

Medicaid Managed Care Appeals: How to Appeal Even if You Don't Get a Written Notice

By Elizabeth Norris

If you have Medicaid managed care (IA Health Link), then you are enrolled with a managed care organization or MCO. Iowa's three MCOs are Amerigroup, Amerihealth Caritas Iowa and UnitedHealthcare.

You may receive a lot more paperwork from the MCOs about payment for your medical care than you did from the Iowa Department of Human Services. You probably receive notices that your MCO is paying for a doctor visit, medication or medical equipment. Sometimes you might get a notice that the MCO is not going to pay for a submitted expense. Those notices should contain information about how to appeal if you disagree with the decision not to pay.

How do I file an appeal?

Each MCO has information on its website about how to file an appeal. The member handbook provided to you should also include this information.

You must file appeals within the specified appeal period. You have 30 to 90 days from the Notice of Action to file the appeal, depending on your MCO. The MCO will review the appeal and make a written decision. Information for each company's appeal process appears in the box below.



What if my MCO doesn't send me a notice?

You should receive notices if the MCO does not pay for a service, or for delays in payment. If the MCO does one of the following things, then you can appeal even if you did not get a notice:

- denies or limits a service you asked for, including the type or level of service.
- reduces, suspends, or terminates an approved service
- does not pay for some or all of a service
- fails to provide service timely, as defined by DHS.
- fails to do certain things within the time required by federal law.
- denies your request to get services outside the MCO's network if you live in a rural area that has only one provider of a needed service

If your MCO refuses to allow you to appeal, you can contact a state ombudsman. For long-term care issues, you can contact the Managed Care Ombudsman's office at 866-236-1430. For other medical issues, you can contact the Iowa Ombudsman's Office at 888-426-6283.

What if I don't agree with the MCO's appeal decision?

If you do not agree with the MCO's decision, you can ask for a State Fair Hearing. You must request a State Fair Hearing within 90 days of the MCO's decision. At a State Fair Hearing, an administrative law judge makes a decision after a hearing. You can request a State Fair Hearing in four ways:

- going in person to your local DHS office;
- telephone (DHS Appeals at 515-281-3094);
- online at dhs.iowa.gov/node/966; or
- Mailing, e-mailing or faxing a letter to: Department of Human Services, Appeals Section, 1305 E. Walnut Street, 5th Floor, Des Moines, IA 50319; FAX 515-564-4044; E-mail: appeals@dhs.state.ia.us.

If you want help with your MCO or State Fair Hearing, you may qualify for free legal help

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

OR

- apply online at IowaLegalAid.org
- If Iowa Legal Aid cannot help, you can 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.

Elizabeth Norris is a senior staff attorney in Iowa Legal Aid's Iowa City Regional Office.

COMPANY	WHEN DO I FILE?	WHEN WILL THEY ANSWER?	HOW DO I APPEAL?
Amerihealth Caritas	Within 30 days of the date of the Notice of Action	Within 30 days of receiving your appeal	Call Member Services at 855-332-2440 (TTY: 844-214-2471), and follow-up with a letter. You can call 24 hours a day 7 days a week; or You can also send an appeal letter to: AmeriHealth Caritas, ATTN: Member Appeals, P.O. Box 7128, London, KY 40742
UnitedHealthcare	Within 30 days of the date of the Notice of Action	Within 30 days of receiving your appeal	Call 800-464-9484, TTY: 711; or Mail the appeal form to: Grievance and Appeals, P.O. Box 31364, Salt Lake City, UT 84131-0364
Amerigroup	Within 90 days of the date of the Notice of Action	Within 45 days of receiving your appeal	Call at 800-600-4441 (TTY 711) or 515-327-7012 (TTY 711). If you appeal on the phone, you must follow up with a written appeal within 10 calendar days of when you call; or Send an appeal in writing to: Grievances and Appeals Department, Amerigroup Iowa, Inc., 4800 Westown Parkway, Ste. 200, West Des Moines, IA 50266

Iowa Legal Aid's Youth Link Projects: Collaborative Partnerships Serving Iowa's At-Risk Youth and Families

By Lee Heithoff

Partnerships are an important part of Iowa Legal Aid's mission to provide high-quality legal help to low-income Iowans. Iowa Legal Aid works with other organizations that share a commitment to improving the lives of low-income and other vulnerable Iowans. Doing so creates innovative partnerships. These partnerships result in higher-quality legal help to diverse groups across the state.

