Why Are Some People Losing Their In-home Care?

Elderly Waiver Program Keeps People Out of Nursing Homes

By Fred Nelson

What is the Elderly Waiver Program?

Iowa has a Medicaid program to help people who need extra care to stay out of nursing homes and continue to live at home. For people over 65, the program is called the Elderly Waiver program. The program provides funding for services and personal-care support in your home or an assisted-living facility. The program is for people who would need to go to a nursing home or other medical institution if they did not get this in-home care. With the desire to stay in your home and the high cost of nursing home care, this is an important program for elderly Iowans.

What are the requirements for eligibility for the Elderly Waiver program?

- You must be an Iowa resident and a U.S. citizen or person with legal entry into the U.S.
- You must be 65 years of age or older.
- You must need care that is considered nursing or skilled level of care.
- You must need nursing or skilled level of care.
- You apply for the Elderly Waiver program through Iowa Department of Human Services. Iowa Medicaid Enterprises is responsible for determining if you need the level of care required for Elderly Waiver services.

How do I know if I need the level of care required for Elderly Waiver?

To be eligible for the Elderly Waiver program, you must need care that is considered nursing or skilled level of care. This means the care is necessary for you to stay in your home safely. In other words, without Elderly Waiver services you would need this care in a medical institution such as a nursing home.

A doctor, registered nurse practitioner, or physician assistant completes a Level of Care Certification form. The form asks your doctor if you need assistance or if you have problems in the following areas:

- Cognitive, such as memory issues
- Ambulation, such as using a wheelchair
- Bathing/Grooming, such as risk of falling
- Dressing
- Therapy
- Behaviors
- Elimination, toilet issues such as incontinence
- Living arrangement, including if dangerous to live alone
- Respiratory, such as use of oxygen
- Tube feeding
- Medications, such as help for set-up
- Eating
- Skin such as bed-sore treatment

Based on this medical evaluation Iowa Department of Human Services (DHS) decides if you are eligible for Elderly Waiver services. If the doctor indicated on the level of care form that you have no problems or need for care, you will not be eligible for the Elderly Waiver program. The form is a tool for indicating whether you need nursing home level of care services.

The bottom line to qualify for Elderly Waiver is that you need care services to safely stay in your home. Without the Elderly Waiver you would have to get the care in a nursing home.

If denied Elderly Waiver services you can appeal the decision, or re-apply in the future if your need for care increases.

What if my Elderly Waiver benefits are cancelled?

You can lose your Elderly Waiver services if you get new income or assets that put you over eligibility limits. You can also lose your Elderly Waiver services if you no longer need the level of care provided by the program.

LANDLORD NOTICES

By David Loetz

What are the most common notices given by landlords?

- 30-Day Notice of Termination of Lease [Iowa Code § 562A.27(1)]
  A landlord gives a tenant a 30-day notice to end a month-to-month lease. A month-to-month lease is one where rent is paid once a month and there is no specific ending date in the lease. The 30-day notice must be given in writing. The notice must give at least 30 days before the date when rent is due. Reason is needed to end a month-to-month tenancy in most cases. Either the landlord or the tenant can decide to end a month-to-month tenancy in most cases. However, the landlord cannot end the tenancy for an illegal reason.
  For example, landlords cannot end a tenancy because of a discriminatory reason. There are also some situations where the landlord must have good cause to end a month-to-month tenancy. Many subsidized housing units or low-income housing tax credit properties are governed by such regulations.

A 30-day notice given by a landlord generally tells the tenant that the specified month will be the last month of the lease. Ideally, the tenant will find a new place to live by the end of the 30-day period. If the tenant does not move by the date in the 30-day notice, the landlord can give the tenant a three-day notice to quit after that day. The three-day notice tells the tenant that he or she must leave the premises (quit) within three days. The landlord may file an eviction action (forcible entry and detainer action) after those three days have passed.

