



# Handbook for *Older Iowans*

A Legal Information and Resource Guide  
Produced by the Young Lawyers Division of  
the Iowa State Bar Association

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## PLEASE READ THIS BEFORE USING THIS BOOK

### USE OF THIS BOOK

This book is intended to provide helpful information about the law and resources of special interest to elderly Iowans. Please remember that the information is general, and is not intended to be a substitute for the advice of a lawyer.

When using this book, keep these limitations in mind:

- This is only a general explanation. Small differences in individual circumstances can be very important in resolving legal problems, and the general guidance provided by this book can not take such difference in to account.
- Information about the law becomes quickly outdated. While every effort was made to ensure that the information was accurate when written, the law changes so quickly that by the time you read this, there are bound to be some important changes.
- The focus is on Iowa. This was written with Iowa's elderly in mind. While some of the information may apply to other states, you should assume that other states will have different laws.

IF YOU HAVE A LEGAL PROBLEM, DO NOT ATTEMPT TO SOLVE IT ON THE BASIS OF THE INFORMATION PROVIDED IN THIS BOOK—GET A LAWYER'S ADVICE. THE RESOURCE SECTION IN THE BACK OF THIS BOOK CAN ASSIST YOU IN LOCATING LEGAL HELP.

## PREFACE

Iowa has one of the largest per capita populations of elderly citizens in the United States. It is especially important, therefore, that elderly Iowans have effective access to legal information and to the programs intended to serve them.

The Services to the Elderly Committee of the Young Lawyers Division of the Iowa State Bar Association has devoted its resources to the production of this book in the hope that important information about the law and about programs for the elderly will be placed in the hands of those needing it. Whether you are elderly or someone who provides services to the elderly, you should find this information helpful.

This book is divided into two parts. The first part covers a number of legal topics of special interest to the elderly, providing general legal information on each topic. The second part lists programs and resources which provide important services to Iowa's elderly. Before reading any of this material, be sure to read the introductory page headed "Use of this Book."

The sponsors of the project, listed on the cover, provided funding or other vital support without which this book could not have been developed. In addition, individual attorneys, members of the Services to the Elderly Committee, listed below, have devoted many hours to assembling the information set forth in the following pages:

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NOTE: The resources listed in the back of this book do not represent a complete listing of all resources helpful to elderly lowans. However, effort was made to include the primary services and agencies relating to the subjects covered in this booklet, and by contacting those listed, you may learn of still other helpful services.

Some agencies provide services in more than one of the categories listed below but may be listed in only one category. Note also that the categories themselves may overlap in various ways. Cross-references are often provided, but you should check other categories to get a more complete resource picture.

## AGE DISCRIMINATION IN EMPLOYMENT

Growing numbers of Americans are choosing to remain active members of the workforce beyond the customary retirement age of 65. To protect older or mature workers, Congress and the Iowa Legislature have passed legislation to address age discrimination in the workplace.

The Age Discrimination in Employment Act of 1967 (ADEA) protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. Under the ADEA, it is unlawful to discriminate against a person because of his/her age with respect to any term, condition, or privilege of employment, including, but not limited to, hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on age or for filing an age discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADEA.

The ADEA applies to employers with 20 or more employees. It also applies to employment agencies and to labor organizations, as well as to the federal government. Under current law, States (and political subdivisions thereof), as employers, are immune from employee ADEA claims.

The Iowa Civil Rights Act is much broader; it extends protection against staged discrimination in employment to all persons age 18 and above. The state law applies to the same entities and is somewhat broader in that it applies to private employers of 4 or more persons.

The ADEA does not apply if an age requirement or limit is based on a genuine job requirement or a bona fide seniority system or retirement plan. Additionally, an employer may make appropriate decisions regarding an employee, irrespective of the employee's age, for legitimate business reasons that are unrelated to a person's age.

**FILING A COMPLAINT:** If you feel that you have been discriminated against, a complaint should be filed

with the Iowa Civil Rights Commission and the Equal Employment Opportunity Commission (EEOC), a federal agency. In addition, some of the larger cities in Iowa have established local Human Rights Commissions, which have the authority to receive and investigate discrimination complaints. It is very important to file the complaint within 180 days of the discriminatory act as prescribed by the law. Failure to do so may result in a dismissal of the entire action. It is also often wise to talk to an attorney as soon as possible, to help you with these processes.

The appropriate agency will accept your complaint and process it without charge to you. If the agency does not act promptly, you may file a private suit to remedy the discrimination. Many complaints are resolved through agency mediation and settlement.

Civil suits may be filed, but first an attempt must be made to resolve the dispute by filing a complaint through the Iowa Civil Rights Commission and/or the EEOC. No court action can be taken for 60 days following the official filing of the complaint.

If more information is needed, contact the Iowa Civil Rights Commission, Iowa Department of Elder Affairs, or your local Area Agency on Aging or Human Rights Commission. See the resources listed below and the resource section at the back of this booklet for help in contacting these agencies and for help in locating a lawyer.

**TRAINING:** Moneys have been set aside for the training and retraining of mature workers. Contact your local Iowa Workforce Development Center.

**JOB OPPORTUNITIES:** Continuing employment has been recognized as an important ingredient in keeping older Iowans independent as long as possible, and Congress and the Iowa Legislature have passed a number of laws to protect and preserve job opportunities for senior citizens.

Iowa Workforce Development, a state agency, has offices throughout the state that help older workers locate jobs. The Senior Internship Program is both state and

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federally funded and is operated by the Iowa Department of Elder Affairs through Area Agencies on Aging in cooperation with Iowa Workforce Development. Job search assistance is provided by Older Worker Specialists, most of whom are 55 and older, who work specifically with older individuals (55 and older) regardless of the person's income.

Older Worker Specialists usually work out of local Iowa Workforce Development Centers. They conduct advocacy on behalf of older workers, locate and develop job opportunities, determine the need for support services and make referrals to appropriate agencies.

The Senior Internship Program (SIP) is partially funded under Title V of the Older Americans Act. Title V is administered in Iowa by the Department of Elder Affairs through the local Area Agencies on Aging and three national sponsors: AARP, Experience Works Inc., and Senior Service America, Inc. For the Title V portion of the program, applicants must meet income guidelines to qualify for participation.

To be eligible for the SIP Title V program, a person must be 55 or older, a United States Citizen or authorized alien, a resident of Iowa willing and able to work, and have a low income (less than 125 percent of the federal poverty level). In addition to private sector on the job training opportunities, SIP provides work experience for participants in host agencies that are public organizations or non-profit community organizations.

Participants in the SIP Title V Program work an average of 20 hours per week and receive no less than the state minimum wage. The host agencies provide work experience and training in a variety of jobs according to location. In addition to these goals, the program also provides service to the elderly and the community, demonstrates the value of the mature worker, develops self-esteem and places participants in jobs within the agency or with another employer.

WHO CAN ASSIST YOU?

Your local Area Agency on Aging  
See pages 72–73.

Your local Iowa Workforce Development office  
See page 66.

Iowa Civil Rights Commission  
515-281-4121 or 800-457-4416 (toll free)

Iowa Department of Elder Affairs  
515-242-3333

Equal Employment Opportunity Commission (EEOC)  
800-669-4000

## CONSUMER PROTECTION

**INTRODUCTION:** Consumers of all ages are vulnerable to the fast pitch and hard sell of the professional salesperson. Fraudulent telemarketers and other con artists have taken millions of dollars from Iowa, especially older Iowans. Misleading sweepstakes through the mail have led some older Iowans to waste thousands of their hard-earned dollars.

Your best protection is to be a well-informed, careful buyer. This includes being knowledgeable about your legal rights, cautious of those “too good to be true” offers, and willing to demand satisfaction. The first step to being a wiser consumer is to protect your private financial information.

**PROTECT YOUR PRIVACY: TAKE CONTROL OF YOUR PERSONAL INFORMATION AND OPT OUT:**

When your personal information is sold or seeps into circulation, it poses two threats: you could become a victim of identity theft, and you will receive more solicitations. Take steps to control your personal information. Be assertive, take control, and keep your personal information private:

- “OPT OUT” of sharing your financial or personal information. Federal law now requires banks, credit card companies, brokerage firms and insurance companies to send you a “privacy notice” to prohibit them from selling your data to unaffiliated “third-party” companies. (You can ask to “opt

out” at any time.) You also may ask your financial institution not to disclose information to their own affiliated companies. And you can tell other businesses you want to opt out of them sharing your information – from your telephone or cable company to charities, stores, catalog companies, and web sites.

- Register your home telephone number and your cell phone number on the “Do Not Call” list. Call from the telephone you wish to register at 1-888-382-1222 or register online at [www.donot-call.gov](http://www.donot-call.gov). It takes thirty-one days for the registration to take effect, and the registration is valid for five years. After registration, if you receive a call from telemarketers, you can file a complaint with the Federal Trade Commission by calling the same toll-free number to which you call to register. Be aware that the “Do Not Call” list does not cover calls from charities, non-profit organizations, or political groups.
- Ask the credit reporting agencies not to give your name to solicitors. Credit reporting agencies sell lists to credit card marketers and others. To remove your name, call 1-888-567-8688 (1-888-5-OPT-OUT).
- Check your credit report regularly. Consumers are entitled to one free credit report every twelve months from each of the three national credit reporting agencies. Credit reports can be requested at 1-877-322-8228, at [www.annualcreditreport.com](http://www.annualcreditreport.com) or by filling out the Annual Credit Report Request Form and mailing it to Annual Credit Report Request Service, PO Box 105281, Atlanta, GA 30348-5281. You will have to provide your name, address, social security number, and date of birth and may have to answer a question only you would know the answer to, such as the amount of your monthly mortgage payment.
- Protect your Social Security Number (SSN). Don’t print it on your checks. Don’t give it out unless it is required (tax forms or employment records). Make sure your driver’s license uses an “assigned” number and not your SSN. SSNs are the key pieces of information con artists most often use to commit identity theft.
- Tell phone solicitors, “Please do not call me again.” When you make this request, the caller is required to enter your name on a “do-not-call” list.
- Don’t give out financial or unnecessary personal information on prize offers, sweepstakes entries, warranty cards, or other information cards. This information may be sold many times over, increasing your mail and telephone solicitations. Seriously consider avoiding all prize and sweepstakes offers. Also, be aware that it is not necessary to mail in a warranty card to receive a warranty.
- If you are the victim of identity theft, file a report with local police and keep a copy of their report. You should contact the credit reporting bureaus and ask them to flag your account with a fraud alert. The Federal Trade Commission offers an ID Theft Affidavit you can use to report the crime to the bureaus. Request the affidavit at 1-877-ID-Theft or download one at [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft). You can also get more information on identity theft from the Identity Theft Resource Center at [www.idtheftcenter.org](http://wwwidtheftcenter.org).

**TELEMARKETING:** Telemarketing scams are friendly, high-pressured sales pitches and transactions conducted by phone that misrepresent a product or service. The telemarketing scams usually originate out of “boiler rooms,” where a number of phones in one room are used to conduct phone solicitations throughout the country.

The calls are made by skilled salespeople, often with years of experience selling dubious products and services over the phone. The products and services may sound legitimate, but often are not. Claims that you have won some sort of valuable prize are the primary hooks for most scams, and should be considered to be a part of a clever effort to cheat you out of your hard-earned money.

Here are some ways to protect you against telemarketing scams:

- Be wary of “free trial offers,” offers that you have “won a prize,” and other so-called “great deals.”

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- Donotbepressuredintobuyingorsendingmoney TODAY. Be wary of any company that insists on sending a private courier such as Federal Express or U.P.S. to your home for immediate payment.
- Askdetailedquestionsandgetinformationinwriting so that you can check out the company before you consider buying. Do not give your credit card or bank account numbers over the phone, unless you have done business with the company before and know it to be legitimate.
- SAY NO and end the phone call if you have decided not to make a purchase. Hang up.
- Tell the caller to put you on the company's do not call list.

**SLAMMING AND CRAMMING:** "Slamming" is switching your long distance service to another carrier without your approval. "Cramming" is putting some other service on your telephone bill without your permission (such as 800 service or a "buyer's club" membership or "free trial offers"). Follow these tips to avoid having your long distance service "slammed" or your phone bill "crammed" with unauthorized billings:

- Closely examine your phone bill each month for any unauthorized changes or additional fees.
- Call or write the unauthorized company to dispute the charges and, if you are unsatisfied with the results, file a complaint with the Iowa Utilities Board. Phone 281-3839 or (toll free outside the Des Moines area) 877-565-4450.
- You may also contact your local phone company and ask them to freeze your long distance account so that it cannot be "slammed" or changed without your specific authorization.
- Be extremely cautious when you receive telemarketing solicitations asking you to switch long distance companies or offering you "free trial offers." Make it very clear if you do not want their service or product and tell them not to call you again.
- Thenon-profitTelecommunicationsResearchand Action Center offers information about long distance rates and wireless service at [www.trac.org](http://www.trac.org).

**SWEEPSTAKES:** Iowans receive millions of sweepstakes notices every year. But sweepstakes bring big problems much more often than they bring big prizes—problems such as dashed hopes, unnecessary purchases, and even consumer scams. By law, sweepstakes cannot require you to make a purchase or a donation. They often would have you believe that your chances of winning will increase if you buy a product (such as magazines or household goods). It is not so.

Follow these tips to avoid being misled by sweepstakes offers:

- Remember: **BUYING DOES NOT INCREASE YOUR CHANCE OF WINNING!**
- Be wary of promises that "You're the Winner!" of a huge cash award or prize. Read the fine print carefully. Look for the stated odds of winning the prize and other details of the offer.
- Be skeptical of letters and post cards claiming to be "official" or "urgent."
- Don't be fooled by common tactics sweepstakes use to falsely make you believe that you have won or are close to winning, such as: personal-looking letters from sweepstakes employees or celebrities or scratch-off devices that make it look like you are a winner when you are not.

**CONTRACT AND CREDIT BUYING:** If you have ever bought a car, hired a workman to do repair work for you or purchased a pair of shoes using a credit card, you have entered into a contract.

Sometimes credit is extended for the purchase of an item or service and the payment is delayed or spread out over a period of time. What this means is that the store, dealer, or company extends you a loan in the amount needed to purchase the item or service. You agree to pay the money back with interest. Interest is the finance charge, and it is added to the total cost of the item.

The majority of credit buying today is by credit card. Purchasing with credit cards can lead to problems. Eventually the bill will fall due and payment will be required. Also, credit card providers may differ a great deal on the interest rates they charge, and may require

other costs such as annual fees. It is wise to shop for the best deal in choosing a credit card.

## BASIC CONTRACT DO'S AND DON'TS:

- Do know how much your total cost will be. Know how long you will have to make payments and be sure you can afford to make them.
- Do insist that all promises (guarantees and warranties) be in writing.
- Do insist that the salesperson let you take home a copy of the contract for a careful reading before you sign it and show it to a friend, relative, or a lawyer if you have questions about any part of it.
- Do keep copies of all contracts, payment records and complaint letters in a safe place.
- Do not assume you have the right to cancel a contract after agreeing to it. The three day right to cancel law generally applies only to sales made away from the seller's place of business.
- Do not ever sign a contract with blank spaces that are to be filled in later by a salesperson.

**SHOPPING FOR CREDIT CARDS:** When you are considering applying for a credit card, ask what the regular interest rate will be. Very low advertised rates usually are only "teaser" rates, and a much higher interest rate kicks in after a few months.