As part of these partnerships, staff in all 10 Iowa Legal Aid regional offices participate in a variety of community activities. Examples include United Way community impact efforts, Continuums of Care for homeless populations, domestic-violence coalitions, and nonprofit advisory councils. Iowa Legal Aid's goal is to be recognized as one of the anchor nonprofit programs in the State of Iowa. One good example of these partnerships is Iowa Legal Aid's Youth Link projects.

We all remember bad decisions that we made when we were young. Maybe it was someone we dated. Maybe it was a big purchase that we save up for forever, only to watch the purchase go terribly wrong. Maybe it was over-using that first credit card and realizing you had no way to make the monthly payments. Fortunately, many of us had family members to whom we could turn to help when faced with these situations.

Many young people in Iowa do not have these family support networks. This lack of backing is especially evident among young people who have spent time in Iowa's foster care system. When bad decisions lead to legal problems, there is often no family support to provide help. As a result, for many of these young adults, one bad decision can spiral into a series of tragic consequences. For example, a car that breaks down shortly after it is purchased can lead to costly repairs. The repair bill can ultimately impact a young person's ability to afford other necessities, such as food, rent, and health care. Too often, the result is a young person becoming homeless. Studies have shown that within 18 months after becoming an adult and leaving foster care, 40 to 50 percent of young people end up homeless.

To address this problem, Iowa Legal Aid started its Youth Link projects. The projects focus on serving at-risk youth. This program targets young people who are preparing to leave or have already left the foster care system. Youth Link projects provide young people and their families with the knowledge to navigate legal obstacles they will face as adults. The program addresses many different topics. For example:

- understanding a tenant's rights and responsibilities when dealing with landlords;
- knowing the legal effects of signing contracts; and
- recognizing the signs of a healthy and stable relationship, and how to use the law to protect against domestic abuse.

Through education and legal representation, Youth Link projects reach out to young people in the communities where they live. These programs empower them



with the knowledge and confidence to make positive choices that will lead to safe, stable and productive futures. However, young people do not seek out attorneys on their own. That is why Youth Link projects need community partners to be successful. These partners, who serve at-risk youth and families, guide young people to legal help.

Iowa Legal Aid currently operates three Youth Link projects based in Council Bluffs, Iowa City and Des Moines. Each of the projects relies heavily on relationships with agencies that serve young people and their families. The Iowa Department of Human Services is one of Iowa Legal Aid's primary partners. Other key partners include local agencies with programs for young people who have aged out of foster care. These include Achieving Maximum Potential (AMP) and the Youth Policy Institute. Iowa Legal Aid staff work closely with each agency to educate partners about who the projects can serve and the types of legal services offered. Through these partnerships, Iowa Legal Aid also sets up referral systems for young people who need legal help.

Through these Youth Link projects, Iowa Legal Aid has made extensive partnerships with many other agencies serving at-risk youth. This network includes community school districts, where Iowa Legal Aid works with school staff to provide a variety of legal services for young people. These services range from classroom presentations to legal seminars and mock trials. Youth Link partnerships also include community youth homeless shelters and domestic violence shelters, such as Youth Emergency Services and the Phoenix House Domestic Violence Shelter in Council Bluffs. In Des Moines, Youth Link has reached out to agencies that help members of Iowa's immigrant and refugee communities.

With help from agencies including the Visiting Nurse Services of Iowa and Ethnic Minorities of Burma Advocacy and Resource Center (EMBARC), Iowa Legal Aid provides legal education and representation to individuals and families from a diverse variety of ethnic and cultural backgrounds.

Iowa Legal Aid believes partnerships strengthen Iowa's vulnerable youth. Thanks in part to Iowa Legal Aid's Youth Link projects, Iowa Legal Aid continues to move closer to its goal of being one of Iowa's anchor nonprofits.

Lee Heithoff is a deputy director in Iowa Legal Aid's Central Administrative Office in Des Moines.

The *Equal Justice Journal* is published four times a year by Iowa Legal Aid. The *Equal Justice Journal* is free to low-income people in all counties of Iowa. All others must pay a \$10 annual subscription fee. The EJJ is available in a larger print edition upon request.

All correspondence should be sent to:

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



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

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

PUBLIC NOTICE

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

The next meeting of the Board of Directors is scheduled to take place on Saturday, August 19, in Des Moines. For details on the next meeting of the Board, call toll-free: 800-532-1275, and ask for Arlys.