- 3-Day Notice of Nonpayment of Rent [Iowa Code § 562A.27(2)]
  If a tenant fails to pay rent, the landlord may give a written notice to the tenant. The notice has to say that the lease will end if the rent is not paid within three days. This three-day notice gives the tenant a right to cure the default by paying the rent within three days. If the tenant pays the rent in those three days, the landlord cannot evict the tenant. The landlord must give a new three-day notice of nonpayment each time rent is not paid. If the tenant does not pay rent within the three days, the landlord may file an eviction action.

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- 7-Day Notice of Breach of Lease [Iowa Code § 562A.27(1)]
  A landlord may give the tenant a notice if the tenant has violated the lease. The landlord must normally give the tenants a seven-day notice with a right to fix or “cure” the lease violation, unless the violation is unpaid rent or a “clear and present danger.” For example, a landlord may think a tenant has a dog, and the lease says no pets. The landlord must give the tenant a written notice. The notice must say the lease will end if the tenant does not get rid of the dog within seven days. If the tenant gets rid of the dog within seven days, then the lease does not end. If the tenant does not get rid of the dog, then the lease will end after seven days from the date the seven-day notice was served on the tenant. The landlord can then give the tenant a three-day notice to quit.
The three-day notice tells the tenant that they must leave the premises (quit) within three days. The landlord may file an eviction action (forcible entry and detainer action) after those three days have passed.

- **3-Day Notice of Clear and Present Danger** [Iowa Code § 562A.27A]

A clear-and-present danger could be anything putting other tenants, the landlord, or the landlord’s employees in danger. The danger must be on or within 1,000 feet of the landlord’s property.

The law says a clear-and-present danger includes:

- Physically assaulting or threatening another;
- Illegally using or possessing a firearm; or
- Possessing illegal drugs.

If a landlord thinks the tenant has created a clear-and-present danger, then the landlord may give the tenant a three-day notice. After those three days, the landlord can file an eviction case. If the tenant does not cause the danger, the tenant may cure the danger by keeping the person who caused the danger away from the rental property. There are specific rules that have to be followed to use this cure option. The three-day notice must tell the tenant how to use the cure option. If the tenant did not create the danger and takes the proper steps to cure the danger, then the tenant cannot be evicted.

How must the landlord give the tenant those notices?

A landlord must serve a tenant with a 30-day notice of termination of tenancy, a three-day notice of nonpayment of rent, a seven-day notice of breach of lease, a three-day notice to quit, and/or a three-day clear and present danger notice in one of the following ways:

- Personal service by a process server;
- Hand delivery by the landlord if the tenant signs an acknowledgment of service;
- Certified mail if the tenant signs a dated receipt; or
- Posting the notice on the tenant’s main entrance and sending it by both regular and certified mail.

If the landlord decides to send the notice by mail, then the law assumes that it takes four days for the notice to be received. That means that if the landlord decides to mail and post the notice the tenant has seven days to pay the rent from the day the notice is mailed. For example, if the notice is mailed on a Monday, then the law assumes that it was not received until Friday. The tenant would have until the end of the day on the next Monday to pay the rent.

What happens when the landlord files an eviction case?

Once an eviction case is filed, a hearing date will be set. You will have a chance to tell the judge your side of the case at the hearing. The hearing will be no later than eight days after the case is filed unless the landlord agrees to a later hearing date. Even if the landlord agrees to a later hearing date, the hearing must still occur within 15 days of when the case was filed. The tenant must then be given a copy of the eviction papers at least three days before the hearing. The eviction papers will tell the tenant about the eviction hearing. Original notice of the eviction case must normally be given by personal service by a process server or hand delivery by the landlord if the tenant signs an acknowledgment of service.

At least two attempts must be made to serve the tenant using one of those two methods. If those two attempts are not successful, service of the original notice may be made by posting the notice on the tenant’s main entrance and sending it by both regular and certified mail.

Can my landlord evict me without filing an eviction case in court?

No. Iowa law does not provide for self-help evictions. In order to properly evict a tenant, a landlord must first obtain a court order. The landlord may only get a court order by filing an eviction action. If a landlord removes you without filing with the court, you may have grounds for a lawsuit.