**DOOR-TO-DOOR SALES:** Although there are legitimate businesses that rely on door-to-door sales to sell their product, it is a regrettable fact that many door-to-door sales operations use deceptive, high-pressure sales techniques. The victims of these improper practices are all too often the elderly.

Follow these tips to avoid being victimized:

- Remember, you do not have to let a stranger into your home. Contact the police if you are uncomfortable with the situation.
- Take all the time you need before making a purchase, using that time to compare values, review the agreement, and seek advice.

- **DONOT** be pressured by statements that you must buy today!

Fortunately, you have the right to cancel a door-to-door contract within three business days if the purchase is \$25.00 or over. The law requires the seller to give you two written copies of your NOTICE OF CANCELLATION form, with copies of the sales contract or sales receipt. If you decide to cancel the door-to-door sale, you must do so by sending the written Notice of Cancellation, referred to above, to the company or business before midnight of the third business day after the date of the sale. You should probably send this notice by certified mail with a return receipt requested so you have proof of timely mailing.

**HOME REPAIRS AND IMPROVEMENTS:** Some of the suggestions listed above also apply to home repairs and improvements. These items can be costly, and sometimes dishonest people will use repair schemes to defraud an older person. Be aware of the following in considering offers from people to perform home repairs and improvements:

- Check out the contractor before you sign a contract or pay any money. Ask if the contractor is registered with the Labor Services Division of Workforce Development (call 1-800-562-4692, ext. 25871 or check online at [www.iowaworkforce.org/labor/contractor.htm](http://www.iowaworkforce.org/labor/contractor.htm)). Check local references. Ask the Attorney General's Consumer Protection Division if it has complaints at 515-281-5926 or 1-888-777-4590.
- Get it in writing! Before any work begins, agree on a written contract detailing work to be done, responsibility for permits, costs, and any other promises. Request a copy of the contractor's liability insurance certificate. Put start and completion dates in writing, as well as consequences if the contractor fails to follow them. (Example: the contract could be nullified if the contractor doesn't start on time.)
- Try to avoid paying large sums in advance to a contractor you don't know! If you have to make a partial advance payment for materials, make your check out to the supplier and the contractor. Insist on a "mechanic's lien waiver" in case the contractor fails to pay others for materials or labor.

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- Be wary of home improvement sellers who offer to arrange credit for you. It is best to arrange your own financing with a local lender that you know and can trust, since many home improvement sellers arrange credit with high-cost lenders. The interest rates may be very high, and high up-front fees and charges may be added. (Some contractors are even bringing in brokers now, and the brokers' fees can add several thousand dollars to the cost!) If you do let the seller try to find financing for you, do not let him do any work before you see the terms of the financing he's trying to arrange. Do not be afraid to say "NO" to both an expensive loan and the home improvement contractor who tried to get you into it.
- Remember, in most cases, you have three business days to cancel a contract signed at your home. (Contracts often contain a "liquidated damages" clause, and you may be liable for a percentage of the contract amount if you cancel after three business days.)

As a guiding principle, if someone approaches you about home repairs or improvements, as opposed to your initiating contact with them, be on your guard and do not agree to anything until you have had time to do some checking and get some advice.

**HOME EQUITY LENDING: DEBT CONSOLIDATION & REFINANCING:** A "home equity" loan is a loan secured by the equity you have in the house you already own or are buying.

- You may get letters, telemarketing calls, or visits from loan brokers or representatives of creditors who want you to take out a home equity loan – to refinance your existing mortgage or consolidate your other debts into a home secured loan. Many of those who sell the hardest are the highest-cost mortgage lenders. Don't let anyone talk you into taking out a loan you weren't looking for.
- If you do apply for a home equity loan, you should receive a Good Faith Estimate of settlement costs within 3 days of applying for the loan. If the costs are more than 3 to 5 percent of the amount you are asking to borrow, take the Good Faith Estimate to a trusted advisor, financial counselor, or lawyer to

ask about it. You can stop the loan right there, or you can try to negotiate lower fees.

- You have three days after signing to cancel a home equity loan on the house in which you live. Take those three days after you sign the papers to look them over carefully. If you don't think you can afford it, if it's not what you were told it would be, or if you are just having second thoughts, don't be afraid to use your right to cancel. But remember—that unqualified right to cancel only lasts for three days.

**CAR REPAIR PROBLEMS:** At one time or another, all of us have had to take our cars in for repairs. Most repair shops are honest; however, sometimes there are problems.

The most important step is to find the right repair shop and technician:

- Ask for recommendations from friends, family members, and others. Word-of-mouth is often the most reliable advertising for a good shop or technician.
- For expensive or complicated repairs, get a second opinion and cost estimate.
- Be skeptical of advertisements for low-price maintenance work. Consumers sometimes pay for unnecessary repairs after shops do the advertised maintenance.

Exercise your rights under Iowa's Motor Vehicle Service Trade Practices Act. These rights can help consumers avoid higher-than-expected repair charges:

- Shops must tell you that you have the right to receive a written or oral estimate for any repair that costs more than \$50.
- After you receive an estimate, the shop may not charge you a higher price unless it contacts you with a higher estimate and you okay the additional cost.
- The repair shop may not charge you for any repairs that are unnecessary or that you did not authorize.

**DONATIONS TO CHARITIES:** People enjoy contributing to charitable organizations and there are certainly many charities worthy of support. However, some unscrupulous people may take advantage of your good will and misuse money that was intended for people in need.

Remember these points when you are asked for a donation:

- Ask phone solicitors to send written information. Be suspicious if they refuse to send solid information.
- Don't be fooled by "look-alike" names. Some scams use names that sound impressive and are designed to resemble well-respected organizations.
- Ask tough questions of purported "law enforcement" or "firefighter" charities. Such solicitations have sparked many complaints. Ask if your donation will be used locally. Ask if the caller is a paid professional fund-raiser and how much of your gift will go to the charitable purpose. Ask for written information before you give.
- Don't give credit card or checking account numbers over the phone to someone you don't know!
- Watch out if the caller says "thanks" for past donations. They often say that to try to trick you into believing you gave in the past when you previously had not given.
- Give directly to a known charity of your choice. That's always the best option. Check your telephone directory for a charity's local office and contact the office.
- If you want to check on a charity, call the Better Business Bureau's Philanthropic Advisory Service, at 703-276-0100 or check online at [www.give.org](http://www.give.org).

Remember that if you are on a fixed income you should make charitable contributions only when your budget permits, and only in an amount you can truly afford. No reputable charity would ever expect you to deny yourself necessities in order to make a donation.

**HEALTH FRAUD:** Every year millions of dollars are spent by elderly Americans on "nutritional supplements," "medicines" and devices that are pure quackery and have no real health benefit. Fraudulent remedies to reverse the aging process or cure chronic or severe illness are often sold at great expense to consumers who may be so desperate in searching for relief that they are willing to try anything, even a product which may cause further health problems.

There are too many forms of health fraud to describe here, but some general advice can help you avoid problems.

- Seek the advice of established health care professionals in deciding on your course of treatment.
- Beware of extravagant promises, or guarantees of dramatic health benefits, such as advertisements promoting "scientific breakthroughs" and "miracle cures." If it's too good to be true, it probably is.
- Talk to trusted friends and relatives before spending money on some new or unusual medicine or treatment.

**CONSUMER REMEDIES:** When something goes wrong with a product or service you purchased, or you believe you may have been defrauded, you can do more than just sit back and steam. There are several ways to resolve your situation and possibly prevent the same thing from happening to someone else in the future.

**DEAL WITH THE SELLER FIRST:** In most cases, it may help to give the seller a chance to "make it right." Call or write and ask to speak to the owner or manager. Give a calm, direct description of your complaint and what the company can do to make it right with you.

**COMPLAINTS:** A thoughtfully prepared complaint, made either in person or in writing, can be an extremely effective way of getting a consumer problem solved, especially when that complaint is made to the proper authority. Complaints are most effective when accompanied by receipts and other documentation that help explain your situation. If you are contacting the store or business by mail, you may want to send your complaint letter by certified or registered mail, and always keep a copy for your records. **NEVER SEND ORIGINALS** of any receipt, contract, or document. If taking your com-

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plaint directly to the business does not produce the satisfaction that you are seeking, call the Better Business Bureau and contact the Consumer Protection Division of the Attorney General's Office.

**SMALL CLAIMS COURT.** Iowa consumers who have not received satisfactory responses to their inquiries and complaints about defective products or poor service may wish to seek relief through Small Claims Court when their dispute involves \$5,000.00 or less.

The Small Claims Court is useful to the consumer because:

- The Court costs are small, compared to those of regular district court;
- The procedure is informal; and
- You do not need an attorney to represent you (although you or the opposing party may have one).

Contact the Clerk of Court's office in the county where you live for small claims forms and assistance in filing your case. Iowa Legal Aid has a helpful booklet on small claims court, which you may get by contacting them at the address and phone number listed in the resource section at the back of this booklet.

If the dispute involves more money than the dollar limit referred to above, the District Court is used to resolve it. At this point, you should seek the assistance of an attorney.

**UNFAIR DEBT COLLECTION PRACTICES:** Because of unexpected circumstances, many people find themselves in a position where they owe money on a loan or purchase and cannot pay it back. There may be very good reasons for the inability to pay, such as loss of income or medical emergency. This section is intended to make you aware of your rights if someone attempts to collect a debt from you. Knowing your rights, and what debt collectors can and cannot do, is very important in reducing the stress which being in debt may cause. In this section, the person collecting the debt will be called the "creditor" or "debt collector."

**THE CONSEQUENCES OF FAILURE TO PAY A DEBT:** There are no "debtor prisons" and it must be emphasized that people cannot go to jail or be arrested

just because they are unable to pay their debts. As you will read below, a debt collector who threatens you with jail is breaking the law.

When you fail to make your payment to a creditor, you will usually receive a bill. If you continually fail to pay, you may receive more bills stating you owe the money. If allowed by contract (such as a credit card), interest may be added to the amount you owe. The business then might attempt to call you or write to you to resolve the matter. If this does not work, the business may get more aggressive in contacting you about the debt, and may hire either a collection agency or an attorney for purposes of collecting the money.

**PROHIBITED COLLECTION PRACTICES:** Under the laws of Iowa and the United States, persons who attempt to collect debts are restricted in their methods of collection. These restrictions prohibit conduct that is threatening, harassing or dishonest. If the debt collector's conduct in attempting to collect the debt violates these prohibitions, you may be able to sue the debt collector for money damages and recover your attorney's fees from the debt collector.

**EXAMPLES OF PROHIBITED PRACTICES:** Generally speaking, a debt collector cannot:

- Threaten to harm persons or property;
- Threaten that you may be arrested for failure to pay the debt;
- Misrepresent or lie about who the debt collector works for;
- Misrepresent or lie about the amount of the debt;
- Misrepresent or lie about what the collector will do if the debt is not paid;
- Send papers that appear to be court documents but are not;
- Tell anyone else including your employers, friends and relatives about the debt (other than a credit bureau);
- Contact you at your place of employment;

- Contact you after the debt collector knows you are represented by an attorney;
- Use foul language or profanity;
- Telephone too often, or very early in the morning or very late in the evening;
- Threaten to garnish your Social Security or SSI income; or
- Threaten to garnish your wages or paycheck (unless a court judgment has already been entered against you).

If you request proof of debt, the collector must provide proof to you.

**WHAT TO DO IF A DEBT COLLECTOR USES UNFAIR COLLECTION PRACTICES:** If you believe that a debt collector is using improper methods to collect the debt, you may wish to get legal help right away, or you may wish to write a letter to the collector telling him or her to stop the improper activity. Make a copy of the letter for your records and mail it by certified mail, return receipt requested. By doing this, you can prove that your letter was received. If the conduct of the debt collector continues, make notes of these occurrences and contact an attorney.

**REPOSSESSION:** A secured debt is one that arises when an individual borrows money or buys on credit and allows the creditor to have an interest in some of his or her property. That property becomes the “collateral.” The best examples of this are when a person purchases an automobile, furniture, or appliances on credit. In exchange for your right to make payments, the seller has the right to take back (“repossess”) the property if you miss any payment subject to your right to cure. When a creditor attempts to repossess property, you may want to consult an attorney. Creditors do not have the right to enter your home without your permission when attempting to repossess collateral.

Your right to cure is when you receive a “cure notice” telling you your payment is late and giving you 20 days to pay all overdue amounts and any late charges. If you purchase a consumer item on credit for personal use (such as a car or appliance), or take out a consumer

loan, then the creditor cannot repossess the collateral, or “accelerate” your loan (make all your installment payments become due at once) until he has sent you a “cure notice.” If you pay within this time you may continue to make installment payments as if you were never late. However, you are only entitled to one “cure notice” each 365 days, and if you are late a second time the creditor could repossess the collateral without additional notice.

**WHAT HAPPENS IF YOU ARE SUED:** If the amount of the debt is \$5,000.00 or less, the lawsuit will take place in Small Claims Court. If the amount of the debt is more than that, the lawsuit will take place in the District Court, and you should be sure to get legal help.

When you are notified that you have been sued, it is important that you respond appropriately. If it is in Small Claims Court, you will be provided with an “Answer” form that you should sign and return to the courthouse within 20 days from the date you received the papers. If you do not do this, the court will automatically enter the judgment against you and you will not have anything to say about it. If you return the sheet, you will be notified of the time and place of the hearing on the case. You must attend the hearing and should bring with you any papers or other documents pertaining to the disagreements.

Even if you do not dispute that you owe the money, you may still want a hearing so you can ask the judge to set up payments that you can afford. You can represent yourself in Small Claims Court, although if you dispute the debt it would be a good idea to talk to a lawyer. If the lawsuit is in excess of the Small Claims Court dollar amount, you should certainly contact a lawyer. If you cannot afford an attorney, you may wish to contact Iowa Legal Aid or another legal services organization to see if you are eligible for free legal help.

**WHAT HAPPENS IF YOU LOSE IN COURT:** If a court determines that you owe the debt, a judgment will be entered against you. If you do not pay the judgment and you have any money in a bank account and the creditor discovers where it is, the creditor can have the sheriff seize it. If you are employed, the creditor can have the sheriff take a portion of your wages. The amount taken depends upon the amount of money you are expected to earn that year. If you earn \$12,000.00

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or less per year, a maximum of \$250.00 per year can be taken. The more money you earn, the more money can be taken. Remember, your wages cannot be taken (“garnished”) until a judgment has been entered against you. Talk to a lawyer for further details.

The law protects certain property and funds from being taken by the sheriff in this manner. This type of property is referred to as “exempt.” The following are examples of exempt property that cannot be taken from you.

- Your wardrobe up to a value of \$1,000.00.
- Your wedding or engagement rings.
- Any household furniture, goods, and appliances that are intended for family use. The total value of all of those items that are protected is up to \$2,000.00 per individual. In determining value, you use that figure which could be obtained if you tried to sell the item.
- A debtor is entitled to keep one motor vehicle and musical instruments for personal, family, or household use worth up to \$5,000.00.

- The tools of your profession or trade, up to a maximum value of \$10,000.00 per person.
- If you own your home and you live in it, a creditor cannot take this away from you.
- Your social security benefits, veteran’s benefits, disability benefits, or alimony payments to the extent necessary for the support of you and your dependents.

If the sheriff attempts to seize any exempt property, you must inform him in writing of your intent to claim the exemption. If, after a judgment is entered against you, the sheriff attempts to seize any of your property, you should talk to an attorney to see what you can do to keep the property.