Free Help with Tax Questions and Problems

- Find out about tax credits like the Earned Income Credit
- Get Help with Problems with the IRS

Call Iowa Legal Aid for details about the Low-Income Taxpayer Clinic.

800-532-1275

Or visit Iowa Legal Aid's website: IowaLegalAid.org

The LIITC does not generally provide tax preparation.

Iowa Legal Aid Honors Award Recipients

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

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

The Outstanding Client Service Award honors individuals whose courage and strength of character epitomize the standards to which Iowa Legal Aid aspires.

This year's award recipients were recognized at the Annual Meeting and Awards Luncheon of Iowa Legal Aid's Board of Directors held on May 6.

Excellence in Service Awards



Scott Hartsook, left, managing Attorney of Iowa Legal Aid's Legal Hotline for Older Iowans, with Margaret Vernon, center, and Virginia Rowen, representatives of Iowa Friend of Legal Services receiving an Excellence in Service Award.



Jean Allsteadt, left, Excellence in Service Award recipient, and Kara Smith, placement coordinator with Iowa Legal Aid's Volunteer Lawyers Project.



Michelle Jungers, left, managing attorney of Iowa Legal Aid's Waterloo Regional Office, with Excellence in Service Award recipient David Mansheim, emeritus attorney.



Carrie O'Connor, left, managing attorney of Iowa Legal Aid's Northeast Iowa Regional Office, and Casie Trimble, Outstanding Client Service Award recipient.



Shelley Whitcher, left, managing attorney of Iowa Legal Aid's Southwest Iowa Regional Office, and Julia Davis, Outstanding Client Service Award recipient.

Outstanding Client Service Awards

New Savings & Investment Program for People With Disabilities

By Fred Nelson

There is a new opportunity for a savings and investment account for people with disabilities. If set up properly, this account—known as ABL—will not affect federal benefits such as SSI and Medicaid. To be eligible, you must have a qualifying disability that started before age 26.

ABLE stands for Achieving a Better Life Experience. The federal ABL Act was passed in December 2014 and allows individual states to set up ABL account programs. In 2015, Iowa passed a law creating ABL savings plan trusts. The Iowa State treasurer runs the IABLE program.

Who is eligible for setting up the IABLE savings account?

- A person receiving Social Security Disability or SSI for blindness or disability that began before age 26.
- A person who has disability certification of physical or mental impairment or blindness that began before age 26.

An ABL account holder can be any age, but their disability or blindness must have started before age 26. Sometimes another person can set up the account for the person with a disability. This could be a parent for a minor child, a guardian, or a conservator. A person is allowed only one IABLE account.

Why set up an IABLE account?

The account allows long-term protected savings for future qualified expenses related to your disability. For people on SSI or Medicaid, this also means the possibility of saving money over the required resource limits without the risk of losing SSI or Medicaid benefits.

What is a “qualified expense”? How can the money in the account be used?

A qualified expense is any expense related to your blindness or disability that benefits you. This includes expenses for:

- education
- housing
- transportation
- employment training and support
- assistive technology and personal support services
- health
- prevention and wellness
- financial management
- legal fees
- oversight and monitoring
- funeral and burial expenses
- and other approved expenses related to your disability

Who puts money into the account?

Anyone can put money into the account, including the account holder with disability.

Contributors to the account may be family members or others. A total of \$14,000 limit from all sources can be put into the account each year. The account can have up to \$100,000 before it would affect a person’s SSI eligibility. With a maximum \$14,000 in annual contributions, it would take many years to build an account to this limit.

Are there tax benefits to setting up the account?

- Withdrawals from the account are not counted as income if used for qualified disability expenses. They are tax-free.
- You don’t have to pay taxes on investment earnings while they are in the account. These earnings are also not counted as income if used for qualified disability expenses when withdrawn from the account.
- Contributions to the IABLE account can be deducted from the contributor’s gross income on Iowa tax returns. The allowed maximum deduction for 2017 is \$3,239.

IABLE withdrawals not used for qualified disability expenses would be counted as income for tax purposes and can result in a penalty. Also, these withdrawals counted as income can affect other benefit programs such as Medicaid or SSI. For this reason, you have to be careful how you spend the funds in an IABLE account.

How is the money in my account invested?