If you have questions about a notice you have received from your landlord, 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 60 and over, call 800-992-8161
- 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 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.
Disaster Declarations
State and Federal

By Josh Gaul

Extreme weather happens every year in Iowa. Disaster declarations are made for everything from blizzards and ice storms to tornadoes and flash flooding. What do these declarations mean? What help is there for those affected by the disaster?

What is a state disaster declaration?
When there is a disaster, the Iowa Homeland Security and Emergency Management Division (HSEMD) will help the county. If the disaster is too large for the county, HSEMD will ask the Governor to declare a disaster. When the Governor declares a disaster, the state uses state disaster money to help. The declaration may be for the whole state, different parts of the state, or just one county.

What assistance is available?
When a state disaster is declared, people who have been hurt by the disaster may get help. The Iowa Individual Assistance Program can give up to $5,000. The money can go to home and car repairs, clothing, food, and finding temporary housing.

Are you qualified for Iowa individual assistance?
Your household income must be at or below twice the federal poverty level. The maximum annual income for a family of three is $40,180. The declared disaster must have damaged the property. You have 45 days from when the governor declares a disaster to do your application. Make sure to keep receipts for repairs, supplies, replacement clothing, motel or hotel rooms, and anything else you spent because of the disaster. The application for Individual Assistance is at the following website: dhs.iowa.gov/disaster-assistance-programs. Complete the form. Turn it in at your local Community Action Agency. You can find your local Community Action Agency, at the following website: IowaCommunityAction.org

What is a presidential federal disaster declaration?
When the state and local government do not have the resources to respond, the Governor can ask the President to declare a major disaster or emergency. If the President makes a declaration, federal programs may help.

What are the types of federal declarations?
There are two types of federal declarations.

- Emergency Declarations. Federal help goes to state and local emergency services. No benefits are given to individuals.
- Major Disaster Declarations. The three general categories of Federal Emergency Management Agency (FEMA) assistance are: Individual Assistance, Public Assistance, and Hazard Mitigation. These are available depending on need and what the Governor requests. Individuals only get help if the declaration includes Individual Assistance. The other help goes to local governments.

What types of individual assistance are available after a federal major disaster declaration?
Disaster survivors may be able to get money under the Individuals and Households Program. This includes help for temporary housing and repairs. It is very hard to get home replacement or new home construction. The U.S. Small Business Administration can also make loans to repair or replace homes, personal property, or businesses for damages not covered by insurance. "Other Needs Assistance" helps individuals and households who have expenses or serious needs, but do not qualify for a loan from the Small Business Administration.

The Disaster Unemployment Assistance Program helps people unemployed because of a major disaster. Benefits begin from the date of unemployment. Benefits can last up to 26 weeks after the Presidential declaration date. These benefits are for people not covered by other unemployment compensation programs. Unemployment benefits must be filed with the State's employment services office before they can receive these benefits.

Where can I go for legal help?
If a disaster caused you problems with housing issues, getting available government assistance, or other legal problems, please feel free to 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.

Josh Gaul is a staff attorney at Iowa Legal Aid's Central Iowa Regional Office in Des Moines.

Losing In-home Care continued from front cover

Annually, the Iowa Department of Human Services (DHS) through Iowa Medicaid Enterprise (IME) reviews people receiving help through the Elderly Waiver program. The evaluation is to see whether you still need the care services provided by the program. Your doctor, nurse, or physician assistant is asked to complete a new Level of Care Certification form. This is the same form that was completed when you first applied for the Elderly Waiver program. It is important that you, your doctor and other care providers understand this review and the level of care required for Elderly Waiver services. The loss of Elderly Waiver services which keep you in your home may be catastrophic.

Losing your Elderly Waiver services is usually based on the new Level of Care Certification form showing that you are independent and do not need care.

This year, Iowa Legal Aid is getting a large number of calls from people who have gotten a notice that their Elderly Waiver services are canceled. This cancellation of Elderly Waiver may determine whether you can continue to live at home or will soon need to go to a nursing home.

