

FAQs – Nursing Home Residents and Economic Impact Payments

1. Where does the IRS send the Payment?

If you received direct deposit of your refund based on your 2019 tax return (or 2018 tax return if you haven't filed your 2019 tax return), the IRS sent your Payment to the bank account provided on the most recent tax return.

If you filed your 2019 or 2018 tax return but did not receive your refund by direct deposit, your Payment will be mailed to the address on file even if you also receive Social Security, Railroad Retirement or Veterans Affairs benefits by direct deposit. This is generally the address on your most recent tax return or as updated through the United States Postal Service (USPS). You can check the status of payment at: <https://www.irs.gov/coronavirus/get-my-payment>

2. Does someone who has died qualify for the Payment?

No. A Payment made to someone who died before receipt of the Payment should be returned to the IRS. For Alabama residents, the payment should be returned to the following: Memphis Internal Revenue Service, 5333 Getwell Road, Memphis, Tennessee 38118.

3. How will the IRS send my economic impact payment (EIP) if I have a representative payee?

If you filed a 2019 or 2018 tax return: Your \$1,200 EIP was or will be sent to the bank account provided on your tax return for an electronic tax refund, or mailed to the address provided on your tax return if a tax refund was mailed or if there was no refund.

If you did not file a 2019 or 2018 tax return:

- An *Individual Representative Payee* should begin receiving EIPs on **May 28** to the same direct deposit account or Direct Express card as the recipient's monthly Social Security or SSI payment. The mailing of paper check EIPs to payees will begin May 27.
- For an *Organizational Representative Payee*, the schedule above is the same, except that the payee may receive the EIP electronically or by paper check in the mail.

Typically, check payments to representative payees are clearly designated. For example, "Susan Smith for" on the first line of the check and the second line of the check displays the beneficiary's name. For EIP checks, there may

be instances where the representative payee's name on the first line of the check is truncated, or missing the "for" designation, or the "for" designation could appear twice. These anomalies should not, in and of themselves, prevent financial institutions and check cashers from processing the check.

4. How should a representative payee use a beneficiary's economic impact payment (EIP)?

The EIP belongs to the beneficiary. It is not a Social Security or SSI benefit. A representative payee should discuss the EIP with the beneficiary. If the beneficiary wants to use the EIP independently, the representative payee should provide the EIP to the beneficiary. If the beneficiary asks the representative payee for assistance in using the EIP in a specific manner or saving it, the representative payee can provide that assistance outside the role of a representative payee.

5. What responsibilities does the representative payee have in managing the beneficiary's economic impact payment (EIP)?

Under the Social Security Act, a representative payee is only responsible for managing Social Security or SSI benefits. An EIP is not such a benefit. A representative payee should discuss the EIP with the beneficiary. If the beneficiary wants to use the EIP independently, the representative payee should provide the EIP to the beneficiary. If the beneficiary asks the representative payee for assistance in using the EIP in a specific manner or saving it, the representative payee can provide that assistance outside the role of a representative payee.

6. How should representative payees account for the economic impact payment (EIP) when completing the annual Representative Payee Report (i.e., annual accounting form)?

Because an EIP is not a Social Security or SSI benefit, representative payees are not required to account for the EIP when they complete their annual accounting form.

7. What if a beneficiary alleges a representative payee misused the economic impact payment (EIP)?

Because an EIP is not a Social Security or SSI benefit, SSA does not have authority to investigate or determine whether the EIP has been misused. However, if SSA receives an allegation that the EIP was not used on behalf of the beneficiary, SSA may decide to investigate for possible misuse of the beneficiary's Social Security or SSI benefit payments. SSA may also

determine the representative payee is no longer suitable and appoint a new representative payee. If the resident or someone acting on behalf of the resident believes the EIP has been misused, they may contact the Elder Care Locator network at 1-800-677-1116 for more information about local legal aid offices, state's Protection and Advocacy System and State and Local Long-Term Care Ombudsman Offices

8. Will Stimulus Checks Affect A Resident's Medicaid Eligibility?

No. Under Medicaid rules, **a stimulus payment is not counted as income**. Therefore, receiving a stimulus payment does not change a resident's monthly payment (often called a "patient pay amount" or "share of cost"). The resident pays the same monthly amount to the nursing facility and keeps the stimulus payment for their own use.

In addition, **the stimulus payment does not count as a Medicaid resource for 12 months**. In other words, for the first year, the payment cannot cause you to have "too much" savings. Any stimulus money left over after the 13th month will be counted as a resource.