OTHER RESOURCES: Iowa Legal Aid has two useful booklets dealing with unfair debt collection and Small Claims Court. Information on how to contact them is set forth in the resource section at the back of this booklet.

## ELDER ABUSE AND NEGLECT

The term elder abuse generally refers to the abuse, neglect, or exploitation of people aged 60 or older. It may include physical, psychological, and sexual abuse, material or financial exploitation, neglect and self-neglect.

The law in Iowa is specifically aimed at protecting dependent adults from abuse by their caretakers. Under the Iowa “Adult Abuse” law, persons who believe that a dependent adult is suffering from abuse by a caretaker may report their belief to the Department of Human Services. However, the Department of Inspections and Appeals is solely responsible for the evaluation of dependent adult abuse cases within health care facilities. Each department must then investigate the report and make an evaluation of the situation.

This is not to state that other forms of abuse that do not fall under the “Adult Abuse” law should be ignored. There are avenues available to pursue abuse that does

not involve a dependent adult or a caretaker. To locate the appropriate resource, contact your local Area Agency on Aging, Department of Human Services, or the Iowa Department of Elder Affairs at (515) 242-3333 or (800) 532-3213.

WHO ARE DEPENDENT ADULTS? Anyone who is unable to protect or provide for his or her own interests and essential needs. This does not refer to just the elderly. It includes anyone 18 years of age or older who requires assistance from another as the result of diminished physical or mental capacity.

WHO ARE CARETAKERS? A caretaker means a related or non-related person who has the responsibility for the protection, care or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

**WHAT CONSTITUTES DEPENDENT ADULT ABUSE?** The following constitute Dependent Adult Abuse:

1. Physical Abuse: Inflicting any of the following injuries:
  - Physical injury or
  - Unreasonable confinement or
  - Unreasonable punishment or
  - Assault
2. Sexual Abuse: Committing a sexual offense.
3. Exploitation: Taking advantage of a dependent adult's financial resources for one's own profit. This includes theft by the use of:
  - undue influence
  - harassment
  - duress
  - deception
  - false representation
  - false pretenses
4. Denial of basic needs: Food, shelter, clothing, supervision, and/or health care are not supplied by the caregiver or by the dependent adult him or herself.

**DEPENDENT ADULT ABUSE DOES NOT INCLUDE:**

- Depriving a dependent adult of medical treatment if the treatment is against the religion of the dependent adult.
- The withholding of treatment from a terminally ill dependent adult if done according to other laws providing protection in this area.

**WHAT ARE SOME SIGNS OF ABUSE?**

- Repeated injuries
- Injury incompatible with explanation
- Lack of personal or medical care
- Malnourishment and dehydration
- Increasing depression or anxiety
- Withdrawn/timid
- Unresponsive
- Hostile

- Confused
- New poverty

There are other signs, and not all of those signs listed, by themselves, indicate abuse. By watching for some of these signs and symptoms, you may be able to help prevent the situation from getting worse.

**WHAT CAN I DO?** Report it! If you are aware of or believe that a dependent adult has suffered abuse, call the numbers listed below. The report may be made by telephone or in writing. The information which will be asked of you, although you do not need to know every item, will include the names and addresses of the dependent adult and the caretaker(s), the reason you believe the adult is a "dependent" adult, the dependent's age, and the nature and extent of the suspected abuse. All reports remain confidential.

A person who makes a report in good faith cannot be successfully sued for doing so. Also, mandatory reporters of adult abuse cannot be fired, suspended, or otherwise disciplined by their employers.

**TO WHOM THE REPORT SHOULD BE MADE:** If the abuse you are reporting happened in a nursing home or other care facility, call (515) 281-4115, Monday through Friday, 8 a.m. to 4:30 p.m. If reporting at other times, call the Department of Human Services at 1-800-362-2178.

For reporting other suspected abuse, you can call the local Department of Human Services office or call the following toll-free number, anytime, day or night: 1-800-362-2178. Forms to make a report are available online at [www.dhs.state.ia.us](http://www.dhs.state.ia.us).

If the victim is currently in danger, a report should be made directly to local law enforcement officers.

**WHAT RELIEF IS AVAILABLE AFTER THE REPORT IS MADE?** The Department of Human Services can do an evaluation, provide counseling and make referrals to a variety of community services. Examples of services that may be available:

- Mobile meals
- Emergency medical care
- Homemaker
- Adult day care
- Transportation
- Guardianship
- Visiting nurse
- Conservatorship

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All adults have a right to self-determination. This means the dependent adult can refuse services unless the court determines the adult is not competent to make decisions or is threatening his or her own life or that

of others. The Department of Human Services can do an evaluation only in cases of self-neglect or when the abuser is a caretaker.

## FEDERAL INCOME TAXES

The law relating to income taxes is fairly complicated and changes often, so remember: the information set forth below cannot tell you everything you may need to know. Read this for general guidance but get authoritative, up-to-date tax information from a professional. Also, be aware that the general information below focuses on federal income tax law and not on state income tax law, except as stated. For more information and assistance with your taxes, see the resource section in the back of this Handbook.

**WHO MUST FILE A FEDERAL TAX RETURN?** State and federal tax law provide special treatment in certain areas for persons who are age 65 or older. Although the obligation to report income and file a tax return does not end at age 65, the law may not require older citizens to file a return.

For the 2005 tax year, federal law required taxpayers age 65 or older to file a federal income tax return if they fell into one of the following categories:

Filing Status	Gross Income Equal To or Greater Than
(a) Single, age 65 or older	\$9,450
(b) Married filing jointly, one spouse age 65 or older	\$17,400
(c) Married filing jointly, both spouses age 65 or older	\$18,400
(d) Married filing separately, any age	\$3,200
(e) Head of household filer, age 65 or older	\$11,750
(f) Surviving spouse (not remarried) with dependent children, age 65 or older (only for two years after year of death)	\$14,200

Please note that it may be necessary for an individual to file an income tax return even though his or her income was lower than the applicable level set forth above. For example, you must file an income tax return if (1) you had net earnings from self-employment of at least \$400; (2) you owe a tax on an individual retirement account (IRA) or medical savings account (MSA); or (3) you earned wages of \$108.28 or more from a church or qualified church-controlled organization that is exempt from employer social security and Medicare taxes.

**NON-TAXABLE INCOME:** Certain types of income are generally non-taxable and you should not report them. Such income includes amounts received under worker's compensation for sickness or physical injury, certain property received as a gift or inheritance, life insurance proceeds received because of a person's death, certain Roth IRA distributions, certain amounts withdrawn from Medical Savings Accounts for medical expenses, and accident and health insurance proceeds, including certain long-term care insurance contracts. Municipal bond interest is not subject to federal income

tax. Exceptions to these examples exist, so consult a qualified tax professional.

A common misconception is that social security benefits are not taxable. As a general rule, this statement is true. However, social security benefits can be taxable if the sum of (1) one-half of the benefits plus (2) all other income exceeds \$25,000 for a single taxpayer or \$32,000 for joint taxpayers.

**STANDARD DEDUCTION:** All taxpayers who do not itemize their deductions are entitled to a standard deduction. The amount of standard deduction varies according to a given taxpayer's filing status. Taxpayers who are 65 or older receive an additional standard deduction amount that is added to the basic standard deduction applicable to a given filing status. The resulting total standard deduction is therefore higher for persons age 65 or older than for other taxpayers.

**SALE OF YOUR HOME:** An unmarried individual taxpayer may exclude income from up to \$250,000 of gain realized from the sale or exchange of a residence. In order for this exclusion to apply, the individual must have owned (the "ownership test") and occupied (the "use test") the residence as a principal residence for at least two of the five years before the exchange. The taxpayer can use this exclusion on a continuing basis, but not more frequently than once every two years. Married individuals filing jointly may exclude gain up to \$500,000 if (1) either spouse meets the ownership test; (2) both

spouses meet the use test; and (3) neither spouse has excluded gain from the sale of another residence within the last two years. Even if a taxpayer does not satisfy the ownership and use tests, a smaller exclusion is available if the taxpayer sells a principal residence due to health or a change in place of employment.

**EXCLUSIONS FOR PENSIONS AND ANNUITIES:** For Iowa state tax purposes, certain persons may be entitled to a partial exclusion from tax on income from pensions, annuities, self-employed retirement plans, deferred compensation, IRA distributions, and other retirement plan benefits (but not social security benefits). To qualify, a person must be one of the following:

- 1) age 55 or older;
- 2) disabled;
- 3) the spouse of a person who is age 55 or older;
- 4) the spouse of a person who is disabled;
- 5) a surviving spouse of a qualifying individual.

The exclusion for married persons is the lesser of \$12,000 or the taxable amount of the retirement income. For a single person, head of household, or qualifying widower with dependent child, the exclusion is the lesser of \$6,000 or the taxable amount of the retirement income. You should consult with a qualified tax professional to determine which credits or exclusions may be available in your specific situation.

## FOOD ASSISTANCE

The food assistance program, formerly known as the food stamp program, is a federal program intended to promote the general welfare of low-income families by raising their levels of nutrition to avoid hunger and malnutrition. The program was established through the Food Stamp Act of 1977 and is administered by the United States Department of Agriculture. However, the Department of Agriculture has delegated the day-to-day operations of the Program to various state agencies. The Department of Human Services manages the food assistance program in Iowa.

**APPLICATION:** You must submit a written application in order to determine if you are eligible for

benefits. An application may be obtained from any Department of Human Services (DHS) office or from the Department's website ([www.dhs.state.ia.us](http://www.dhs.state.ia.us)). A request for an application may be made in person, by mail or by telephone. If the request is made by mail or telephone, the application will be mailed to you.

After you have completed the application, it must be returned to the DHS office. If you do not understand the application, a DHS employee can assist you. After the application is submitted, a face-to-face interview at the DHS office is generally required. This requirement may be waived in certain situations, including hardship, transportation problems, or illness. In addition,

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the face-to-face interview may not be required if you are unable to appoint an authorized representative to attend the interview, and no one in your household is able to come to the office because they are all over 60 or disabled. When the office interview is waived, either a phone interview or a home visit by the DHS will be arranged.

The DHS has thirty (30) days following your submission of the application to inform you of your eligibility status. If your application for food assistance is denied, you have the right to appeal the denial. You can request appeal papers at any DHS office. You must appeal within sixty (60) days, or you will lose the right to appeal. You must send the completed appeal form to the DHS office. A hearing, which you can personally attend, will be set shortly after your appeal is received. You may have a friend or lawyer help you at the appeal hearing.

**ELIGIBILITY:** In order to be eligible for food assistance, your income and resources must fall below certain levels and you must meet certain non-financial eligibility factors. Determining eligibility is complicated and cannot be fully explained in this Handbook. Instead, the Handbook is designed to acquaint you with the general eligibility factors and direct you to additional resources.

**Non-financial factors:** Each household must meet all applicable non-financial eligibility factors. Some of the factors applicable to an Iowa household include, but are not limited to, United States citizenship (including non-citizen nationals of the United States and eligible aliens), residency in the state of Iowa, each household member must have a social security number, and for some households work requirements must be met.

**Income:** Income is analyzed at the household level, not at the individual level. Income may be earned, unearned or excluded. A household is defined as a person or group of people who live, buy food, and prepare meals together. Spouses who live together must be considered members of the same food assistance household. Income includes most money received by the household, including but not limited to wages or salary, self-employment income, tips, social security, supplemental security income (SSI), veterans benefits, pensions, and monetary gifts. Some types of income, such as AmeriCorps payments, blind training allow-

ance, and disaster assistance are excluded from gross income. Households with an elderly or disabled member do not have an upper limit on gross monthly income as is imposed on other households.

Specific deductions from gross monthly income are made to determine net monthly income. Some of the deductions from gross income include, but are not limited to:

- Dependent care expenses incurred which allow a household member to look for work or continue working
- A deduction equal to 20% of gross earned income
- A standard deduction depending on household size ranging from \$134.00 to \$175.00
- Medical expenses in excess of \$35.00 per month. (Medicare premiums and other insurance premiums can be deducted; however, any portion paid by Medicare, insurance, or other source cannot be subtracted), and
- Some living expenses, including shelter expenses and utility costs.

After excluded income is identified and deductions are applied, an applicant's "net income" has been determined. The following net income limits exist for the period beginning October 1, 2004, and ending September 30, 2005:

Household Size	Net Monthly Income
1	\$ 776
2	\$1,041
3	\$1,306
4	\$1,571
5	\$1,836
6	\$2,101
7	\$2,366
8	\$2,631

**Resources:** For purposes of the Food Assistance Program, the things you own are referred to as resources. Resources may be liquid (cash and items easily converted to cash) or illiquid (non-cash items that are not easily converted to cash). Certain resources are not

counted for purposes of determining food assistance eligibility. Items not counted include, but are not limited to, the home and property surrounding it, household goods and personal items, the cash value of a life insurance policy, one burial plot per household member and the value of one prepaid funeral agreement (up to a maximum of \$1,500) per household member and the cash value of pension plans. Generally, an automobile is a countable resource. However, the first \$4,650.00 of its fair market value will not be counted. You should consult with your local DHS office to obtain more information on these and other exemptions.

You are eligible for food assistance if the total value of your countable resources does not exceed the following levels:

1. \$3,000 if the household is made up of one or more persons and at least one of those persons is age 60 or older; or
2. \$2,000 for all other households.

**BENEFITS:** The food assistance benefit a household is entitled to receive is called an allotment. The size of

site, [www.dhs.state.ia.us](http://www.dhs.state.ia.us).

Funeral services are often purchased without any real planning, comparison of prices, or knowledge of the legal options. This section will point out some of the options and legal rights involved in funeral and burial arrangements. At the end, other sources of information and help are listed.

**PREPLANNING:** In order to avoid having important funeral decisions made at a time of grief and vulnerability, it makes sense to plan in advance. Talk openly with family members and friends, so that they may know your wishes and you may learn theirs. Funeral directors are required to have written price lists. Ask to take the list home so that you have time to review your options. Review the materials with family members and put your wishes in writing. You may also compare prices by phone, since the law requires funeral homes to give out price information over the phone. Some funeral providers may offer packages of services at a discount to the itemized total, but when you arrange for a funeral, you also have the right to buy individual

the allotment is determined by subtracting thirty percent (30%) of a household's net income from the maximum allotment amount for the appropriate household size. The following table reflects the maximum allotment amount by household size:

Household Size	Net Monthly Income
1	\$149
2	\$274
3	\$393
4	\$499
5	\$592
6	\$711
7	\$786
8	\$898

**SUMMARY:** The above information is not a complete explanation of the food assistance program or the eligibility factors. If you could benefit from food assistance, you should contact your local DHS office and apply for benefits. Additional information is available through the DHS Field Office Support Unit at (515) 281-6898 or 1-800-972-2017, or you can utilize the U.S. Department of Agriculture website, [www.usda.gov](http://www.usda.gov) or the Iowa Department of Human Services web-

## FUNERALS

goods and services. Before you accept a package, make sure that it does not include items that you do not want. If the law requires you to buy any particular item, the funeral provider must disclose it on the price list and reference the specific law.

**CASKETS:** The casket is the movable container in which the deceased may be displayed and then buried. Casket prices can vary greatly, so comparison shopping is very important. The funeral provider may not refuse, or charge a fee, to handle a casket you bought from a third party. You can buy a casket from another party and have it shipped directly to the funeral home, so compare prices. Funeral directors must make casket price lists available before taking you to a casket display room. If you look at the caskets on display but do not see the ones from the written price lists that are affordable to you, make sure to ask. "Protective," "sealed," or "gasketed" caskets may have features that are designed to delay penetration of water into the casket or prevent rust. These features do not preserve remains indefinitely and

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may unnecessarily add significantly to the price of the casket. You should also note the purchase of a casket may not be necessary with some forms of funerals. See the section on cremation below.