What if I need the Elderly Waiver services to stay in my home?
- You need to file an appeal with the Department of Human Services within the 30-day deadline. A hearing will be scheduled with an Administrative Law Judge to decide if you need Elderly Waiver services. Within a 10-day deadline, you can also request that your Elderly Waiver services continue during your appeal. If you lose the appeal, you may have to reapply to the state for the continued care services.
- You should review the canceling of your Elderly Waiver with your doctor and other care providers. Ask them if they can provide medical support to show your need for Elderly Waiver services.
- You should call Iowa Legal Aid for advice and possible help representing you at the hearing.
- Sometimes the completed level of care form does not tell the whole story of your need for Elderly Waiver services. It may be that you have told your doctor that you don’t need help when you do need help. You may feel uncomfortable talking about your personal care needs. However, it is very important to be honest in the evaluation of your care needs. Trying to do things that put you at risk of falling or risk your health in other ways is foolish. This can also lead to having to go into a nursing home. Sometimes even though you are able to do some things on your own there may be a combination of medical care and personal care needs that would prevent you from staying at home without Elderly Waiver services.

Review the completed level of care form with your doctor.
- Be honest about your need for help and care.
- Make sure your doctor understands your limitations and needs.
- Ask your doctor to submit an updated level of care form to Iowa Medicaid Enterprises (IME) and to the administrative law judge.

- Ask your doctor to write a letter explaining why you need the Elderly Waiver program to safely stay in your home.
- A clear statement from your doctor stating that you would go to a nursing home if your Elderly Waiver care is canceled is helpful for persuading IME and the administrative law judge.

If it becomes clear from your medical support that you need the Elderly Waiver services, the Department of Human Services may re-instate you in the program before the hearing. Otherwise the administrative law judge will decide if your Elderly Waiver program should continue or not.

Even if you lose the appeal and your Elderly Waiver services are canceled, you can re-apply for the program should your need for in-home assistance increase.

- Iowa Legal Aid provides help to low-income Iowans.
- To apply for help from Iowa Legal Aid: call 800-532-1275
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Fred Nelson is a Staff Attorney with Iowa Legal Aid's Legal Hotline for Older Iowans.
Iowa Legal Aid Honors Award Recipients

Each year, in recognition of the many and varied contributions made to Iowa Legal Aid work, awards are presented 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 25.

Denise Lauritsen, Outstanding Client Service Award recipient, and Mike Tulis, senior staff attorney

Jan Rutledge, managing attorney; Cheryll Clamon, Excellence in Service Award recipient, and Julie Walker, office manager

Ethel Turner, Outstanding Client Service Award recipient, lives in the Cedar Rapids area.

John Bulkley, Excellence in Service Award recipient, and Scott Hartsook, managing attorney

Kay Halloran, Excellence in Service Award recipient, has recently retired as an emeritus attorney for Iowa Legal Aid.

Outstanding Medical Legal Partnership Award

The Nebraska Medicine Medical-Legal Partnership (NMMLP), a partnership between Nebraska Medicine, Legal Aid of Nebraska, and Iowa Legal Aid, has received the 2015 Outstanding Medical Legal Partnership award from the National Center for Medical-Legal Partnerships. The award is given to medical-legal programs whose innovative activities and successful, collaborative relationships result in favorable changes in health care practices at both the clinical health care and institutional health care levels.

The NMMLP was singled out for its successful implementation of the Medical-Legal Partnership model while at the same time adding an impressive number of new partners and locations. For example, following the establishment of the first MLP at Nebraska Medicine in Omaha, additional MLP’s were established over the next few years at seven other hospitals in the Omaha area along with two hospitals located across the Missouri River in Council Bluffs, Iowa. Additionally, innovative data collection and analysis efforts performed jointly by the MLP partners resulted in a nearly ten-fold increase in funding from Nebraska Medicine over a five-year period.

Accepting the award in Washington D.C. at the Nation MLP Summit were Nebraska Medical MLP Physician Champion, Dr. Kerry Rodabaugh, Ann Mangiameli (managing attorney of the Medical Legal Project at Legal Aid of Nebraska), Erin Planalp (staff attorney with Iowa Legal Aid), Suzanne Nuss (executive director, Nursing Practice and Care Transitions), and April Faith-Slaker (manager of research and evaluation, Legal Aid of Nebraska).
Changes to Child Abuse Law

By Jenny Tegeler

When the Iowa Department of Human Services (DHS) receives a report of child abuse, there are now two alternative paths DHS can take in response.