9. Are There Restrictions on How I Can Spend the Stimulus Money?

In general, a resident can spend the stimulus money as they wish, including gifts and charitable contributions. This is the resident's money to spend for their wants and needs.

10. Will the stimulus payment go to their patient account if their SSA is going to the nursing home?

The federal government will determine where to send or deposit the stimulus check based on tax return information or SSA information. Recipients or sponsors should check bank accounts for direct deposits or notices from the IRS. Nursing homes should inform their recipients or sponsors if stimulus funds are deposited into a patient's account.

11. Are there any circumstances in which a facility might receive a deficiency from the State Survey Agency regarding the EIP?

Seizing residents' stimulus checks could be a violation of federal regulations at 42 CFR §483.12, **Freedom from Abuse, Neglect and Exploitation**. Specifically, this could be considered misappropriation of resident property, which is defined as "*the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident's belongings or money without the resident's consent.*" Further, nursing homes

requiring residents to deposit their stimulus check with the nursing home could be in violation of 42 CFR §483.10 which gives residents have “*the right to manage his or her financial affairs.*” Further, “*The facility must not require residents to deposit their personal funds with the facility. If a resident chooses to deposit personal funds with the facility, upon written authorization of a resident, the facility must act as a fiduciary of the resident's funds and hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility, as specified in this section.*”

12. Who has access to a resident’s EIP?

EIPs belong to the resident and may not be used or transferred by Providers or SSA Representative payee – only the recipient or a legal guardian may access the funds.

13. What can a facility or representative payee do to protect from allegations of coercion?

Protections against coercion must be documented clearly. We recommend a legal document be drawn and signed by beneficiary or legal guardian (not representative payee – or any other staff member of the facility). Facilities may also consider using a virtual witness or a notary to witness the resident’s wishes.

14. Can a Representative Payee Manage the Funds?

Under the Social Security Act, a Representative Payee is only responsible for managing Social Security or SSI benefits, and because EIPs are not a Social Security benefit, the EIP funds are not managed by the Representative Payee. Representative Payee should discuss the EIP with the resident. Residents may want to use the EIP independently (the Representative Payee should provide the EIP to the resident). Representative Payee can provide that assistance outside their role if asked by the resident.

15. What Do We do if the 12 Month Window is a Problem?

After 12 months, an EIP payment could push a resident over asset limits and result in the need to spend down to Medicaid asset limits. An EIP payment likely will not lead to an extended spenddown period but could make regaining Medicaid eligibility difficult. In addition, a SSA-Appointed Representative Payees may not access or move the funds. A recipient or legal guardian may use the funds how the recipient prefers and should track the 12-month window from the date of receipt carefully.

16. May a resident Give their EIP Funds to a Family Member?

If the resident is legally competent, he/she may give the funds to a family member, and Medicaid asset transfer regulations are not triggered.

17. What Should We Do if We Believe EIP Dollars are Being Misused?

Misuse could include manipulation or coercion by 1) Representative Payee; 2) Family Member; 3) Provider; 4) Provider Staff. A resident, family member or legal guardian can contact the Elder Care Locator network at 1-800-677-1116 for more information about local legal aid offices, state's Protection and Advocacy System and State and Local Long-Term Care Ombudsman Offices.

18. How should the facility handle funds in the resident trust account if the recipient passes away after receiving the stimulus check?

These funds would be treated like any other money remaining in the resident's trust account. The funds are only allowed to be released to the following:

- a. The estate of the Medicaid recipient when an Administrator has been appointed by the probate court;
- b. The beneficiary designated on the Administrator of Estate Designation Form; or
- c. The state's Unclaimed Property Division

In Addition to State/Local LTC Ombudsman and Protective Services, Other Resources Include:

Internal Revenue Service: <https://www.irs.gov/newsroom/economic-impact-payments-what-you-need-to-know>

Social Security Administration: <https://www.ssa.gov/coronavirus/#anchorA>

National Center on Elder Law and Rights:

<https://ncler.acl.gov/getattachment/Legal-Training/Economic-Impact-PaymentsFAQ.pdf.aspx?lang=enUS>

[https://ncler.acl.gov/getattachment/Resources/Nursing-Home-Residents-and-Stimulus-Checks-\(1\).pdf.aspx?lang=en-US](https://ncler.acl.gov/getattachment/Resources/Nursing-Home-Residents-and-Stimulus-Checks-(1).pdf.aspx?lang=en-US)