal Fact sheet entitled “Medicaid Payment for Nursing Home Care” for details). If you have or expect to have a fairly significant amount of assets (\$200,000 or more) but not enough income to pay for nursing home care, you may wish to consider buying LTC insurance.

Cell Phone Insurance.

These plans provide a replacement if your phone is lost, stolen, or accidentally damaged. Monthly premiums are typically \$5 to \$7 per month and deductibles can run \$150 or more. If you file a claim after 18 months, your total cost in premiums and deductibles could be \$250 or more. You may be better off to keep an old phone that still works as a backup. That way, if you lose or damage a newer phone, you can reactivate and use your old phone until you qualify for a new free or discounted phone. If you do buy this insurance, you may want to cancel it when you are eligible to upgrade to a free or discounted phone, usually in 18 to 24 months.

*Bill Nassif is a staff attorney with Iowa Legal Aid's Legal Hotline for Older Iowans.

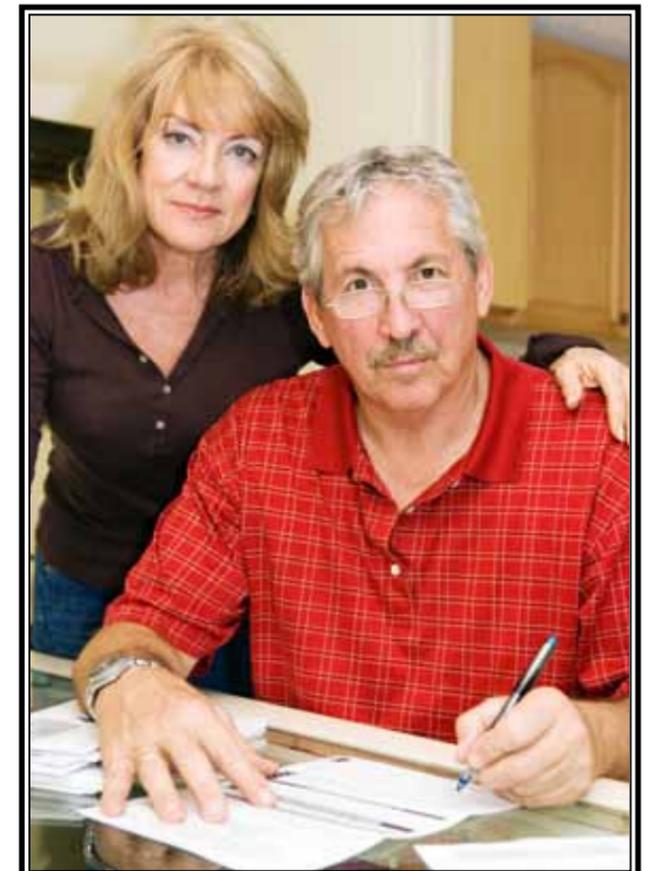
Iowa Legal Aid is a not-for-profit organization providing free legal help to low-income Iowans. Financial support comes from a wide range of sources including federal, state and local governments as well as individual donors and private organizations. Iowa Legal Aid's services are supported by contributions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



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.



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