**VAULTS AND GRAVE LINERS:** Burial vaults and grave liners are underground containers into which a casket is placed. Neither grave liners nor burial vaults are designed to prevent the decomposition of human remains. A burial vault is generally more substantial and expensive than a grave liner. Although not required by law, a particular cemetery may require such containers to avoid having the ground above settle. Make sure and find out whether the cemetery you are considering requires these containers and, if it does, compare costs. Vault and grave liner price lists must be made available on the same basis as casket price lists. It may be less expensive to buy an outer burial container from a third-party dealer rather than the funeral home or cemetery.

**EMBALMING:** Embalming is the process of replacing normal body fluids with chemicals to preserve the body until burial or cremation. Embalming costs must be set forth on the general price list provided by the funeral home. In Iowa, embalming is not required by law if the burial takes place within 48 hours of death. (Some exceptions to the rule exist, requiring embalming to transport the body by common carrier, or if the death was the result of certain contagious diseases.)

**CREMATION:** Cremation is the process of reducing a body to ashes through exposure to extreme heat. The ashes are then placed in an urn, which may be buried in a cemetery or may be taken home and kept by a loved one. Your funeral director may also be aware of other disposition choices. Iowa law permits scattering the ashes on the ground, although local ordinances should be checked before doing so since local law may restrict such scattering. A casket is not necessary for cremation, although a simple container in some form, such as an unfinished wooden box or a canvas covering, can be used. Funeral providers must disclose that you have a right to buy an unfinished wood box or other alternative container for direct cremation and must make these inexpensive alternatives available. Likewise, embalming is not required for cremation. Compare costs for yourself, but cremation will often be less costly than the alternatives.

**FINALIZING ARRANGEMENTS:** If you work out arrangements with a funeral director, the director must provide you with an item-by-item list of the goods and services you selected, with the price of each item set forth. The list must include any cash advance items, that is, any services for which the funeral home makes a direct cash payment to someone else (for example, to a minister or to an organist). Make sure you know whether you have the option to decline some services that are part of "package deals." Ask about and compare the basic services fee, which may include services such as filing death certificates and coordinating plans with third parties such as the cemetery or crematory. This fee may be used by a funeral provider to increase profits because it is an item that the customer cannot decline to pay. Finally, the price list must include a total price of all goods and services being purchased.

**"PRE-NEED" FUNERAL ARRANGEMENTS:** Funeral homes and cemeteries often sell "pre-need" funeral merchandise or arrangements. The customer selects the various features of the funeral and the disposition of his or her body and signs a contract to pay for it in advance. Iowa law provides certain protections to make sure that the services or merchandise purchased in advance will be there at the time of death. Be aware that with such pre-need contracts, you have three days after signing the contract to change your mind and cancel it without penalty. While pre-need arrangements permit you to exercise control over matters, and thus may keep bereaved family members from going overboard and incurring burdensome debts, there may be disadvantages as well. You should talk about your decision with family and friends, and make sure to consider the following points:

- Is payment in a lump sum or in installments? Are the installments truly affordable?
- Is there an insurance feature, so that if you die "early" you still have the benefit of the services purchased?
- If the seller complies with Iowa law by placing 80% of the purchase price of funeral services and merchandise and 125% of the wholesale cost of cemetery merchandise in trust, can you get your money out of the trust if you need it for other purposes? If so, at what cost? Would the trust have any effect on eligibility for government benefit

programs? (Some benefit programs specifically exclude burial trusts up to certain amounts in making benefit eligibility decisions.)

- Can the account be transferred if you move out of the area or die away from home? If so, is there an added cost?
- Are you certain the arrangement will cover all costs? If not, will your estate be billed?
- Would you be better off keeping control of the money yourself, by creating your own separate savings account to cover such expenses?

**ASSISTANCE WITH BURIAL COSTS:** The following organizations may provide help with expenses associated with death or may provide benefits to help the survivors: Social Security Administration; Veterans Administration; Iowa Department of Human Services; and the County General Relief Offices. Check other sections of this Handbook for more information or contact the organization and ask about available assistance (addresses and phone numbers are set forth in the back of this Handbook).

**GIFT OF BODY TO MEDICAL INSTITUTION:** Another alternative to burial and cremation is the gift of your body to a medical institution. If you choose this

option, keep in mind that your body must be both needed and acceptable for the donation to become a reality. In order to give your body to a medical institution, you must first obtain all the details from the institution to which the gift would be made. The University of Iowa has a medical institution with a deeded body program. For more information you may contact:

Deeded Body Program  
Department of Anatomy  
Bowen Science Building  
University of Iowa  
Iowa City, IA 52242  
(319) 335-7762

**OTHER SOURCES OF HELP:** For further discussion of the subject, Iowa Legal Aid has a booklet entitled "Funerals in Iowa." Contact them (listed in the back of this Handbook) to get that information. If you feel you have been the victim of any unfair or deceptive practices in connection with funeral or burial arrangements, contact the Consumer Protection Division of the Iowa Attorney General's Office at the address and telephone number in the back of the Handbook.

## GRANDPARENT AND GREAT-GRANDPARENT VISITATION

Grandparents and great-grandparents who are denied visitation with their grandchildren or great-grandchildren are sometimes able to petition a court to get court-ordered visitation. However, Iowa law related to grandparent and great-grandparent visitation is currently in a state of transition. Over the past few years, the United States Supreme Court and, more importantly, the Iowa Supreme Court, have issued several rulings invalidating grandparent and great-grandparent visitation laws. There are now only three circumstances that give a grandparent or great-grandparent legal status to petition for visitation, but these circumstances may be invalid for the same reasons other circumstances have been found invalid under the courts' rulings. Legislation has been introduced in the Iowa Legislature intended to correct the deficiencies in Iowa's grandparent and

great-grandparent visitation law, but this legislation has not yet become law.

Under current law, the concept that custodial parents generally have the right to decide who can visit and spend time with their child is highly respected. Nevertheless, a grandparent or great-grandparent will be granted visitation over the objection of a custodial parent under certain limited circumstances if three requirements are met. First, they must prove legal status to benefit from the law, and the grandchild or great-grandchild must live in Iowa. Second, the court must find that the visitation is in the best interest of the child. Third, the grandparent or great-grandparent must show they have established a "substantial relationship" with the child prior to filing a visitation petition with the court.

The three remaining circumstances that give a grandparent or great-grandparent legal status to petition for visitation are (1) where a petition for dissolution of marriage has been filed by one of the parents of the grandchild, (2) where the grandchild has been placed in a foster home, or (3) where the grandparent or great-grandparent's son or daughter does not have custody of the grandchild and the spouse of the parent with custody has adopted the grandchild. Of course, as noted, these circumstances may be invalid for the same reasons other circumstances previously have been found invalid.

Once a grandparent or great-grandparent has legal status to petition for visitation, the court must find that the visitation is in the best interest of the child. Some of the factors the court may consider in determining whether the visitation is in the best interest of the child are: the type of relationship between grandparent and child, whether the grandparent is a positive influence

on the child, the reasons (if any) the parent is refusing to allow the grandparent contact with the child, and, if the child is old enough, the court may also consider the child's wishes.

The court must also find that the grandparent or great-grandparent had a substantial relationship with the child before the request for visitation was filed. The reason for this requirement is that if no such relationship existed in the past, presumably there will be no adverse effect on the child if there is no relationship in the future. Indications of a substantial relationship might include a history of frequent or routine visits and regular telephone contact or exchange of letters. If the court finds that there is both a substantial relationship with the grandchild and that it is in the best interest of the grandchild to continue that relationship, visitation may be awarded.

## GUARDIANSHIPS AND CONSERVATORSHIPS

Guardianships and conservatorships are court-authorized ways to allow one person to make decisions for another person. They allow the appointment of a "manager" to take care of the affairs of someone who has either voluntarily indicated that he or she is not capable of managing his or her own affairs or who otherwise demonstrates an incapacity to do so. The power to make decisions for another has a large impact on the person whose affairs are to be managed. For that reason, it takes a judge's order to establish a guardianship or conservatorship, and once established, the court requires annual status reports in order to stay informed.

**THE DIFFERENCE BETWEEN GUARDIANSHIPS AND CONSERVATORSHIPS:** In a guardianship, the manager, called the "guardian," provides care and makes decisions for the person unable to manage his or her affairs, called the "ward." In a conservatorship, the manager, called the "conservator," handles the ward's property and finances. It is possible for the same person to act as both guardian and conservator for the ward.

**CREATION OF A GUARDIANSHIP OR CONSERVATORSHIP:** There are two ways to establish a guardianship or conservatorship. The first is by a vol-

untary court proceeding. The second is by an involuntary court proceeding.

Voluntary court proceedings are relatively simple. This occurs when a competent person agrees that he or she needs to have his or her affairs managed by another. It is this agreement that makes it a "voluntary" proceeding. The person signs the necessary legal documents, which the judge then reviews. The person signing the documents must be competent and have a full understanding of the power and authority to be possessed by the proposed guardian or conservator. If the judge determines that the appointment will be in the best interest of the applicant, the judge will appoint the person named in the documents.

Involuntary proceedings are much more complex. In these cases, the person for whom the guardianship or conservatorship is asked does not necessarily agree that he or she needs this help. Several steps are provided by the law to make sure the person's rights are protected. First, a petition must be filed in court. The person named in the petition as needing a guardian or conservator must be notified of this petition and must be given at least 20 days after notice before the court hearing is held. Additionally, in an involuntarily guard-

ianship proceeding, either party is entitled to a jury trial upon proper demand. A jury trial is only allowed on the question of whether a guardian is necessary, whereas only the court, in equity, decides whom to appoint as a guardian of the ward if the jury finds a guardianship necessary. In a guardianship, the applicant must prove by clear and convincing evidence that the proposed ward's decision making capacity is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for the person's necessities such as food, shelter, clothing, and/or medical care, without which physical injury or illness might occur. In a conservatorship, the applicant must prove by clear and convincing evidence that the proposed ward's decision making capacity is so impaired that the person is unable to make, communicate or carry out important decisions concerning the person's financial affairs. It is at this hearing that the judge decides whether a guardian or conservator should be appointed. The person for whom the guardian or conservator is sought must be represented by an attorney at this hearing, either selected by the proposed ward, or if no attorney appears for the ward, the court must appoint an attorney for such representation. If an attorney's services cannot be afforded, appointment will be made at county expense.

**TYPES OF GUARDIANSHIPS AND CONSERVATORSHIPS:** There are several types of guardianships and conservatorships under Iowa law. They differ in the amount of control the manager has over the other person's affairs. For example, with a limited guardianship or conservatorship, the court tailors the manager's power to fit the needs of the ward and, therefore, the manager's powers are limited to certain clearly defined functions. Whenever a guardianship or conservatorship is requested, the judge will always consider whether a limited guardianship is appropriate, thereby allowing a ward to maintain as much independence as possible. A standby guardianship or conservatorship means that the manager's authority will only be effective if a certain event happens, such as the person becoming incapacitated and unable to communicate his or her needs to others. In that case, a competent individual chooses the person he or she would like to serve as guardian or conservator in the event of incapacity. When a temporary guardianship or conservatorship is authorized, the power is in effect only for a limited period of time, or until a permanent appointment is made.

**NOTIFICATION OF GUARDIANSHIP AND CONSERVATORSHIP POWERS:** In any action for the appointment of a guardian or conservator, the ward is entitled to written notice which advises the ward of the powers to be held by the guardian and the conservator, if either one is appointed by the judge. The written notice must also advise the ward of the right to legal counsel and the potential deprivation of the ward's civil rights.

**POWERS OF THE GUARDIAN OR CONSERVATOR:** The guardian has general power to make decisions for the ward. There are some decisions, however, which require the approval of a judge. One example of a decision requiring the judge's approval is changing the ward's permanent residence to a place that gives the ward less freedom than the ward's current residence. Also, the judge's approval is required for decisions regarding major medical elective surgery and other non-emergency major medical procedures.

The conservator, in dealing with the financial affairs of the ward, has general power to collect and save the ward's assets and to dispose of the ward's personal property at a fair price. The judge's approval must be obtained for the disposal of real estate, settling claims, executing leases or making disbursements.

**GUARDIANSHIP AND CONSERVATORSHIP REPORTS:** An important part of the guardian's and conservator's responsibilities is making reports to keep the court apprised of his/her activities on behalf of the ward. A guardian is responsible for three types of reports—an initial report must be made within 60 days of the guardian's appointment, an annual report on each anniversary date of the guardian's appointment and a final report within 30 days of the termination of the guardianship. A conservator must file an initial report and an inventory within 60 days of appointment, supplemental reports whenever any additional property comes into the conservator's hands, annual reports on the anniversary date of the conservator's appointment, and a final report when the conservatorship is terminated.

**TERMINATION OR CHANGE OF A GUARDIANSHIP OR CONSERVATORSHIP:** Once a guardianship or conservatorship is established, it lasts until the ward dies or until the ward returns to court and asks that the guardianship and/or conservatorship be changed or ended. To have the guardianship and/or conservatorship

changed or ended, the ward must demonstrate some decision making capacity. The guardian/conservator and/or any other proponent of maintaining the guardianship or conservatorship must then again prove by clear and convincing evidence that the ward's decision making capacity continues to be so impaired that the person is unable to care for the person's personal safety or to attend to or to provide for the person's necessities such as food, shelter, clothing, and/or medical care,

without which physical injury or illness might occur. The judge will determine whether or not to continue the guardianship and/or conservatorship, and if it is to be continued, whether it should be a full guardianship and/or conservatorship or whether it should be limited. Most guardianships or conservatorships for children end when they reach the age of eighteen with the filing of a final report. Guardianships or conservatorships end only with the judge's approval.

## LANDLORD/TENANT

This section will discuss only a few points of landlord-tenant law, and will do so in a very general way. For more information, see the list of resources at the end of this Handbook.

**PROTECT YOUR RIGHTS:** If you are involved in a landlord-tenant arrangement, there are certain steps you should take to protect your rights:

- Put important messages in writing
- Keep copies of all written documents
- Get receipts
- Have a witness available to see/hear anything that could become the subject of dispute
- Take photos of any condition of the rental property which you may want to describe to a judge later on
- Keep a record of important events and dates, and
- Send a confirming letter to your landlord anytime there is a verbal agreement pertaining to the rental, describing your understanding of what was said and all elements of the agreement. For example "This will confirm we spoke December 10 and you said you would fix the leaky faucet by next Wednesday."

**RENTAL AGREEMENTS:** A rental agreement is the understanding between the landlord and the tenant about the rental of a dwelling, such as a house or apartment. A rental agreement can be written or oral. A rental agreement can also be for an exact length of time

(6 months, 3 years, etc.), or it can be month-to-month or week-to-week. If a rental agreement is for an exact period of time that is more than one year, it must be in writing rather than oral.

Whether to make a rental agreement for a set term (like 6 months) or month-to-month depends on your needs. There are advantages to each type of arrangement. A rental agreement for a set length of time will guarantee the tenant that the rent will not increase during the term of the agreement, and will guarantee the landlord that the tenant will have to pay rent for the term. The main disadvantage is that if the tenant wants or needs to move, he or she may have to pay the rent for the remainder of the term of the agreement, unless he or she can find a sublessee or obtain a release from the landlord. A month-to-month rental agreement has the advantage of a short term and easy exit from the agreement. However, the main disadvantage is that the rent can be increased with adequate written notice whenever the landlord sees fit.