What is child abuse?

Often when people think about an act of child abuse, they think about a person either physically or sexually hurting a child. Although these acts can be child abuse, there are several other acts that are legally considered child abuse. These acts may include but are not limited to:

- Acts or omissions causing serious mental injury to a child, causing the child to not perform within the normal age range;
- Using illegal drugs in the presence of a child, resulting in the presence of the drug in the child’s body;
- Manufacturing a dangerous substance in the presence of a child;
- Knowingly allowing a sex offender unsupervised access to a child;
- Knowingly giving a child obscene material;
- Involving a child in prostitution;
- Engaging in bestiality in the presence of a child; and
- Denial of critical care.

Knowingly means that the caretaker or parent has actual knowledge of a certain fact. For example, allowing a neighbor that the parent knows is a registered sex offender to babysit a child meets the definition of child abuse. However, the situation may be different if the parent did not know that the neighbor was a registered sex offender.

What is denial of critical care?

Denial of critical care is one of the more common allegations that may result in DHS opening an investigation. Denial of critical care is defined as “the failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing, medical or mental health treatment, supervision, or other care necessary for the child’s health and welfare when financially able to do so or when offered financial or other reasonable means to do so.” A simpler way of stating this is to say that the parent or person responsible to care for the child is neglecting that child’s needs. Neglect can include acts such as failing to give a child prescribed medication, leaving a child unsupervised for an extended period of time or placing a child in a dangerous situation by engaging in violent behavior in front of a child. Every situation is unique. For example, leaving a 12-year-old unattended a few hours will likely be viewed differently than leaving a three-year-old unattended for a few hours.

These types of cases may cause concern that a child’s needs aren’t being met. Since there is no immediate harm to the child at the point the report is made, these types of cases would probably start on the family-assessment path.

In a family-assessment case, DHS must begin the assessment within 72 hours of receiving the report. The assessment is an investigation into the safety of the child and any risk of harm to the child. It also includes an evaluation of the child’s home environment. The worker will also consider the well-being of any other children living in the home. The assessment may also include a visit to the child’s school.

After DHS completes the assessment, the worker will set out the strengths and needs of the child and family. DHS will then provide a list of services available to meet these needs and other services to the family. Services may include counseling for the child, substance abuse treatment for a parent, or assistance with applying for food assistance or related programs such as The Family Investment Plan (FIP). These services are offered on a voluntary basis, meaning the family does not have to actually participate in them. However, if the family refuses to accept the offered service and DHS determines that as a result the child is at risk, the case will be switched from a family assessment to a child abuse assessment.

A Child-Abuse Assessment

This is the process that DHS uses to respond to accepted reports of child abuse alleging non-accidental physical injury, sexual abuse, and other acts, including denial of critical care if there is a risk of imminent danger, death, or injury to the child.

DHS must begin a child abuse assessment within 24 hours of receiving the report. Then the investigation is similar to the family-assessment process. The primary difference between the family assessment and the child abuse assessment are the outcomes.

In a child abuse assessment, DHS will decide if child abuse happened. If DHS determines the abuse is founded, then the person responsible will be placed on the child abuse registry. If DHS believes there is ongoing or future risk of abuse or neglect, it may refer a family for services or make community-care referrals. In serious cases, it may recommend opening a juvenile court case.

Safety in the home is a basic necessity and is a priority for Iowa Legal Aid. These changes to the law are an important step to keep children safe, to strengthen families and to help people avoid being placed on the child abuse registry.

