

Congress of the United States  
Washington, DC 20515

June 8, 2020

The Honorable Mark Parkinson, J.D.  
President and Chief Executive Officer  
American Health Care Association  
1201 L Street, NW  
Washington, DC 20005

Re: Inappropriate seizure of economic impact payments and use of Provider Relief Fund disbursements to nursing homes

Dear Mr. Parkinson:

We write to express concern regarding reports of some nursing homes and assisted living facilities requiring their residents on Medicaid to sign over their economic impact payments (EIPs) to the facilities.<sup>1</sup> This is not consistent with the statutory treatment of EIPs as provided in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. EIPs are advanced tax credits and cannot be counted as “income” or “resources” for the purpose of federal benefit programs, such as Medicaid. By law, the only reason an EIP may be offset is for past-due child support owed to a state agency or custodial parent. As the trade organization representing America’s long-term care facilities, the American Health Care Association (AHCA) has an important role to play in ensuring facilities understand and are complying with the law. We are sure you share our goal of ensuring that facilities do not inappropriately require their residents to wrongly sign over their EIPs.

Last month, the Federal Trade Commission (FTC) issued an alert to consumers about this problematic practice, stating, “We’ve been hearing that some facilities are trying to take the stimulus payments intended for their residents on Medicaid. Then they’re requiring those people to sign over those funds to the facility. Why? Well, they’re claiming that, because the person is on Medicaid, the facility gets to keep the stimulus payment.”<sup>2</sup> The FTC alert further stated that, “nursing homes and assisted living facilities can’t take that money from their residents just because they’re on Medicaid.”<sup>3</sup>

Furthermore, we have received reports that this lack of clarity around the status of EIPs has resulted in some confusion among representative payees of Social Security and Supplemental

---

<sup>1</sup> <https://www.forbes.com/sites/kellyphillipsrb/2020/05/15/nursing-homes--assisted-living-facilities-are-not-entitled-to-your-stimulus-check/#103eb372669b>

<sup>2</sup> <https://www.consumer.ftc.gov/blog/2020/05/did-nursing-home-or-assisted-living-facility-take-your-stimulus-check>

<sup>3</sup> *Id.*

Security Income beneficiaries regarding whether EIPs can or should be provided to nursing homes or assisted living facilities who demand payment. Regardless of whether the representative payee or the beneficiary receives an EIP, the nursing home or assisted living facility is *not* entitled to the payment.

As you know, long-term care facilities have been the epicenter of the COVID-19 pandemic, representing an estimated one-third of COVID-19 deaths nationwide and more than one-half of deaths in some states, including Massachusetts and New Jersey.<sup>4</sup> It is crucial that this vulnerable population group continue to have the certainty that comes with these EIPs and are not coerced into wrongly handing over their checks for fear of being kicked out of their homes. *Therefore, we ask that AHCA provide clear guidance to its members on this matter to ensure EIPs are not inappropriately counted as income or resources and remain the sole possession of the resident.*

Separately, we are concerned that some of the CARES Act Provider Relief Fund payments provided to nursing homes to combat the COVID-19 epidemic are not being reinvested in the front-line nursing home staff members these funds are intended to support. As noted in a May 8, 2020, letter from Chairman Neal to the Centers for Medicare & Medicaid Services (CMS), Congress clearly intended this funding to support staffing and care in facilities (e.g., for staff wages and paid sick leave, additional workforce support testing kits, and personal protective equipment) rather than stock buybacks, dividends and capital disbursements, or increases in executive compensation. While some nursing homes have rightly used the funding to support their front-line staff, others may not be.<sup>5</sup> *As AHCA's President and Chief Executive Officer, we hope that you will work to raise the bar for your members to ensure federal funds are invested in direct support of COVID-19 tracking and patient care.*

Thank you for your expeditious attention to these two important matters. As a follow-up to this request, we ask that you provide our staff with documentation of the clear guidance you issue to your members on these two topics. If you have further questions about this letter or the questions raised, please contact Rachel Dolin with the House Committee on Ways and Means at [rachel.dolin@mail.house.gov](mailto:rachel.dolin@mail.house.gov) and Saha Khaterzai with the House Committee on Energy and Commerce at [saha.khaterzai@mail.house.gov](mailto:saha.khaterzai@mail.house.gov).

Sincerely,



Richard E. Neal  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives



Frank Pallone, Jr.  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives

<sup>4</sup> <https://www.nytimes.com/interactive/2020/05/09/us/coronavirus-cases-nursing-homes-us.html>

<sup>5</sup> <https://www.bloomberg.com/news/articles/2020-06-02/some-nursing-homes-get-virus-aid-but-don-t-pay-infected-workers>