It is important to weigh the advantages and disadvantages when entering into a rental agreement. It may be that a month-to-month tenancy is just right for a person waiting for placement in a residential care facility. An agreement for a longer term may be better if the tenant is in good health and expects to remain in one place indefinitely.

**PROHIBITED RENTAL PROVISIONS:** Iowa law prohibits rental agreements from including certain provisions. The rental agreement shall NOT provide that the tenant or landlord:

- Agree to waive any rights or remedies provided by law.

- Agree to lose automatically (“confess judgment”) if a dispute goes to court.
- Agree to pay the other party’s attorney’s fees in the event that the parties are involved in a dispute over the rental agreement.
- Agree to limit the liability of the other party.

Prohibited provisions are unenforceable. If a landlord intentionally uses a rental agreement containing any of the above provisions, a tenant may recover damages and attorney’s fees.

**RENTAL DEPOSITS:** Iowa law places a number of restrictions on rental deposits (also called “security” or “damage” deposits). Here are some of the most important legal requirements:

- The rental deposit may not exceed an amount equivalent to two months rent.
- The landlord must keep the deposit in a bank account separate from the landlord’s own money.
- The deposit may not be kept by the landlord to pay for normal wear and tear to the rental unit.
- The deposit must be returned to the tenant within 30 days after the tenancy ends, provided the tenant has left a forwarding address with the landlord. If the forwarding address is not given to the landlord within one year, the landlord may keep the deposit.
- A landlord may keep part of the rental deposit for the following reasons:
  - a. To make up for unpaid rent, or other payments owed to the landlord under the rental agreement.
  - b. To make repairs to the property for damages which were the tenant’s fault.
  - c. To pay for the costs of removing a tenant who, in bad faith, stays even after the rental agreement has been ended because of the tenant’s non-compliance.

- In order for the landlord to keep any part of the deposit, he or she must give the tenant a written explanation of the specific reasons the money is being withheld and must do so within thirty days of the tenant moving. If the tenant disagrees with the landlord’s reasons, he or she may go to Small Claims Court to seek the return of the deposit.

**LANDLORD’S DUTIES:** Some of the landlord’s duties under Iowa law include:

- Keep the house or apartment up to housing code requirements. You may want to call the building or housing inspector if there seem to be any serious code violations.
- Make whatever repairs are necessary to keep the house or apartment in a fit and livable condition.
- Keep any areas used by the tenants of more than one apartment (“common areas”) clean and safe.
- Keep facilities and appliances such as the electric wiring, elevators, plumbing, heating, air conditioning and the like in good and safe working order.
- Provide a proper container for garbage and arrange for garbage collection.
- Provide the necessary essential services such as hot and cold running water and heat.

A landlord may shift some of these duties to the tenant, but only under special circumstances.

**TENANT’S DUTIES:** Here are some of the tenant’s duties under Iowa law:

- Keep the house or apartment in a safe and healthful condition as required by housing codes. (NOTE: Some part of a housing code may deal with areas or activities over which the tenant has special control, such as proper use of extension cords and avoiding overload of the electrical circuitry.)
- Keep his or her own living area as clean and safe as possible.
- Dispose of garbage properly, in the containers provided.

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- Keep all plumbing fixtures (such as bathroom and kitchen) as clean as possible.
- Use in a reasonable manner appliances and facilities, such as plumbing, heating, wiring and air conditioning.
- Keep from purposely or carelessly changing, tearing down, or abusing the house or apartment or allowing someone else to do so.
- Avoid doing things that will disturb the neighbors' peace, quiet, and their enjoyment of their property.

**RAISING THE RENT:** In a month-to-month rental arrangement, a landlord may raise the rent if proper advance notice is given. To raise the rent, the landlord must give the tenant a written notice of the rent increase at least 30 days before the increase can take effect. In a rental arrangement for a definite period (such as for 6 months, 1 year, etc.), the landlord cannot raise the rent during the agreed period, unless the tenant agrees otherwise. A new rental amount can be negotiated when the agreed period ends.

**RETALIATION:** Retaliation is "getting back at" or "getting even with" someone for something. The law makes certain types of retaliation illegal. A landlord cannot attempt to get even with a tenant by raising the rent, refusing to do any maintenance, or evicting (or threatening to evict) just because the tenant has done one of the following things:

- Contacted the building or housing inspector about an unsanitary, unhealthful or unsafe condition that the tenant did not cause.
- Complained to the landlord that he or she is not doing the things he or she is obligated to do as a landlord—for example, not doing required maintenance, not providing a trash container, etc.
- Organize with other tenants to protect the tenants' rights or join an organization concerned with tenants' rights.

**LANDLORD'S RIGHT TO ENTER:** The main legal rules describing the landlord's "right of access" (that is, the landlord's right to enter the rental property), and the limits on that right are:

- Generally, before a landlord can enter a tenant's dwelling, the landlord must give the tenant at least 24 hours advance notice and must enter only during reasonable hours. The only times the landlord is not required to give this notice is in the case of an emergency or where it is impractical to do so.
- The landlord cannot abuse his or her right of access, or use it to harass the tenant.
- The tenant cannot unreasonably refuse to allow the landlord to enter the apartment or house to make necessary repairs or inspections. This also applies to repairmen sent by the landlord.
- In the case of an emergency, the landlord may enter the tenant's home at any time, even without the tenant's consent.

**ENDING THE RENTAL AGREEMENT:** Either a landlord or a tenant can end a rental agreement as follows:

- If the arrangement is month-to-month, the person wanting to end the arrangement must give the other a written notice at least 30 days in advance of the intended ending date. The notice should actually say what the ending date will be, and the ending date must be a date when rent would normally be due.
- If the arrangement is for some exact period of time, such as 1 year, the arrangement will end automatically on the last day of the agreed period, unless the agreement also sets out some special procedures for renewal of the arrangement.
- If a landlord or tenant wants to end a rental agreement because of the other person's failure to live up to it, it is best to get legal advice. Termination of the lease can occur in as little as three days, so it is best to get legal advice promptly.

**EVICTION:** Eviction (also called "Forcible Entry and Detainer" or "F.E.D.") is the legal process landlords use to make tenants leave the rental property. Forcing a tenant out in some way other than through proper eviction procedures, such as by turning off utilities, is illegal.

An eviction involves written notices and an opportunity to tell one's story to a Judge, usually a Small Claims Court Judge. A full discussion of eviction procedures cannot be given here, but remember this important point: an eviction must involve an opportunity for the tenant to tell his or her story to the Judge, and written notices demanding that the tenant leave do not, of themselves, amount to an eviction. For more information, check the resources section at the back of the Handbook.

**MOBILE HOME PARKS:** Iowa law contains an entire set of provisions pertaining specifically to rental of a mobile home lot in a mobile home park. Many of the provisions are the same as in the ordinary landlord/tenant context. A discussion of all these provisions is beyond the scope of this Handbook and you are advised to seek the advice of a legal professional with regard to specific questions. However, some significant provisions pertaining to mobile home lots are set forth below:

- Rental agreements are for a term of one year unless otherwise stated in the rental agreement. Either party can cancel rental agreements with at least sixty days' advance written notice. A landlord cannot cancel a rental agreement solely for the purpose of making the tenant's lot available for a different mobile home.
- If a tenant dies, the surviving joint tenant or tenant in common continues as tenant with the same rights and liabilities of the original tenant.
- If a tenant who was the sole owner of the mobile home dies during the term of the rental agreement, either the person's heirs or legal representatives or the landlord can cancel the lease by giving sixty days' advance written notice.
- Improvements, except a natural lawn, purchased and installed by a tenant shall remain the property of the tenant even though affixed to or in the ground and may be removed by the tenant at the end of the rental period provided the tenant leaves the lot in substantially the same condition it was in before installation of the improvement. A landlord

cannot require the tenant to furnish permanent improvements that cannot be removed without damage to the improvement or the lot at the expiration of the rental agreement.

- A tenant must be notified in writing at least sixty days in advance of any rent increase, and such an increase cannot become effective before the termination of the original agreement.
- It is the landlord's responsibility to maintain in good and safe working condition all facilities supplied by the landlord and the landlord must furnish outlets for electric, water, and sewer services.
- A landlord may adopt rules and regulations pertaining to the mobile home park, but they must apply to all tenants in the park in a fair manner and the tenant must be given a copy before the rental agreement is executed. A new rule can only be adopted if all tenants are given thirty days' advance notice and if the new rule does not work a substantial modification of a tenant's rental agreement.
- A landlord cannot: (a) require as a precondition of rental an entrance or exit fee unless for services actually rendered unless the tenant agrees otherwise; (b) collect a commission or fee with respect to the price obtained for sale of a mobile home unless the landlord acted as agent pursuant to a written agreement; or (c) prohibit meetings between tenants relating to mobile home living and affairs in the park hall if such meetings are held at reasonable hours and the hall is not otherwise in use.
- A landlord does not have a right of access to a mobile home owned by a tenant unless necessary to prevent damage to the lot or in response to an emergency. A landlord can enter the lot to inspect the lot, make necessary and agreed repairs, supply necessary or agreed services, or to show the lot to a prospective buyer or tenant.

## LIVING WILLS

All adults have the basic right to control decisions about their own medical care. People have the right to decide whether or not to withhold certain treatment. They can choose not to receive medical or surgical procedures that only prolong the dying process.

Iowa law ensures that the rights and desires of the terminally ill are honored. It provides that adults can direct, in advance, whether they want to be kept alive by artificial means in the event they become terminally ill and are incapable of taking part in decisions regarding their medical care. This written declaration is commonly referred to as a "living will." Because it is signed in advance of its use, it is also referred to as an "advanced directive." Federal law now requires hospitals and long-term care facilities to notify persons being admitted of their right to execute advanced directives.

This section answers questions commonly asked regarding living wills. This is a general summary, and not a substitute for legal advice. You should see a lawyer to get complete and current legal advice. In particular, your lawyer will be able to provide a document that satisfies the requirements of Iowa law.

**WHAT IS A LIVING WILL?** The term "living will" is a misnomer. A living will is best defined as a written declaration that informs medical personnel of your desire not to have life-sustaining procedures induced if you are diagnosed as being terminally ill and you are incapable of participating in the decision-making process regarding your treatment, and the use of life-sustaining procedures would merely prolong the dying process.

**HOW DO I MAKE A LIVING WILL?** A living will can only be made by a competent adult who is age 18 or older. The declaration can be signed in the presence of two witnesses or a notary public. If witnessed, the witnesses must be age 18 or older, and it is recommended that the witnesses not be members of the declarant's immediate family. A health care provider and its employees cannot be witnesses. The witnesses also must sign the document. The declaration must be signed voluntarily.

A declaration executed in another state or jurisdiction that is in compliance with the law of the state or juris-

diction will be valid in Iowa to the extent the declaration is consistent with the law of Iowa.

**WHAT SHOULD I DO WITH THE LIVING WILL ONCE IT IS SIGNED?** The original living will must be given to your doctor in order to act on it. Under Iowa law, it is your responsibility to provide your attending physician with the declaration. An "attending physician" is the doctor who is primarily responsible for your care. This doctor may not always be your family doctor. However, it is a good idea to give a copy of the living will to your family doctor for his or her files. In addition, the living will's existence should be made known to family members.

**WHEN SHOULD I MAKE A LIVING WILL?** As long as you are age 18 or older and competent, you can execute a living will at any time. It can be signed before or after diagnosis of terminal illness. A recent federal law now requires medical facilities to inform all patients, prior to admission, of the right to sign a living will or health care power of attorney.

**HOW DOES THE LIVING WILL AFFECT MY MEDICAL TREATMENT?** You may direct your doctors to withhold or withdraw life-sustaining procedures in the event you become terminally ill, are unable to participate in the decision making process, and the use of life-sustaining procedures will merely prolong the dying process.

**WHAT IS A "TERMINAL CONDITION"?** Under Iowa law, a terminal condition is defined as an incurable or irreversible condition that, without life-sustaining procedures, results in death within a relatively short period of time, or a comatose state from which there can be no recovery, to a reasonable degree of medical certainty.

**WHAT ARE "LIFE-SUSTAINING PROCEDURES"?** Under Iowa law, a life-sustaining procedure refers to any medical procedure or treatment that meets both of the following requirements:

- The use of mechanical or artificial means to sustain, restore or take the place of a spontaneous vital function, and which,

- When applied to a patient in a terminal condition, would serve only to prolong the dying process.

In April 1992, Iowa law was amended to include the provision of nutrition and hydration in its definition of life-sustaining procedures, but only when required to be provided parenterally or by intubation. "Parenterally" is defined as "something introduced to the body other than through the intestine." It is important to note that the term does not include the provision of medicine or procedures necessary to provide comfort or to ease pain.

**WHAT IS "RESUSCITATION"?** Resuscitation is a life-sustaining procedure and was defined by Iowa legislation in 2002. Resuscitation is defined as "any medical intervention that utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function, including but not limited to chest compression, defibrillation, intubation, and emergency drug intended to alter cardiac function or otherwise to sustain life."

**WHO DECIDES WHETHER MY CONDITION IS TERMINAL?** Your attending physician makes this decision, but another physician must confirm the determination. The doctors' conclusions must be entered in your written medical records.

**WHAT IF I MAKE A LIVING WILL BUT I CHANGE MY MIND?** You may revoke a living will at any time simply by notifying your attending physician of your intent to revoke the document. Your intent must be communicated, by you or someone else, to your attending physician, who will then record this communication as part of your medical record.

**WHEN DO THE PROVISIONS OF A LIVING WILL TAKE EFFECT?** The provisions take effect after (1) your doctor and another doctor decide that your condition is terminal and record their conclusion in your medical record, (2) your doctor is presented with your living will, and (3) you are unable to make decisions regarding your care and treatment. Accordingly, even if you make a living will, you have the right to make decisions regarding the use of life-sustaining procedures so long as you are able to do so. The living will only becomes effective when you are unable to participate in these decisions.

**MY LIVING WILL WAS SIGNED PRIOR TO APRIL 23, 1992. IS IT STILL VALID?** Effective April 23, 1992, Iowa law was amended to include the provision of nutrition and hydration in its definition of life-sustaining procedures, and the definition of a terminal condition was expanded to include a comatose state from which no likelihood of recovery is expected. Living wills executed prior to this date are still valid, but their effectiveness will not include the changes. You must affirmatively elect these changes in the law by signing a new living will. However, if a living will executed prior to the effective date contained language prohibiting the administration of life-sustaining procedures in the case of nutrition, hydration, or comatose state, then that language now will be given effect.

**WHAT HAPPENS IF THE ORIGINAL LIVING WILL CANNOT BE FOUND OR IF SOMEONE TAMPERS WITH, DESTROYS OR CONCEALS MY LIVING WILL?** If the original living will cannot be located, then the law identifies a hierarchy of persons who are authorized to make the decision in your stead. See the next section for this list. If your living will is destroyed without your consent, that person has committed a crime, a serious misdemeanor.

**WHEN CAN LIFE SUSTAINING PROCEDURES BE WITHHELD OR WITHDRAWN WITHOUT A LIVING WILL?** Life-sustaining procedures may be withheld or withdrawn from a patient who is in a terminal condition and who is comatose, incompetent, or otherwise physically or mentally incapable of communication and has not made a living will under Iowa law, if there is consultation and a written agreement for the withholding or the withdrawal of life-sustaining procedures between the attending physician and any of the individuals listed in the section below.