Under the IABLE program, you may choose from six investment options and a checking option. Find more information on investment options at iable.gov.

The office of the Treasurer of the State of Iowa administers the IABLE program and accounts. For more information about the program and how to start an IABLE account, call 888-609-8910 or go to the IABLE website at iable.gov.

Fred Nelson is a staff attorney with Iowa Legal Aid’s Legal Hotline for Older Iowans.

IOWA’S TRAINING EXTENSION BENEFITS

By John Graupmann

The types of jobs in the workplace have changed dramatically over the years. Technology changed the job market. For example, as more information is computerized, there is less need for shipping and receiving clerks. As people choose other ways to send messages, fewer mail carriers are needed. These workers have jobs that are in decline, as determined by Iowa Workforce Development. Losing a job in decline can make it difficult to find work unless the worker learns new skills.

Iowa’s Training Extension Benefits (TEB) program helps unemployed Iowans who have jobs in decline afford to get training for new jobs. Usually, unemployment benefits end after 26 weeks. In Iowa, the TEB program can extend benefits beyond 26 weeks for those learning new job skills. Workers in training need the benefits to continue until they finish their training and find a new job.

Bottom line: Those who are retraining should apply for the TEB program. This program can provide up to 26 additional weeks of unemployment benefits.

The TEB program pays benefits to a person who:

1. Lost full-time employment from a job considered in decline, and
2. Gets training for a new job that is in high demand, receives his/her GED, or other approved job-training, and
3. Attends classes on at least a half-time schedule.

Some jobs are considered in decline in only part of Iowa. For example, secretaries are in decline in three of the Iowa’s 16 regions. You will find the complete list of jobs in decline at: iowaworkforcedevelopment.gov/declining-occupations-region-2010-2020.

A person with a job in decline who is on unemployment benefits should begin retraining right away. Retraining could mean special classes or attending school for a degree or certificate. For example, you can receive TEB if you are training for a job in high demand. A job in high demand is one that has many job openings but few qualified workers. Some examples of those jobs include semi-truck drivers, auto mechanics, cooks, childcare workers, insurance agents, nursing aides, and social workers.

If you have not graduated from high school, you may also get TEB to attend GED classes. There are some other job training programs available as well. Iowa Workforce Development keeps a list of these other programs.

TEB can help some Iowans making the difficult change to a new job situation. Find more information and an application for TEB at your nearest Iowa Workforce Development Office or iowaworkforcedevelopment.gov.

John Graupmann is a paralegal in the HELP Regional Office of Iowa Legal Aid.

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 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.

Hope for the Best, Prepare for the Worst: Getting Ready for Natural Disasters

By Lisa Gavin



Warm summer weather is finally here. In Iowa, that means finally being able to spend time outdoors. It also means the start of disaster season. The warm weather can bring severe weather, tornadoes, heavy rain, and flooding. Often these disasters happen without much warning. Now is a good time to think about disasters and what you can do to be ready for them.

1. Look at your insurance coverage. What insurance policies do you have? If you are a homeowner and a storm damages your home, will your insurance policy repair or replace your house? Will insurance replace your damaged personal property? If you are a renter, do you have insurance to replace your personal property?

2. For both homeowners and renters, do you live in a flood plain? Do you need flood insurance? Remember, most insurance policies will not cover damage caused by a flood unless you have separate flood insurance.

This summer may be a good time to talk with your insurance agent and give yourself an insurance checkup.

3. Locate your important documents and other valuables. Do you know where your important paperwork is? What about photos and other sentimental items? Could you grab them in a hurry? It can be expensive and time-consuming to replace important documents. It is a good idea to keep important paperwork (birth certificates, Social Security cards, immigration documents, bank statements, insurance policies, leases, mortgage documents) in one place so you can grab and go in an emergency. It is also a good idea to keep photos and other irreplaceable documents in one place so you can grab and go in an emergency.

4. Create an evacuation and communication plan. Where will you go in a disaster? Where will you stay if you cannot live in your home? What do you need to bring with you? How will you let family members know

you are safe? Where will you meet family members? Now is the time to think about where you will go in a disaster. Make plans about where you will stay, what you will bring with you (clothes, important papers, medications, personal items), and how you will communicate with family members. Make sure all family members know the plan. Practice ahead of time.