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

Iowa Legal Aid Staff Attorney Receives the Distinguished Service Award

Nancy Thompson, staff attorney in the Central Iowa Regional Office of Iowa Legal Aid in Des Moines, received a Distinguished Service Award from the National Association of Consumer Bankruptcy Attorneys (NACBA) at their 23rd annual convention in Chicago on April 24. Nancy received the award for her contributions to the organization and to practice of consumer bankruptcy law. The award, presented by Tara Twomey, a member of the NACBA Board of Directors and Executive Director of the National Consumer Bankruptcy Rights Center, specifically mentioned Nancy’s representation of an Iowa Legal Aid client seeking to uphold the exemption of the additional child tax credit when filing bankruptcy.

Nancy L. Thompson, part-time staff attorney in the Central Iowa office, and Tara Twomey, National Association of Consumer Bankruptcy Attorneys
Has your family lived in Iowa long enough for an Iowa court to hear your family-law case?

By Torey Robinson

Iowa courts can’t automatically hear every divorce or custody case that is filed. Iowa law has requirements for how long a person or child has lived in Iowa before a court can make decisions about those people in a divorce or custody case.

Divorce

How long a person must live in Iowa to start a divorce depends on whether or not his or her spouse lives in Iowa.

If Your Spouse Doesn’t Live in Iowa

If your spouse does not live in Iowa, you must live in Iowa for one year before starting divorce proceedings.

If Your Spouse Lives in Iowa

If your spouse lives in Iowa and can be personally served with the divorce paperwork, you do not need to live in Iowa for one year before starting the divorce. Your spouse must be a resident in Iowa, meaning he or she lives in the state and is not just visiting for a short time or plans to move soon. The spouse must be personally served with the paperwork. To be personally served, the court paperwork has to be given to your spouse by another person, usually by a sheriff or process server.

Custody

Iowa courts can’t always decide who has custody of a child until the child has lived in Iowa for a certain amount of time (more about this later). An Iowa court must have jurisdiction—or the right to make decisions about a child—to decide who should have custody of the child in a custody case, divorce case, or protective order case.

Child custody jurisdiction can be complicated. There are different rules depending on whether a parent is asking the court to decide custody for the first time or change a custody order already in place.

• Deciding Custody for the First Time

Home state: The general rule is that a child must live in Iowa with a parent or other person acting as a parent for six months before a court can decide who has custody of the child. This six-month requirement makes Iowa the child’s home state. A court in the child’s home state gets to make first-time custody decisions. If the child is younger than six months old, a parent or other person can ask the court to make a first-time custody decision if the child has lived in Iowa since birth.

• Later Custody Decisions

A state that already made a custody decision about a child usually will continue to have the right to make decisions about custody of that child. But if a different state’s court needs to make another decision about a child’s custody, the new state must be the home state of that child. An Iowa court can decide who has custody of the child if the child has lived in Iowa since birth.

Exceptions

• In first and later decisions about a child’s custody, there are some exceptions to the home-state rule. Even if Iowa is not the home state, an Iowa court might make decisions in specific situations.

• Inconvenient forum: This means another state might be the better place to hear a custody case. There are many reasons why another state might be better to make a later custody decision, including domestic abuse between the parents, the child has lived in a different state for a long time (which is decided on a case-by-case basis), or most of the evidence that would be used in a custody case is in another state.

Emergency: Even if Iowa is not the child’s home state, an Iowa court can make decisions about child custody if it is an emergency situation. The child has to be in Iowa for a court to do this. There must be proof it is an emergency, such as the child has been abandoned or the child is being abused.

If Iowa is not the home state of a child and no exception can be used, the parent may want to contact an attorney in the child’s home state to see if a court in that state can make custody decisions about the child.

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

Hire a Contractor continued from Outside Front Cover

Get several written estimates or bids.

• Be sure the written estimates include everything you want done, and not more than you want.

• Don’t just look for low bids.

• Ask if the low bidder is really experienced enough to do the job.

• Consider whether the contractor is cutting corners with materials or workmanship.

• There could be a risk the contractor will come back to you later with a story and demand more money.

When you choose a contractor, get the contract in writing, and read it before you sign it.

• Before work begins, agree on a written contract.

• Make sure you list all terms including:

• The work to be done.

• The brand and/or certain kind of materials to be used.

• The price.

• Which of you is responsible to get permits and schedule inspections.