**WHAT IF I DO NOT MAKE A LIVING WILL AND I BECOME TERMINALLY ILL AND UNABLE TO PARTICIPATE IN DECISIONS REGARDING MY TREATMENT?** If you have no living will in this situation, your treatment decisions may be made, in front of a witness, by the attending doctor and any of the following persons, in the following order:

- The person you designated in a power of attorney, if any. (See the Handbook discussion regarding powers of attorney.)

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- Your court-appointed guardian, if any. Your guardian must obtain court approval before making this decision.
- Your spouse.
- Your adult child. However, if you have more than one child, then the decision is to be made by a majority of your available adult children.
- Your parent or parents.
- An adult brother or sister.

**DOES A LIVING WILL AFFECT EXISTING LIFE INSURANCE BENEFITS?** The law provides that making a living will does not affect a life insurance policy, whether you already own a policy or are yet to purchase one. You cannot be required to sign a living will in order to obtain life insurance. Finally, the law specifically provides that death from the withdrawal of life-sustaining procedures pursuant to a living will does not constitute suicide or homicide.

**WHERE CAN I OBTAIN A LIVING WILL FORM?** If you are interested in creating a living will, you can contact an attorney or call the Iowa State Bar Office (listed in the Resources Section in this Handbook) for a form.

**OUT OF HOSPITAL DO-NOT-RESUSCITATE (OOH DNR):** Under a 2002 law, adult, terminally ill patients can make non-resuscitation decisions in out-of-hospital settings. This allows the patient to have their physicians prepare and sign an OOH DNR order. The OOH DNR is a physician's order authorizing medical care providers to allow a patient's wishes not to be resuscitated in the out of hospital setting. Patients will still receive comfort care, including pain medication, to make the patient as comfortable as possible. The patient may also purchase a standard identifier, necklace or bracelet, which EMS providers and other health care providers can easily recognize.

For more information on OOH DNR, contact the Department of Public Health at 1-800-728-3367 or [www.idph.state.ia.us/EMS](http://www.idph.state.ia.us/EMS).

## LONG-TERM CARE INSURANCE

By 2020, 12 million older Americans will need long-term care. Most of these good folks will be cared for at home, as family members and friends are the only caregivers for 70 percent of the elder frail. A U.S. Department of Health and Human Service study has shown that people at age 65 face well over a 40 percent risk of entering a care facility.

While the question may no longer be whether you will need long-term care, the questions may be "for how long?" and "who will pay?" More than half of all nursing home expenses are paid for by those in the nursing homes or their family members. State Medicaid programs pay for fewer than half of all patients in nursing homes. Medicare, Medicare Supplement insurance and managed care plans do not pay for long-term care. Employer provided health insurance covers little, if any long-term care.

Long-term care can range from custodial care to skilled nursing care. It may be provided in the person's home,

at an assisted living center, in the nursing home or at a day care center.

**SKILLED NURSING CARE:** A person needing skilled nursing care usually has a medical condition that requires care by specially trained, state licensed nurses or therapists. A doctor orders round-the-clock skilled nursing care. Skilled care can be provided in a person's home or at a nursing home or assisted living center. A doctor orders skilled care when the patient is experiencing a severe illness. The care may extend for a time beyond the worst part of the illness. Medicare will cover the cost of some skilled nursing in approved nursing homes or in a person's own home, but only in certain situations and for limited periods of time.

**INTERMEDIATE NURSING CARE:** A person needing intermediate nursing care requires daily supervision, the care givers are generally supervised by registered nurses, and intermediate nursing care is provided from a few months to years.

**CUSTODIAL CARE:** A person needing custodial care requires assistance with daily living, including routine activities such as bathing, eating, and dressing. This type of care is provided by nursing assistants. A person may receive this care at home, in the nursing home, or at a day care center.

Medicare and Standard Medical Supplement insurance do not cover custodial or immediate care.

Medical Supplement insurance, also called Medigap, is private insurance designed to help pay for some of the gaps in Medicare coverage, and may include hospital deductibles and physicians' charges that are not covered by Medicare payments. These policies do not cover long-term care expenses. However, Medicare supplement policies plans, such as D, G, I and J, do contain an "at-home" recovery benefit. It may pay up to \$1,600 per year for short-term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery. This benefit is paid only when Medicare has approved a home care plan of treatment.

Medicaid is a state and federal aid program that can pay for all or part of long-term care costs. However, to receive Medicaid assistance, a person must meet federal guidelines for income and assets. Many persons who begin paying for nursing home care out of their own pockets spend down their financial resources until they become eligible for Medicaid. Medicaid may then pay all or part of their nursing home expenses. Contact your local Department of Human Services (DHS) office to learn about Medicaid eligibility.

Many insurance providers have developed long-term care insurance policies. Before you sign the policy and a check to cover the annual premium, consider several things, including your financial situation—a fixed or fluctuating income, assets such as real property (land, house or condominium), your health, and where you want to receive long-term care.

Long-term care policies can help pay the bills if you need to be in a nursing facility, or if you need care in your own home or in an assisted living center. These policies are designed to protect persons who need care for relatively long periods, such as a year or more.

Not everyone should buy a long-term care insurance policy. While a long-term care policy is an affordable form of insurance for some, premiums can range from a few thousand dollars to several thousand dollars a year. For others, the cost of the insurance premium is too much, and the insurance benefits they can afford are insufficient to pay for the long-term care they may require in the future. Be sure you ask when or if the cost of the policy premium will increase as you get older. Some policy premiums increase as the policy holder ages, meaning the policy holder could be required to pay a higher premium at a time when he or she, often on a fixed income, can least afford to.

If you decide to talk to an insurance agent about a long-term care policy, and before you sign the policy and write the premium check, keep these points in mind:

- Take your time. The decision to buy long-term care insurance is very important and should not be rushed. Do not be pressured into buying a policy. Tell the agent that you will think about it and get back to him or her.
- Talk to your spouse, family members and trusted friends, and take someone with you when you talk to an agent. While you and the agent talk, the person who accompanies you can listen to you and the agent.
- No matter how persuasive or insistent the telemarketer may be, do not buy an insurance policy over the phone. You need to read the policy word for word before you pay for the policy.
- Check with several companies and agents. Be sure to compare benefits, the types of facilities covered, how to qualify for benefits, policy maximums, the exclusions and, of course, the premiums.
- Ask about exclusions. What kind of care does the policy exclude?
- Deal with a local, reliable agent, from an insurance company with an A- or higher rating from A.M. Best.
- If a person you do not know tries to sell insurance to you, ask to see his or her insurance license. Contact the home office of the company the agency

represents. The agent should have this telephone number readily available. Ask for the agent's company's name, address and phone number. If you use a computer, ask for the Internet address.

- Understand the policies. You should receive an "Outline of Coverage" that clearly summarizes the policy. Make sure you know what the policy covers and what it does not.
- Before you switch policies, make sure the new policy is better than your current one. It may be more cost-effective to upgrade your current policy by adding additional benefits than to switch to a policy from another company.
- Do not cancel a policy until you have been accepted by the new insurer and have a policy in your hand. Consider carefully whether you want to drop a policy and purchase another. Long-term care policies sold in Iowa since July 1, 1987, must be guaranteed renewable.
- Complete the application carefully. Before you sign the application, read the health information recorded by the agent. Do not sign the application until all the health information is complete and accurate. If you leave out requested information, the

insurer could deny coverage for that condition, or cancel your policy.

- Do not pay with cash. Pay by check, money order, or bank draft payable to the insurance company only, not to the agent. Completely fill in the check before presenting it to the agent.
- A policy should be delivered within a reasonable time after application (usually 60 days). If you have not received the policy or had your check returned in that time, contact the company and obtain—in writing—a reason for delay. If problems continue, contact the Iowa Insurance Division, Department of Commerce, 330 Maple, Des Moines, IA 50319-0065; phone: 515-281-5705.

If you have questions about long-term care insurance, there is help available. The Iowa Insurance Division's Senior Health Insurance Information Program (SHIIP) can help answer your questions about long-term care insurance. SHIIP counselors do not sell insurance or promote specific insurance companies or agents. All services are confidential and free. The Iowa Insurance Division also has available a booklet entitled "Iowa Guide to Long-Term Care Insurance."

## LONG-TERM HEALTH CARE FACILITIES

Many people in their 70s, 80s, and 90s live full, rich lives and are able to run their own households with little or no assistance. When people need some level of medical care or assistance with activities like shopping and preparing food, they are often able to remain in their own homes with the help of family and friends, community based services, and professional home care agencies. Contact your Area Agency on Aging, or Department of Human Services, or your physician for information on or links to home and community based services that may be available to assist an elder in maintaining independence. A listing of the Iowa Area Agency on Aging locations and phone numbers follows this section. Eldercare Locator, a toll-free nationwide telephone service (1-800-677-1116), is another resource to assist long distance caregivers in locating services for older adults in their own communities.

When people have debilitating physical or emotional conditions or become feeble, they often require the kind of care that can't be provided by family or community based services. Based on the person's level of care needs, long-term health care facilities or "nursing homes" may be the solution. Early research into long-term care facilities can aid in the planning and smooth the transition with an elderly person.

**CONSIDER MEDICAL NEEDS:** The first step is to consider the person's medical needs. Nursing homes are designed for people who are chronically ill or need around-the-clock medical care. Some people go directly into a nursing facility after being discharged from hospitals because they need intensive or skilled care from a licensed nurse or therapy to recover from an injury or a disabling illness. Others are in nursing homes because they can no longer independently manage activities of

daily living, such as bathing, eating, dressing, mobility and toileting needs. The goal of care in a nursing facility is to help individuals meet their daily physical, social, medical, and psychological needs and to return home whenever possible.

Nursing homes are not alike. Certain facilities are equipped to provide different levels of care while others have specialized units, such as an Alzheimer's Unit. Many nursing facilities, but not all, provide care at different levels. The terms skilled nursing care, intermediate nursing care and custodial or residential care refer to different levels of care and the different needs of the resident:

Skilled Nursing Care means nursing care performed under the orders of a doctor, supervised by a licensed registered nurse, and carried out by licensed registered or practical nurses available around the clock. Skilled care includes one or more professional nursing procedures performed for the patient's benefit on a daily basis. It might include such things as changing IVs, or physical, occupational or speech therapy. The care is expected to result in some significant improvement in the patient's medical condition that will aid in the patient convalescing from a sickness or injury.

Intermediate Care is nursing care that must be performed under the orders of a doctor and under the supervision of a licensed registered or practical nurse. Intermediate care provides the patient, on a periodic basis, with one or more procedures that cannot be done without professional skill or training. Examples include giving injections or changing bandages. It also involves assistance in performing daily routine tasks, such as bathing and eating, as needed. A person is seldom in skilled and/or intermediate care for longer than six months. The patient usually returns home or enters custodial care within 120 to 180 days of skilled or intermediate care.

Custodial Care is primarily for meeting the personal needs of an individual, and could be provided by persons without professional skills or training. Assistance with eating, bathing, dressing, walking, getting in and out of bed, and taking medication that could be self-administered is considered custodial care.

## OTHER OPTIONS IN LONG-TERM CARE INCLUDE:

**Assisted Living.** Assisted living arrangements provide assistance for persons who are largely able to live independently but need some assistance with activities of daily living such as eating, bathing, and using the bathroom, taking medicine, and getting to appointments as needed. Residents often live in their own rooms or apartments within a building or group of buildings and have some or all of their meals together. Social and recreational activities are usually provided. Some facilities have health services on site. Costs for assisted living facilities can vary widely depending on the size of the living areas, services provided, type of help needed, and where the facility is located.

**Continuing Care Retirement Communities.** Continuing Care Retirement Communities (CCRCs) are sometimes called life care communities. Entering a CCRC is often a once-in-a-lifetime choice. While the physical plans of CCRCs vary, many offer extended campuses that include separate housing for those who live very independently, assisted living facilities for those needing some support, and nursing care facilities for those needing custodial or skilled nursing care. The CCRCs provide a continuum of care for elderly persons based on ability and need. Most communities require an entrance fee and monthly payments. Additional fees may apply for specific services.

**SELECTING A LONG-TERM CARE FACILITY:** Before you begin a search for a long-term care facility, determine the medical and physical needs and the financial resources of the prospective resident. Family, friends and the family physician should participate in this process. The prospective resident's opinions and desires should also be considered as a major factor.

Facilities located near the people who will be visiting the resident most frequently should be seriously considered. Visits are very important in maintaining a resident's morale and well being.

Obtain a current list of licensed long-term care facilities from the Iowa Department of Inspections and Appeals, available on-line at [www.dia-hfd@state.ia.us](http://www.dia-hfd@state.ia.us) or at [www.cms.hhs.gov/quality/nhqj](http://www.cms.hhs.gov/quality/nhqj) and click on "nursing home compare." Review the recent survey reports of facilities that interest you. Phone those facilities to

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obtain basic information about openings, basic charges and services, as well as any “extras” for which the family may be responsible, such as laundry or disposable pads. If you are still interested, schedule an appointment to meet the administrator or the director of admissions and tour the facility. Follow up with a second unannounced visit to the facility.

**IMPORTANCE OF SURVEY REPORTS:** Nursing homes participating in the Medicare and Medicaid programs are required by federal law to undergo an annual survey and certification process. The purpose of the survey is to assess whether the quality of care, as intended by the law and regulations, and as needed by the resident, is being provided in the nursing home. Prior survey results are considered public and can be requested from the Iowa Department of Inspections and Appeals. The survey report must also be posted for inspection within the facility.

Survey results reveal whether the facility is in substantial compliance with Medicare and Medicaid requirements as well as with state law, and if there are deficiencies. If the survey team determines that deficiencies exist, the team determines the seriousness of the violations. Consideration is given to whether the deficiency status constitutes immediate jeopardy or actual harm, and whether the deficiency is isolated, constitutes a pattern, or is widespread.

If a nursing home is found to be out of compliance, federal law sets forth enforcement options such as denial of payment for new admissions, fines, revocation of Medicaid and Medicare certifications, transfer of residents, and the imposition of temporary management. The expectations are that:

- Nursing homes participating in Medicare and Medicaid programs must remain in substantial compliance with the Medicaid/Medicare care requirements.
- All deficiencies will be addressed promptly.
- Residents will receive the care and services they need to meet their highest practicable level of functioning.

**BENCH MARKS OF GOOD NURSING HOME CARE:** A nursing facility provides the level of care

necessary to meet the needs of elderly and frail people, but it may also become a last residence for your relative. The choice of a good facility involves qualities that relate both to medical care and the comforts of home. Finding a facility that suitably fulfills both functions at all times may be difficult.

When looking for a long-term care facility, consider:

- Safety and good medical care. You need to know that the facility you consider places a high premium on meeting residents’ safety and basic care needs. For example, stairway doors should be locked to prevent accidents. Toileting needs should be met promptly. Exercise or rehabilitation sessions should be scheduled regularly so that residents don’t lose mobility.
- Interactions with staff. Research has shown that relationships with staff are one of the most important aspects of life in a nursing home. There should be adequate staff to manage the care needs of the residents. Staff interactions with residents and visitors should be pleasant and helpful.
- Stimulation. Even people with severe cognitive impairments need stimulation and can express pleasure. A nursing home needs to provide such stimulation and must do more than post a list of activities on the bulletin board. Residents should be encouraged to attend activities and make the most of their abilities.
- Pleasant and safe environment. The nursing home should be pleasant, bright, clean, and odor-free. It should be a place where you want to visit.