Iowa Legal Aid created a mobile app to help you prepare for disasters. Download the free mobile app from the iTunes store or Google Play. Just search for "Iowa Legal Aid." The app helps you to create a disaster kit, communication plans and evacuation plans before disaster strikes. You'll find more information on the disaster relief page at IowaLegalAid.org.

Now that you have a disaster plan, go out and enjoy the warm Iowa weather!

Lisa Gavin is a staff attorney in Iowa Legal Aid's Cedar Rapids Regional Office.

Iowa Legal Aid: 40 Years of Advocating for Low-income Consumers

By Mike Tulis

Over the last four decades, Iowa Legal Aid has helped protect the rights of thousands of Iowa consumers. In fact, about 15% of Iowa Legal Aid's cases have involved consumer issues. Some of these cases have changed the law and provided for stronger protections for all consumers in Iowa.

For example, before a creditor can take your income or property to pay a debt, they must first get a judgment against you in a court of law. Iowa Legal Aid has successfully defended the rights of Iowans to fair hearings in lawsuits to collect debts. In the 1990 case of *Zimmerman*, the Iowa Supreme Court ruled that a creditor has to tell the debtor certain basic information about how the amount of money owed was calculated.

After a judge rules that someone owes a debt, a creditor can then try to take the debtor's income or property to pay that debt. Iowa Legal Aid has also defended the rights of debtors to protect their income and assets in these matters. Three cases in the late 1980s,

Kobliska, Burr, and Medina, resulted in rules requiring notice that debtors could keep some of the property and income needed to survive. In the *Cooks* case, Iowa Legal Aid successfully argued that low-income self-employed people can protect the same amount of their earnings as employees who work for someone else. In the *James* case, the Iowa Supreme Court ruled that a creditor cannot get a lien on property that is protected from garnishment.

More recently, in the case of *Hatch*, Iowa Legal Aid helped defend the federal Additional Child Tax Credit as unavailable for garnishment. Iowa Legal Aid has also created forms that debtors can file in cases where there is a judgment against them. These documents, called "affidavits of exemption," let creditors and the court know that there is no income or property available for garnishment. These forms are now in use throughout Iowa.

A debt owed to the government is a complicated issue that affects many low-income people. However, debtors who owe the government have many of the same rights as debtors who owe private parties. In the 1999 case of *Smith-Porter*, Iowa Legal Aid successfully argued that the same protections for property and income applied to collection actions by the state of Iowa. More recently, a settlement in the 2014 case of *Flowers* led to positive changes in how parents were charged attorney fees in juvenile cases. Before, attorney fees were often charged without courts first figuring out if the parent had the ability to pay. After the *Flowers* case, many counties changed their procedures and made it easier to reduce these fees.

Access to heat, water and electricity is a vital issue for low-income Iowans, especially in the long, cold Iowa winters. Iowa Legal Aid has advocated for low-income utility

consumers for decades, helping to secure many important rights. For example, after the 1984 Iowa Utility Board case of *Lorenzen*, utility companies can only deny someone utility service for a certain period if they owe back utility debt. Iowa Legal Aid has also been at least partially responsible for securing the right to a payment plan before disconnection and in some cases two payment plans. Finally, Iowa Legal Aid successfully advocated for a "good Samaritan" rule. This rule allows utilities to be set up in a responsible third-party's name to avoid disconnection.

In 2008, the foreclosure crisis hit Iowa. Many Iowa homeowners were facing the loss of their homes to foreclosure. Iowa Legal Aid set up the Foreclosure Defense Project to help homeowners to understand their rights and help save their homes. From May 2008 through 2016, Iowa Legal Aid opened more than 10,400 foreclosure cases that helped over 31,400 persons. Iowa Legal Aid attorneys provided key legal assistance including legal advice, preparing court and other legal forms, negotiating, and representing homeowners in court. In over 6,800 cases, Iowa Legal Aid helped homeowners in foreclosure lawsuits that saved homes or delayed foreclosure. In all foreclosure cases closed during this time, Iowa Legal Aid helped homeowners save more than \$34.6 million in mortgage payments and fees and costs.

As these examples show, Iowa Legal Aid has worked hard to protect consumers' rights in Iowa for 40 years. As new challenges arise, Iowa Legal Aid will continue to fight for the rights of low-income consumers in the decades to come.

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

Discharging Student Loans in Bankruptcy

By Nancy Thompson

The high cost of a college education forces many Iowans to take out student loans. There are two basic kinds of student loans – federal and private. Both offer some flexibility in repayment. For example, federal loans offer payments based on a percent of your income. Private loans have fewer repayment protections, but can sometimes be obtained at lower interest rates than those available on federal loans.