• All change orders must be in writing.

• Who is responsible for cleanup.

• Start and completion dates.

• Remedies if the contractor fails to meet the terms.

• (Example: the contract could be void if the contractor doesn’t start on time.)

• If you file an insurance claim to cover the costs of damage, notify the details with your insurance company directly and not through a contractor.

• If you sign a contract somewhere other than the contractor’s regular place of business (like your home), you have three business days to cancel the contract without penalty.

Avoid paying large sums or the entire job up-front.

• If you need to make a partial advanced payment for materials, make your check out to the supplier and the contractor.

• Make sure you have a mechanic’s lien waiver.

• This can help in case the contractor fails to pay others for materials or labor.

• You can search to see who may have claimed the right to place a lien on your house through the Iowa Secretary of State website at: sos.iowa.gov/mlr or by calling 515-281-5204.

• Do not pay the contractor in full until you are sure all the parties listed on the website have been paid in full.

• Limit the amount you pay up front.

Compare your financing options.

• It’s usually safer and a better deal to obtain financing through your local bank or credit union, rather than a contractor.

• Do some loan shopping and compare loan terms, and don’t let anyone pressure you into signing a loan document.

• Don’t deed your property to anyone.

Watch for contracting scams.

• Don’t fall for the contractor who shows up in an unmarked vehicle without your calling.

• If a person says your driveway needs repaving, or your house needs new shingles and they “just happen to have materials left over” at a big discount, use caution.

To file a complaint or get more information, contact the Iowa Attorney General’s Consumer Protection Division, Hoover Bldg., Des Moines, IA 50319. Call 515-281-9296, or outside Des Moines call toll-free at 888-777-4590. The website is: IowaAttorneyGeneral.gov.

Brooke Chesney is a senior staff attorney in Iowa Legal Aid’s Iowa Regional Office in Des Moines.
Common Issues in Qualifying for Unemployment Benefits

By John Graupmann

The sudden loss of a job can be devastating. The income from the job is gone but bills must still be paid. Unemployment benefits can help you get by until you find a new job. This article answers common questions about qualifying for unemployment benefits.

Where do I apply for unemployment benefits? You may apply at the closest Iowa Workforce Development (IWD) office or online at IowaWorkforce.org.

I did not work very long for my employer. Can I still get unemployment benefits? You might qualify for benefits. IWD will look at your wages from your last job and your prior jobs to see if you qualify.

Can I get unemployment benefits if I quit my job? Most of the time, you cannot get unemployment benefits if you quit your job. But there are exceptions. If you have a good reason for quitting your job, you may be eligible for unemployment benefits.

For example, if your employer made major changes to your job, you may be eligible for benefits. This could include changes in:

• The hours or shifts you work;
• How much you get paid;
• Where you work;
• The type of work you do.

It is also a good reason to quit if your job becomes unsafe. Poor working conditions can be a good reason to quit. Illegal, harmful, or intolerable conditions are examples of poor working conditions.

If you quit instead of exercising a right to bump oroust a fellow employee with less seniority, that can be a good reason.

Being forced to quit for health reasons can be a qualifying reason. Also, quitting to care for an immediate family member with health problems can be a good reason. You must give medical documentation of the health problems to your employer as soon as possible. You should give it before you quit. If you or your family member recovers, you will need to provide your employer with a note from your doctor that you have recovered enough to return to work. If your regular work is not available when you offer to return to work, you may be eligible for benefits.

Many times an employee will be eligible for unemployment benefits even though he or she quit. This article cannot cover all of the situations where you might be eligible for benefits even though you quit your job. If you have any question about whether you still might be eligible for benefits, even though you quit, you should apply for benefits.

I am not sure whether I quit my job or I was fired. Sometimes it is not clear whether you quit your job or you were fired. You should apply for unemployment benefits if you are not sure. Your employer may try to stop you from getting benefits by saying you quit, even if you were actually fired. You then have to show you did not quit your job.