**FINANCING LONG-TERM HEALTH CARE:** Long-term care is expensive. The basic charge of the facility often does not include the costs of special services or supplies a resident may need. The four basic methods for paying for long-term care are: Medicare, private pay, Medicaid and supplemental insurance.

**MEDICARE:** Many people believe Medicare pays for long stays in a nursing home, but it doesn’t. Under certain limited conditions, Medicare will pay some nursing home costs for Medicare beneficiaries who require skilled nursing or rehabilitation services. When skilled

care or rehabilitation services are ordered by a physician, Medicare will cover the first 20 days of the skilled care and will partially pay for the next 80 days for a total benefit not to exceed 100 days. A three-day hospital stay prior to admission to the skilled care facility is required to qualify for this benefit. Medigap or supplemental insurance may assist with required skilled and intermediate care costs. Check your policies.

**PRIVATE PAY—PERSONAL RESOURCES:** About half of all nursing home residents pay nursing home costs out of their own savings. After these savings and other resources are spent, many people who remain in nursing homes for long periods eventually become eligible for Medicaid.

**MEDICAID:** Medicaid is a State and Federal program that pays most nursing home costs for people with limited income and assets. Eligibility depends on a person's income, resources and circumstances. Medicaid will pay only for nursing home care provided in a facility certified by the government to provide service to Medicaid recipients. It should be noted that, even though most facilities are certified to accept Medicaid residents, some facilities limit the number of Medicaid admissions. If a person is eligible for Medicaid and is accepted as a resident by a facility, the Medicaid payment must be accepted by the facility as full payment for care. Contact SHIP at 1-800-351-4664 or your area Department of Human Services to determine eligibility.

**LONG-TERM CARE INSURANCE:** Long-term care insurance is a private insurance policy. It is important to study any nursing home insurance policy carefully before buying it so that you understand the financial obligations and policy benefits. The benefits and costs of these plans vary widely. For more information on these plans, contact the National Association of Insurance Commissioners (NAIC). It represents state health insurance regulators and has a free publication called "A Shopper's Guide to Long-Term Care Insurance." You also can get a copy of the "Guide to Health Insurance for People with Medicare" by calling 1-800-MEDICARE.

**MANAGED CARE PLANS:** A managed care plan will not pay for care unless the nursing home has a contract with the plan. Contact your plan advisor.

**COUNSELING AND ASSISTANCE:** SHIP counselors can assist you with your questions on how to pay for nursing home care, the coverage you may already have, or whether there are any government programs that will help with your expenses. Contact SHIP at 1-800-351-4664.

**NURSING HOME RESIDENT'S BILL OF RIGHTS:** Under federal regulations, all nursing homes are required by law to have written policies called the Nursing Home Resident's Bill of Rights, which describe the rights of the residents. Nursing homes are required by law to make these policies available to any resident who requests them and to administer them to all residents regardless of race, color, religion, national origin, ability to pay, or source of payment.

The Nursing Home Resident's Bill of Rights should include and define (but not be limited to) the following rights:

- The Right to be Informed of Your Rights and the Policies of the Home
  - § The nursing home must have written policies about your rights and responsibilities as a resident. You must sign a statement saying that you have received and understood these rights and the rules of the home when you are admitted. As a resident, you have the right to be fully informed before or at admission of your rights and responsibilities as a resident and to be notified of any changes or amendments to those rights and responsibilities.
- The Right to be Informed about the Facility's Services and Charges
  - § Every resident has the right to be fully informed of the services available in the facility and of the charges related to those services. These charges include services not covered under Medicare or Medicaid and charges that are not covered in the facility's basic rate.
- As a Resident, you have a right to:
  - § Be Informed about Your Medical Condition and TreatmentEvery resident has the right to receive medical care, nursing care, rehabilitative and restorative therapies, and personal hygiene in a safe, clean environment. Also, residents have

the right to be fully informed of their medical conditions unless the physician indicates in the medical records that it is not in the best interest of the patient to be told. Residents have the right to be advised by a physician or appropriate professional staff of alternative courses of care and treatments and their consequences.

## § To Participate in Planning Your Care and Medical Treatment

Residents must be given the opportunity to participate in the planning of their medical treatment. Residents have the right to refuse treatment and to refuse to participate in experimental research.

## § To Choose Your Own Physician

Every resident has the right to choose his/her own physician and pharmacy. Residents do not have to use the nursing home's physician or pharmacy.

## § To Manage Personal Finances

Residents have the option to manage their funds or to authorize someone else to manage them. If someone else is authorized to handle a resident's funds, the resident has the right to: know where the funds are and the account number(s); receive a written accounting statement every 3 months; receive a receipt for any funds spent; and have access to his/her funds within 7 banking days.

## § To Privacy, Dignity, and Respect

Every resident has the right to be treated with consideration, respect, and dignity in full recognition of his/her individuality. This includes privacy during medical treatment and care of personal needs.

## § To Personal Possessions

Every resident has the right to retain and use his/her personal clothing and possessions as space permits, unless doing so infringes upon the rights of other residents or constitutes a safety hazard.

## § To be Free from Restraints and Abuse in Nursing Homes

Residents have the rights to be free from mental (humiliation, harassment, and threats of punishment or deprivation) and physical (corporal punishment and the use of restraints as punishment) abuse. Residents also have the right to be free from chemical and physical restraints unless authorized in writing by a physician for a specified and limited time period or when necessary to protect the patient from injury to him-/herself or to others.

## § To Voice Grievance without Retaliation

Every resident should be encouraged and assisted to exercise his/her right to voice grievances and recommend changes in policies and services to facility staff and/or outside representatives of his/her choice without fear of coercion, discrimination, or reprisal.

## § To be Discharged or Transferred Only for Medical Reasons

Residents may only be discharged or transferred for medical reasons or for their welfare or that of other residents. Residents must be provided with a written notice 30 days prior to transfer or discharge. The law provides residents the right to appeal discharge or transfer.

## § Rights of Access

Residents may receive any visitor of their choice and may refuse visitors to enter their room or may end a visit at any time. Residents have the right to immediate access by family and reasonable access to others. Visiting hours must be at least 8 hours and be posted in a public place.

## ADDITIONAL INFORMATION REGARDING TRANSFERS AND DISCHARGES:

**DISCHARGES:** Legally, a nursing home resident cannot be moved unless he or she endangers the safety or health of other individuals, or has medical needs that no longer can be met by the facility, or has recovered his or her health significantly so that the level of care is no longer necessary, or has failed to pay for services,

or the facility closes or has lost its certification, or due to a strike by its staff. In these latter situations, ordinarily special arrangements are made to transfer the residents to other housing accommodations. If a discharge occurs, the resident should receive assistance from the facility to ensure a safe and orderly transfer.

When a resident or responsible party receives an involuntary discharge notice, the notice must contain specific information about the reason for the transfer or discharge, the date it is effective, and the process to request a hearing before an administrative law judge to appeal the discharge. These hearings are formal, and held at either the facility or by telephone. During the hearing, the facility must prove that the resident is a danger, not just that the potential for danger exists. The Office of the State Long Term Care Ombudsman is a resource to assist families and residents during such proceedings.

**TRANSFERS WITHIN THE FACILITY:** Residents may not be arbitrarily moved from room to room within a licensed health care facility. Involuntary relocation may occur under the following situations and the situations must be documented in the resident's record:

- Incompatibility with or disturbance of roommates.
- For the welfare of the resident or other residents of the facility.
- For medical, nursing or psychosocial reasons, as judged by the attending physician, nurse or social worker.
- To allow a new admission to the facility that would otherwise not be possible due to separation of roommates by sex.

If a move from one room to another is necessary for one of the reasons above, the resident must be notified at least 48 hours prior to the transfer and the reason explained. The responsible party for the resident must be notified as soon as possible. The notice must be documented in the resident's record and signed by the resident or responsible party.

If emergency relocation is required to protect the safety or health of the resident or other residents, the notifica-

tion requirements may be waived. The conditions of the emergency shall be documented. The family or responsible party shall be notified immediately, or as soon as possible, of the condition requiring emergency relocation and such notification shall be documented.

**NURSING HOME NEGLECT AND ABUSE:** The elderly in nursing homes are a vulnerable population. Serious health problems and deaths may result from nursing home neglect and abuse. If you suspect that a nursing home resident may be the victim of neglect or abuse, immediate action can halt further tragedy. If you notice a problem, it should be brought to the attention of the nursing home and reported. Depending upon what has occurred, you may need to take action to protect the nursing home resident from further abuse or neglect. Government assistance and legal assistance are also available. Contact the Dependent Adult Abuse Hot Line at 1-800-362-2178 to report the abuse.

**Four Recognized Types of Nursing Home Neglect and Abuse**

- **Mental Abuse:** fear, agitation, hesitancy, depression, withdrawal, sudden behavior changes, unusual behavior patterns, unwillingness to communicate, disorientation, confusion, unjustified isolation, rude, humiliating, derogatory comments by staff, specific complaints by residents.
- **Physical Abuse:** wounds, cuts, sprains, abrasions, burns, bruises, welts, swelling, broken bones, sudden inexplicable weight loss, unexplained/hidden injuries, unwarranted restraints (either physical or chemical), specific complaints by residents.
- **Neglect:** bed sores (decubitus ulcers), unsanitary environment, malnutrition, dehydration, frozen joints, smells of urine and/or feces, unkempt appearance, poor personal hygiene, untreated medical conditions, specific complaints by residents.
- **Exploitation/Financial Abuse:** sudden unjustified selling of property, missing/stolen money or property, radical changes in handling personal/financial affairs, specific complaints by residents, sudden large withdrawals from bank accounts or changes in banking practices, abrupt changes in will or other financial documents.

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## Other Recognizable Signs of Nursing Home Neglect or Abuse

Any of the following nursing home neglect and abuse signs could warrant further investigation:

- Unexplained venereal disease or genital infections; vaginal or anal bleeding; torn, stained, or bloody underclothing.
- Staff refusing to allow visitors to see resident, delays in allowing visitors to see resident or not allowing resident to be alone with visitors.
- Resident being kept in an over-medicated state.

If you suspect abuse or neglect, promptly act on your suspicions. Contact the Dependent Adult Abuse Hot Line at 1-800-362-2178.

## HOW TO HANDLE PROBLEMS, CONCERNS AND COMPLAINTS:

When problems, complaints or concerns occur between residents or their family members and the nursing facility, several mechanisms are available to assist in resolution of the issues.

Facility procedures. Residents have a right to submit complaints, concerns or recommendations concerning facility policies or services without restraint, interference, coercion, discrimination or reprisal. First and foremost, speak directly with the nursing home management. Each nursing home is required by law to have in place a formal complaint or grievance system to deal with residents' issues. The procedures should make it easy and comfortable for a resident to air his or her complaint. The nursing homes must follow up on the complaint quickly and make an effort to correct the problem(s).

Be sure you are following the facility grievance procedure. It should be posted, but if you do not see it, ask for a copy. Document the details of the incident or concern, who was told, and when and what happened. If the problem is not resolved, contact your Resident Advocate Committee, the State Long Term Care Ombudsman or the Iowa Department of Inspections and Appeals.

Resident Advocate Committees (RAC). Every licensed facility in Iowa is required by Code to have

a Resident Advocate Committee (RAC). Currently there are over 800 communities and 3,200 volunteers across the state serving in nursing facilities and residential facilities. Administration of the program rests with the Iowa Department of Elder Affairs.

The Resident Advocate Committee functions as an autonomous group within the facility and represents every resident. Volunteers spend at least 2-3 hours per month at the facility talking with the residents to better understand the conditions at the facility from the residents' points of view and to hear any complaints or concerns from residents. The Resident Advocate Committee then communicates the residents' concerns and problems with facility staff and monitors to see that problems are corrected or provides suggestions for improvement. The RAC may send the residents' concerns and problems to the Long Term Care Ombudsman or state regulatory agency if the nursing facility fails to respond.

The State Long Term Care Ombudsman's Office. The "long-term care ombudsmen," created under both federal and state law, is a "watchdog" advocate program for nursing home residents. Originating in the Older Americans Act of 1978, the Office of the State Long Term Care Ombudsman investigates and resolves complaints made on behalf of residents of long-term care facilities. At the request of the resident or family, the Ombudsman may visit or call the facility, review records, meet with staff, and put a plan in place to deal with the problem. The Ombudsman may also assist in situations where a resident is facing discharge from a facility involuntarily. This office monitors the standard practices in long-term care and clarifies the state guidelines on particular practices. The Ombudsman represents the interests of residents before governmental entities, and provides education on long term care, choosing care facilities, and about issues that adversely affect the health, safety, welfare, or rights of residents. The name and address of the Ombudsman must be posted at the facility.

Contact the Ombudsman's Long Term Care Complaint Hot-Line at 1-800-532-3213 (in state only) or 515-242-3327.

Iowa Department of Inspections and Appeals (DIA). The Iowa Department of Inspections & Appeals regulates nursing facilities in Iowa and maintains a Facility Report Card site that provides updated results of inspections, including any problems that may have been found in a facility in recent annual surveys or complaint investigations. The DIA takes complaints concerning care facilities either over the phone or in writing. It is recommended that you submit your complaint in writing, including the name of the resident, staff member, and facility; the details surrounding the complaint; the date and time of the incident; and how the parties involved responded or related to the incident. The complaint will be investigated within 20 working days. The department has the authority to issue deficiencies or to fine facilities for violations of a resident's rights.

Complaints can be registered with the Division through one of the following methods:

- § Contact the toll free complaint intake line: (877) 686-0027
- § Fax the complaint to: (515) 281-7106
- § Submit your complaint by regular mail to:  
Iowa Department of Inspections  
and Appeals  
Health Facilities Division/Complaint Unit  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319-0083

Legal. A contractual relationship exists between the care facility and the resident, providing rights and responsibilities to both the resident and the care facility. Unfortunately, resident rights are sometimes violated, intentionally or unintentionally. Consult an attorney for legal advice.

**AREA AGENCIES ON AGING—RESOURCE FOR HOME AND COMMUNITY BASED SERVICES:** Established under the Older Americans Act (OAA) in 1973, the Area Agencies on Aging respond to the needs of Americans aged 60 and over in every local community. Iowa has thirteen AAAs, covering all 99 counties. Among other responsibilities, Iowa's AAA advocate for older Iowans, provide information and assistance services for older Iowans and their caregivers, assess the current needs and develop plans to help address service gaps.

Area Agencies in Iowa provide resources to older Iowans, including, but not limited to: adult day services, chore services, companion & respite care, congregate meals, consultations about other problems, employment assistance, health-care aides, home-delivered meals, home repairs, legal assistance, meal sites, modifying the home for disabilities, nursing & homemaker services, senior centers, and transportation.

A listing of the Iowa Area Agencies on Aging and the contact information for each agency is located in the back of the Handbook.

## MEDICAID

Medicaid is a state program providing health care coverage to low-income people. This program is also referred to as Title XIX (19). Medicaid covers more medical services than Medicare or any insurance program.

The Medicaid regulations are more complex and confusing than those of any other benefit program. Eligibility for this program is based, in part, on the amount of income received by the individual or household and by the amount of resources (or assets) owned by the individual or household.

**ELIGIBILITY GENERALLY:** There are many groups of people who are covered by the Medicaid pro-

gram in Iowa. There are also different income and resource guidelines within each group. All of the groups and eligibility criteria for each group cannot be included in this material. Rather, a description of some common coverage groups will be given, along with examples.