Even with flexible repayment options and favorable interest rates, the number of borrowers defaulting on student loans is high. The consequences of default are also substantial. Default on a federal student loan can lead to garnishment of wages without the involvement of a court. It can also result in an offset of tax refunds and government benefits like Social Security. Default on private student loans can also lead to wage garnishment.

Most debts can be discharged in bankruptcy, meaning that they are no longer owed. However, student loans have a special status that makes discharging them difficult. Bankruptcy can discharge some student loans in bankruptcy. Below is a description of what types of loans and in which situations it might be possible to discharge student loans in bankruptcy. Remember

that these cases need to be brought before a bankruptcy judge who might view the law differently. There is never a guarantee of discharge. The following types of cases present at least the possibility of discharge, however.

1. **A private student loan to attend to school that isn't an eligible education institution.** Private student loans used to attend a school that is not an eligible education institution may be dischargeable in bankruptcy. To be eligible for discharge, the school must be allowed to participate in federal financial aid programs. Most schools and colleges are eligible institutions, but some aren't. For example, some unaccredited trade schools, flight schools and diploma mills do not qualify. A diploma mill is a type of scam where a school charges you for a diploma or similar certificate but doesn't provide any educational material. If a private student loan was obtained to attend these kinds of schools, the loan should be dischargeable in bankruptcy.

2. **Private and federal loans to students who aren't eligible students.** If the student has not earned a high school diploma or GED, the school must give the student an approved ability to benefit test. The student must also pass that test. This test determines whether the student knows enough in areas like reading and math to benefit from attending college. If the student did not pass a test like this before enrollment and didn't have a high school diploma or GED, he/she should be able to discharge the loan.

3. **Private student loans obtained for expenses or services beyond the cost of attending school.** Only the portion of the loan payment for school expenses is not dischargeable. If a private student loan is awarded for the purpose of paying for other

things, like payment of credit-card debt, it should be dischargeable in bankruptcy.

4. **Private student loans for co-signers when the debtor is not the co-signer's spouse or dependent.** Private student loan lenders frequently require a co-signer. However, if the debtor is not the co-signer's spouse or dependent, the co-signer can discharge the debt in bankruptcy.

5. **Debts owed directly to schools for tuition. Debts owed directly to a school for something other than the receipt of loan funds, grants or scholarships should be dischargeable.** For example, tuition, book or room and board fees owed a college should be dischargeable.

6. **Student loans where repayment will cause an undue hardship on a debtor or the debtor's dependents.** No exception to discharge has resulted in more litigation than this one. This exception relies heavily on the special facts present in each debtor's case. In Iowa, the bankruptcy courts look at all the circumstances of the debtor's situation. The court attempts to determine whether payment of the student loans would create an undue hardship. Many factors play a role in determining whether the student loans cause an undue hardship. These include the debtor's health, age, current and future income, expenses, the amount of student debt, health and age of a debtor's dependents.

Although discharging student loans in bankruptcy isn't easy or often done, in some circumstances the discharge should be clearly available to a debtor. There are also often other things that can be done to make the situation better even if bankruptcy is not an option. If you have one of the loans or situations mentioned above, contact Iowa Legal Aid to see if we can help.

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

OR

- apply online at IowaLegalAid.org
- If Iowa Legal Aid cannot help, you can 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.

Nancy Thompson is a staff attorney in Iowa Legal Aid's Central Iowa Regional Office.

Debt Collectors continued from Outside Front Cover

It's possible taxpayers with CNC status will have their accounts sent to private debt collectors in error. This may be true even if you have been on CNC status for years.

How do I know whether the call is not a scam?

There are many scams currently targeting unsuspecting taxpayers. These scams often include people pretending to be the IRS. These scammers make all kinds of claims and threats to get people to pay them. Now that private collectors are involved with tax collection, it might be a little harder to tell which calls are scams and which are real. Here are some ways to try to tell the difference.

The IRS will send taxpayers written notice that a private debt collector will receive their account. Private debt collectors are also required to send a written notice before contacting the taxpayer via phone. However, if a taxpayer has not provided the IRS with an updated address, he/she may not actually receive the written notice.

