

**Congress of the United States**  
**Washington, DC 20515**

June 8, 2020

The Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Room 445-G, Hubert H. Humphrey Building  
200 Independence Ave., S.W.  
Washington, DC 20201

Re: Seizure of EIPs for residents of nursing homes and assisted living facilities

Dear Administrator Verma:

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.

Accordingly, last month, the Federal Trade Commission (FTC) issued an alert to consumers about this trend, 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 had reports that this lack of clarity around the status of EIPs has resulted in some confusion among representative payees of Social Security and Supplemental 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

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<sup>1</sup> <https://www.forbes.com/sites/kellyphillips/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.*

one-half of deaths in some states, including Massachusetts and New Jersey.<sup>4</sup> It is crucial that this vulnerable population group continues 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. Given the public health and financing implications of this trend, we believe the Centers for Medicare & Medicaid Services (CMS) has a role to play in ensuring consumers and facilities are informed of their rights and obligations, and that facilities comply with the law. Therefore, we request that CMS issue guidance to nursing homes and residents on the status of these checks and their independence from residents' Medicaid status. Such guidance should also condition any receipt of funds by facilities from the Provider Relief Fund on compliance with the CARES Act's protections against EIPs from being offset or seized.

In addition, we ask that you respond to the following questions and produce the requested documents by June 12, 2020.

1. When did CMS first become aware of any complaints or other issues associated with residents in nursing homes receiving EIPs? Please provide copies of any such complaints or correspondence, as well as any documents that reflect efforts by CMS staff to address this matter.
2. When will CMS issue guidance to ensure that people living in nursing homes receive the full EIP amount to which they are entitled and are not coerced into turning over this payment to the facility?
3. What actions will CMS take with respect to ensuring that nursing homes do not seize EIPs and that nursing homes return to their residents any EIPs they have already seized? How will CMS coordinate any response alongside other federal agencies, including FTC and state Attorneys General?

Thank you for your expeditious attention to this important matter. 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>