Communicating with your employer can clear up whether you quit or were fired. If you have a confrontation with your employer, you should clearly state to your employer that you are not quitting your job. You should tell your employer you are not leaving unless the employer is firing you or suspending you. Take a witness to the meeting, so that your employer will not later try to claim that you quit and were not fired. Before leaving, you could request that the employer put in writing that you are being fired rather than quitting.

Keep in mind that often employees and employers argue when a job ends. If your employer calls security or the police, cooperate fully. However, make it clear in the presence of security and the police that you are leaving because you are being fired—not because you are quitting. If your employer decides to suspend you rather than fire you, you should report to work when the suspension ends. If the suspension is for a week or more, you should apply for unemployment benefits.

Will I get unemployment benefits if I was fired? Maybe. You will qualify for benefits unless the employer shows that you were fired for misconduct. Misconduct is defined as bad behavior. Misconduct must be deliberate. It can be something you did. It can be something you did not do that you were supposed to do. It must be harmful to the employer. If you were fired for misconduct, you cannot get unemployment benefits.

Many employees are fired for things that are not misconduct. They will get unemployment benefits. Examples of things that are not misconduct include:

• Making an honest mistake;
• Having a good-faith error in judgment; or
• Just not being very good at the job.

In general, these situations are not misconduct and you can get unemployment benefits. Also, you cannot be denied unemployment benefits if your employer waits a long time after your bad behavior before you are fired for it. Many people are fired and get unemployment benefits. This means you should still apply for unemployment benefits even if you are fired.

Do I have to keep looking for work? To receive benefits, you must be able and available for work. You must also make a minimum of two job contacts each week. The job contacts are required, even if you lost your initial claim. You must meet the job-search requirement while your appeal is pending. If you fail to do this, you may not receive benefits. This work search requirement may be waived by IWD if you are temporarily unemployed and expect to go back to work for your employer within a reasonable period of time.

Job contacts may be made in person, online, by mail, or faxing resumes or applications. Telephone calls alone are not acceptable. The work search must be a reasonable and honest effort to find suitable work. You must be willing to accept a reasonable wage for the job for which you are applying.

Helping low-income Iowans maintain household income is a priority for Iowa Legal Aid. This includes assisting clients who have legal problems with unemployment benefits, including filing appeals.

• 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
  • 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.

John Graupmann is a legal assistant in the HELP Regional Office of Iowa Legal Aid in Davenport.

Apply Online for Help from Iowa Legal Aid

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

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

Telephone intakes: Regular telephone intake hours are Monday through Friday from 9 to 11 am and 1:30 to 3:30 pm, except Thursday afternoons.
How to Hire A Trustworthy Contractor

By Brooke Chesney

A good contractor is the key to a successful home-repair project. In planning for the project, follow these steps to hire a trustworthy contractor:

Check references:
• Before you sign a contract or pay any money, ask people you know and trust who they have hired for their projects and whether they were satisfied.
• Request local references from the contractor and contact them.
• Check on complaints with the Attorney General’s Office (888-777-4390).
• Check the Better Business Bureau’s complaint database at bbb.org.
• Check to see if a contractor has been sued or filed a lawsuit - IowaCourts.state.ia.us.
• Check on a contractor’s registration and bonding, go to: IowaWorkforce.org/labor.
• Talk to the contractor for more than a few minutes.
• Ask for a copy of the contractor’s liability insurance certificate.
• Be wary of a person or company not listed in the local telephone directory.
• Be wary of contractors who provides only a post office box address and not a street address.

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.

Iowa Legal Aid helps low-income Iowans

Did you know… after calling what looked like a local number for “legal aid” in the phone book, some Iowans got return calls from somewhere in Kentucky?

Don’t be misled…
• Iowa Legal Aid provides FREE legal assistance to those who qualify.
• Iowa Legal Aid helps low-income Iowans with civil legal problems including:
  • Domestic violence
  • Housing
  • Public benefit Programs

The intake number for Iowa Legal Aid is 800-532-1275 (se habla espanol)

Iowans age 60 and over, call Iowa Legal Aid’s Legal Hotline for Older Iowans at 800-992-8161

Visit us online at IowaLegalAid.org

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