Only four agencies are currently permitted to collect tax debt on behalf of the IRS. These are CBE, based in Iowa; ConServe, based in New York; Performant, based in California, and Pioneer, also based in New York.

Remember that genuine private tax debt collectors will never ask you to pay them directly. IRS payments, made out to the U.S. Treasury, are always paid by check. Private debt collectors should refer taxpayers to the IRS website to make payments.

Also, neither private collection agencies nor the IRS will ever threaten you with arrest over the phone. If someone who is threatening arrest for tax debt calls you, hang up the phone.

What can I do if the collection agency is legitimate and I can't afford to pay?

You may qualify to stop making payments after you receive CNC status. However, private debt collectors have no ability to put taxpayers on CNC status. Private debt collectors are also not required to inform taxpayers of their right to request CNC status. These collectors may encourage you to pay a debt you may not be required to pay. Therefore, taxpayers who have a financial hardship should contact the IRS to request CNC status before they agree to pay.

Also, federal consumer protection law applies to tax debt sent to private debt collectors. These protections prohibit a private debt collector from harassment, lying or making misleading statements, or using other unfair practices.

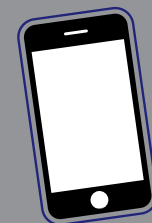
Iowa Legal Aid's website has more information about debt collection rights. You may also be able to talk to an attorney at Iowa Legal Aid about these issues.

- Iowa Legal Aid provides help to low-income Iowans.
- To apply for help from Iowa Legal Aid:
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 - 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.

Jason Burdick is a staff attorney at the Central Iowa Regional Office of Iowa Legal Aid.



FREE
Legal Help

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

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

An Iowa Legal Aid Project

Rent Reimbursement

By *Andrea Buckley*

Are you disabled or over 65? Have you ever claimed the rent reimbursement credit? If you have claimed the credit in the past, you should know about some changes in procedures.

The Iowa Department of Revenue manages a rent reimbursement program to help elderly and disabled Iowans. If you are eligible, you can get a payment even if you don't have to file for taxes. To be eligible, you must:

- have a household income less than \$22,584 in 2016;
- be at least 65 years old OR at least 18 years old and have a disability in 2016;
- pay rent for the place you live.

The property owner must pay property taxes for a tenant to claim the credit. Some property owners do not pay property taxes, and the property would not be eligible. Some examples are nonprofit landlords, churches, schools or counties. Ask your county treasurer if you are not sure whether your landlord pays property taxes.

The Iowa Legislature has changed the review process. In the past, if the Department

of Revenue decided that you were not eligible, it would send you a letter denying your claim. If the department decided the amount you were paid was incorrect, it sent a letter with a different amount. There was no clear way to appeal that decision. After July 1, 2016, however, the department provides you the right to have the decision reviewed.

If you receive a letter from the department denying or changing the amount of your claim, you have the right to appeal. You must file your appeal within 30 days of the date of the department's notice. If you appeal, the department will schedule a hearing. This hearing will allow you to declare why you disagree with the department's changes. The hearing decision will be mailed to you. If you disagree with the hearing decision, you may appeal to district court.

The Department of Revenue can only look at the last three years of claims. The three years start from October 31 in the year the claim was made. For example, if you made a claim in 2017 for rent paid in 2016, the Department cannot change or deny your claim after October 31, 2020.

Challenging this type of decision can sometimes be complicated. If you receive a notice from the Department of Revenue that your rent reimbursement claim is changed or denied, you can ask Iowa Legal Aid for help. Remember, you only have 30 days to appeal the Department's decision. Don't wait to contact an attorney if you need help.

- Iowa Legal Aid provides help to low-income Iowans.
- To apply for help from Iowa Legal Aid:
 - call 800-532-1275
 - Iowans age 60 and over, call 800-992-8161
- OR
- apply online at IowaLegalAid.org
- If Iowa Legal Aid cannot help, you can 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.

Andrea Buckley is a staff attorney in Iowa Legal Aid's Northwest Iowa Regional Office in Sioux City.

NEW LAWS ON DAMAGES AND SECURITY DEPOSITS IN LANDLORD-TENANT CASES

By *David Loetz*

In 2016, the Iowa Supreme Court made some important decisions on landlord-tenant cases. These decisions affect laws on damage to apartments and security deposits.

Can a landlord automatically deduct a carpet-cleaning fee from a tenant's security deposit?

No. A landlord may not automatically take out a carpet-cleaning fee from a security deposit. Only damages to the apartment beyond normal wear and tear can be deducted from a tenant's security deposit. A term in a lease that allows a landlord to take an automatic fee out of a security deposit is illegal.

Can a landlord be penalized for putting an illegal lease term in a lease?

Yes. A tenant can take legal action if the landlord puts illegal terms in a lease. The landlord can face penalties even if the landlord does not try to enforce the illegal lease term. The penalty for knowingly including an illegal term in a lease can include actual damages, up to three months of rent, and attorney's fees.

Does that mean that landlords cannot charge carpet-cleaning fees?

No. The Iowa Supreme Court has not ruled that carpet-cleaning fees are illegal. However, the carpet-cleaning fees cannot be deducted from your security deposit if there were no damages to the carpet beyond normal wear and tear. The landlord can deduct damages beyond normal wear and tear from a security deposit.

My lease says that the landlord will automatically deduct a carpet-cleaning fee from my security deposit. Does that mean that I can get damages?

Maybe. The landlord must actually know that the lease term is illegal for a tenant to

get damages; this can be difficult to prove. For example, a landlord can say he or she did not know that automatic carpet-cleaning fees could not be deducted from security deposits. The tenant would have to prove that the landlord knew when writing the lease that the term was illegal. Just pointing to the illegal lease term by itself is not enough. It will be difficult to win damages without additional, specific proof that the landlord actually knew that a particular lease term was illegal.

What happens if the landlord keeps amounts from my security deposit that is not owed?

If a landlord wrongfully keeps your security deposit, you can sue the landlord. In addition to the return of your deposit, a court can grant up to two months of rent and actual damages for wrongfully keeping a security deposit. A tenant must show that the landlord acted dishonestly to get damages.

Can a landlord charge me for repairs to my rental unit while I'm still living there?

A landlord cannot force a tenant to pay for repairs. The landlord has a duty to make needed repairs and keep the rental in good condition. However, tenants can be billed for repairs if they or their guests do something deliberately or negligently that causes damage.

If you have questions about a landlord keeping your security deposit or receive a bill from your landlord you disagree with, call Iowa Legal Aid to find out more about your rights and responsibilities.

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David Loetz is a senior staff attorney in the Southeast Iowa Regional Office.

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.

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

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EQUAL JUSTICE JOURNAL

Visit us on the Web at IowaLegalAid.org



What To Do If You Get a Call
from Someone Saying They Are
Collecting For the IRS

Debt Collectors and the IRS

By *Jason Burdick*

In 2015, Congress required the IRS to use private debt collectors to collect certain tax debts. The IRS only began sending accounts to private debt collectors on April 17. If you owe a tax debt, you may be contacted by a private collection agency. This article gives some pointers as to how to deal with genuine debt collectors. It also provides advice about how to tell if a call might actually be a scam.

When can the IRS send my tax debt to a private collection agency?

A private collection agency receives only specific cases. A private debt collector will not receive information about a taxpayer with a current installment payment plan. Taxpayers with a pending offer in compromise also will not be sent to a collection agency. (An offer in compromise is a formal offer to the IRS to settle the tax debt.)

Persons in other situations may have their debts sent to private debt collectors. Applying for Currently Not Collectible (CNC) status is one option for low-income people. If collecting the debt would leave the taxpayer unable to pay basic expenses, the taxpayer can receive CNC status. For example, someone whose only income is Supplemental Security Income (SSI) almost always qualifies for CNC status.

Continued on Page 6

Iowa Legal Aid is a nonprofit organization providing free legal help to low-income lowans, receiving financial support 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.



Iowa Legal Aid helps low-income lowans

Did you know...after calling what looked like a local number for "legal aid" in the phone book, some lowans 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 lowans with civil legal problems including:
 - Domestic violence
 - Housing
 - Public benefit programs

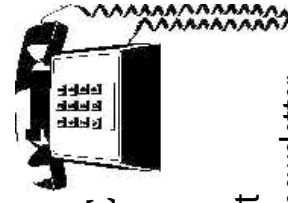
The intake number for Iowa Legal Aid is

800-532-1275 (se habla español)

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

800-992-8161

Visit us online at IowaLegalAid.org



LOW-INCOME READERS OF THE EQUAL JUSTICE JOURNAL

If you have a question about something you read in this newsletter, call **THE EJJ HOTLINE** at 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.