**SSI RECIPIENTS:** People who are eligible for SSI (Supplemental Security Income) are considered to be categorically eligible for Medicaid. This means that they are automatically eligible for Medicaid if they receive SSI benefits.

**FMAP:** Family Medical Assistance Program (FMAP) provides Medicaid for low income families who have

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dependent children. Eligibility is also based on income of the family. The family's resources do not affect eligibility for most children but resources do affect the eligibility of the adults in the family.

The parents or caretakers of children who receive FMAP are most often younger individuals. However, if a relative other than a parent, such as a grandparent, is caring for the child, the grandparent may also be eligible for FMAP. If the child lives with both grandparents, only one of the grandparents would be eligible for FMAP. Eligibility of the grandparent is based upon the income and resources of the grandparents.

## PERSONS IN NURSING HOMES OR OTHER LONG-TERM CARE FACILITIES:

People who are in nursing homes or other long-term care facilities may be eligible for Medicaid. The income limit for this group is considerably higher than for the other groups. In 2005 the income limit is \$1,737. Resources (assets) are limited to \$2,000 for a single person or \$3,000 for a couple when both spouses live in a nursing facility. Not all resources count toward this limit however. A homestead, vehicle, household goods, personal items and prepaid burial accounts are excluded.

If a Medicaid applicant is married and his or her spouse lives at home (a community spouse), the community spouse can have more than \$2000 in resources without disqualifying the nursing home spouse from being eligible for Medicaid. All non-exempt resources of a couple are considered to be available to pay nursing home costs, regardless of which spouse owns them. After excluding exempt resources, Department of Human Services (DHS) will assign one-half of the remaining resources to each spouse, provided the community spouse is assigned a minimum of \$24,000 and a maximum of \$95,100. If the nursing home spouse is assigned more than \$2000 in resources, then he or she will not be eligible for Medicaid until the value of the resources assigned to him or her has been reduced to \$2000. If a couple has more than \$24,000 in resources, the decision regarding the assignment of resources (attribution) can be appealed. An administrative law judge can set aside additional resources for the community spouse. The amount of additional resources set aside depends on the community spouse's income and life expectancy.

**MEDICAL ASSISTANCE INCOME TRUST:** To qualify for Medicaid the applicant's income cannot exceed 300 percent of the Supplemental Security Income (SSI) benefit amount (recalculated annually, \$1,737 in 2005). Many people have incomes that exceed this amount but are less than the average cost for a resident of a nursing facility (recalculated annually, \$3,245 in 2005). For these people to qualify for Medicaid, so that they can afford nursing home level of care, they can divert all of their income into a Medical Assistance Income Trust, commonly known as a "Miller Trust." If the applicant qualifies and establishes a Miller Trust and is otherwise eligible, the individual can qualify to receive medical assistance from Medicaid. After establishing the trust, the only money counted as income is the money paid out for the beneficiary's benefit. At the death of the individual, any money remaining in the Miller Trust is paid to the State of Iowa up to the amount of medical assistance the individual received, and the rest becomes part of the individual's estate.

**QUALIFIED MEDICARE BENEFICIARY (QMB):** Under this program, the Medicaid program pays Medicare Part A (Hospital Insurance) and Part B premiums, deductibles, and co-insurance amounts for beneficiaries whose income is below 100% of the federal poverty level and who have limited resources.

**SPECIFIED LOW-INCOME MEDICARE PROGRAM (SLMB):** This program will pay for the Part B Medicare premium for persons whose income is over 100% of the federal poverty level, but less than 120%. To qualify for Medicare Part B premium help under the SLMB program, an individual must be eligible for the QMB program in all areas except income.

**EXPANDED SPECIFIED LOW INCOME MEDICARE BENEFICIARY (E-SLMB):** This program also pays for the Medicare Part B premium for persons whose income is at least 120% of the federal poverty level but less than 135% of the federal poverty level. To qualify for E-SLMB, an individual must be eligible for the QMB program in all areas except income.

**HOME HEALTH SPECIFIED LOW INCOME MEDICARE BENEFICIARY (HH-SLMB):** This program pays for the home health portion of the Medicare Part B premium for persons whose income is at

least 135% of the federal poverty level but less than 175% of the federal poverty level. To qualify for HH-SLMB, an individual must be eligible for the QMB program in all areas except income. If you are eligible for HH-SLMB, the home health portion of the Medicare Part B premium will be paid on an annual basis.

**HEALTH INSURANCE PREMIUM PAYMENT (HIPP) PROGRAM:** Under this program, the Department of Human Services pays for the cost of enrolling an eligible Medicaid recipient in a health insurance plan when it is determined to be cost effective to do so. Cost effective means that it costs less to buy health insurance to cover medical care than to pay for the care with Medicaid funds. Certain types of plans are not eligible for participation in the HIPP program. Please call (888) 346-9562 for more information.

**MEDICALLY NEEDY PROGRAM:** Medically Needy is a program designed to provide medical coverage for individuals who either have limited income or high medical expenses that use up most of their income. The individuals eligible for this program include children under the age of twenty-one (21), pregnant women, persons who are blind, disabled or over 65, and adults who care for dependent children under age 18 (19 if still in school). These individuals are over income or over resources for SSI but may still be eligible for the Medically Needy program.

**TRANSFER OF ASSETS:** Eligibility for Medicaid is based, in part, on the value of the applicant's assets. An applicant for Medicaid cannot transfer or dispose of assets for less than their fair market value for the purpose of qualifying for medical assistance. An applicant who attempts to qualify for medical assistance by transferring assets for less than fair market value within thirty-six months (sixty months for some trusts) before application for benefits, will not be eligible for certain benefits. In general terms, the applicant will be ineligible for benefits for the number of months equal

to the total, cumulative uncompensated value of all assets transferred by the applicant divided by the average monthly cost of a nursing facility.

**RECOVERY OF PAYMENTS:** Medical assistance to be paid to, or on behalf of, a recipient is recoverable upon the death of the recipient if the recipient was fifty-five years or older, or was a resident of a nursing facility, a facility for the mentally retarded or a mental health facility, who, when they resided in these facilities was not expected to return home. The collection of the debt from the recipient's estate will be waived if the collection would result in a reduction in the amount that a surviving spouse would receive from the estate, or a reduction that would be received by a surviving child that is under the age of twenty-one, blind or permanently and totally disabled. If the collection is waived, the amount waived will be collected from the estate of the surviving spouse or blind or disabled child. It will be collected from other children when they reach the age of twenty-one. The amount collected from the survivors or the survivors' estate is limited to the amount the survivor received from the recipient's estate. There are other exceptions to the recovery requirements that are too complex to enumerate here. Please contact the Estate Recovery Program (515) 246-9841 or toll free (888) 513-5186, for more information.

**RECEIVING MEDICAID COVERAGE:** If you are determined eligible for Medicaid by your local Department of Human Services (DHS) office, your eligibility date will be the first day of the month that you apply. If you would have been eligible during the three months prior to the month in which you applied, and have unpaid medical bills from those three months, Medicaid may pay those bills.

**WHERE DO I APPLY?** You may apply for any of the programs listed above at the Department of Human Services (DHS) office in the county in which you live.

## MEDICARE

**ORIGINAL MEDICARE PLAN:** Medicare is a federal health insurance program for people 65 or older, those with disabilities and end stage renal disease. It is made available regardless of financial need. The Original Medicare Plan is comprised of two parts: Part A

and Part B. Part A is hospital insurance, which covers inpatient hospital care, nursing facility care, hospice care and home health care. There are deductibles and coinsurance payments under Part A, but generally there is no premium. Part B covers doctors' services,

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outpatient services, medical equipment and other services not covered under Part A. Enrollment in Part B is voluntary and premiums, deductibles and coinsurance must be paid directly by the patient or through another insurance plan.

**PART A:** Medicare Part A covers inpatient hospital stays, skilled nursing facility care, home health care and hospice care. For each benefit period, individuals receive up to 150 days of inpatient hospital care. Individuals must pay \$912 for a hospital stay of 1-60 days. Individuals must pay \$228 per day for 61-90 days of a hospital stay. Individuals must pay \$456 per day for 91-150 days of a hospital stay. All costs beyond 150 days are the responsibility of the patient. If you have any questions about the quality of care in hospitals, call 1-800-MEDICARE.

Hospice care is also covered under Part A, but only if three criteria are met: (1) Doctor must certify that the patient is terminally ill; (2) Patient must choose hospice care; and (3) Care must be provided by a Medicare participating hospice. Patients pay a co-payment of up to \$5 for outpatient prescription drugs and 5% of the Medicare-approved amount for inpatient respite care. Medicare generally does not pay for room and board except in certain cases.

Skilled nursing care is also covered under Part A. Patients pay nothing for the first 20 days of care. Patients pay up to \$114 PER DAY for 21-100 days of care. The patient must cover all costs beyond the 100th day in a benefit period.

Part A also pays for blood after the patient pays for the first three pints, unless the patient or someone else donates blood to replace what the patient uses.

Finally, Part A covers home health services. Patients pay nothing for Medicare-approved services and 20% of the Medicare-approved amount for durable medical equipment. Like the hospice coverage provision, Part A will only cover home health services if certain criteria are met: (1) Care needed by the patient includes intermittent skilled nursing care, physical therapy or speech therapy; (2) Patient is homebound; (3) Patient is under the care of a physician who determines a need for home care and the physician actually establishes a home care program; and (4) Home health agency used by patient must be approved by the Medicare program.

**PART B:** Medicare Part B is sometimes referred to as Supplemental Medical Insurance (SMI). Part B helps pay for medical and other services, clinical laboratory services, home health care, blood, and outpatient hospital services. Patients pay a \$110 deductible per calendar year (for 2005) under Part B. This amount can change each year. Patients also pay 20% of the Medicare-approved amount after the deductible once a doctor, provider, or supplier accepts "assignment." Assignment is an agreement between people with Medicare, their doctors and suppliers, and Medicare. The person with Medicare agrees to let the doctor or supplier request direct payment from Medicare for covered Part B services, equipment, and supplies. Doctors or suppliers who agree to accept assignment from Medicare cannot try to collect more than the proper Medicare deductible and coinsurance amounts from the person with Medicare.

Patients also pay 20% for all outpatient physical, occupational, and speech-language therapy services and 50% for most outpatient mental health care. Patients pay nothing for Medicare-approved clinical laboratory services. Certain home health care services are paid under Part B but patients pay 20% of the Medicare-approved amount for durable medical equipment. Patients pay a coinsurance or co-payment amount, which may vary according to the service, for outpatient hospital services.

Certain preventive services are also covered under Part B, including: (a) bone mass measurements; (b) cardiovascular screening blood tests; (c) colorectal cancer screening; (d) diabetes services; (e) glaucoma testing; (f) pap test and pelvic examination, including a clinical breast exam; (g) prostate cancer screening; (h) screening mammograms; (i) shots/vaccinations; and (j) a "Welcome to Medicare" physical examination. Many of these covered services are subject to coinsurance.

**MEDICARE MODERNIZATION ACT OF 2003:** Due to the Medicare Modernization Act of 2003, there are new options for Medicare coverage. These changes include new health plan choices (Medicare Advantage and Regional Preferred Provider Organization), new preventative benefits (included in Part B list above) and a prescription drug plan. Note that Regional Preferred Provider Organization Plans will not be available until 2006.

**Medicare Advantage:** Medicare Advantage is the new name for Medicare + Choice plans. Patients have the following choices for coverage: (1) Managed Care Plans; (2) Preferred Provider Organization Plans (PPOs); (3) Private Fee-For-Service Plans; and (4) Specialty Plans.

In most Managed Care Plans, patients can only go to doctors, specialists or hospitals in their plan's "network" except in an emergency. People may also have to choose a primary care doctor and get referrals to see a specialist. It may be possible to pay lower co-payments and get extra benefits, such as coverage for extra days in the hospital.

In most Preferred Provider Organization Plans, patients use doctors, specialists and hospitals in the plan's network. It may cost extra, but patients are allowed to visit doctors, specialists and hospitals not in the network. Patients are also not required to get referrals for visits outside of the network. It may be possible to pay lower co-payments and get extra benefits, such as coverage for extra days in the hospital.

People joining a Fee-for-Service Plan can visit any doctor or hospital that accepts the terms of the plan's payment. The private company, rather than the Medicare program, decides how much it will pay and how much the patient pays for services rendered. It may be possible to receive extra benefits, such as coverage for extra days in the hospital.

Specialty Plans, if available, provide more focused health care for specific people. People joining these plans get all of their Medicare health care as well as more focused care to manage a specific disease or condition.

People can join Medicare Advantage if they meet the following criteria: (1) Current enrollment in both Medicare Part A and B and continue to pay the monthly Medicare Part B premium (currently \$78.20); (2) Person lives in service area of the plan; and (3) Person does not have End-Stage Renal Disease. It may only be possible to join Medicare Advantage at certain times of the year depending on the membership limits of a given service plan area. Beginning January 1, 2006, people will only be able to join or leave a Medicare Advantage Plan at certain times.

**Prescription Drug Discount Cards:** The Medicare-approved drug discount card program is a temporary program designed to help patients save money on out-patient prescription drugs. Anyone with Medicare is eligible for a discount card and enrollment is optional. Companies offering discount cards can charge an enrollment fee of no more than \$30 per year. People with lower incomes may be eligible for a credit to help pay for their prescriptions. Discounts on drugs and available pharmacies vary among plans. Because this is a temporary plan, the last day for enrollment is December 31, 2005, and the cards will end May 15, 2006 or when an individual enrolls in a Medicare prescription drug plan, whichever is earlier (see below).

**Prescription Drug Plans:** Beginning on January 1, 2006, Medicare will begin contracting with private companies to offer prescription drug coverage. These plans will be voluntary and people will not be automatically enrolled in a plan. Coverage will be available under the Original Medicare Plan and certain Medicare Advantage Plans.

Drug plans will vary, but generally, people will pay a monthly premium (approximately \$735) in addition to any premiums for Medicare Part A and B. The deductible is expected to be \$250 per year for prescriptions. After the yearly deductible, people will pay the following costs:

- 25% of yearly drug costs from \$250 to \$2,250, and the plan pays the other 75% of costs, then
- 100% of drug costs from \$2,251 until out-of-pocket costs reach \$3,600, then
- 5% of drug costs (or a small co-payment) for the rest of the calendar year after \$3,600 of out-of-pocket expenses and the plan pays the rest.

Note that if a person does not join a prescription drug plan when first eligible, they may have to pay higher premiums to join later.

Individuals with limited income and resources will be able to get extra help with their Medicare prescription drug premium and cost sharing. To apply for the extra help contact the Social Security Administration, 1-800-772-1213.

**MEDICAL SAVINGS ACCOUNTS (MSA'S):** An MSA is a Medicare plan that is a health insurance policy with a high deductible. Medicare pays the premium for the plan and makes a deposit into the MSA that is established by the participant. These funds in the MSA pay for the services before the deductible is met and for other non-covered services. There are no limits on what providers can charge above the amount paid by the MSA plan. If there is money in the MSA at the end of the year, next

year's deposit will be added to the balance. If money is withdrawn from the account for non-medical expenses, it will be taxed. If you enroll in an MSA, you must stay in it for a full year. The participant has control of the savings account and money in the account accumulates tax free. However, withdrawals from the account for non-medical uses will be included in taxable income and may be subject to a 50% penalty.

## MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES (MEDIGAP)

Medicare pays for many costs associated with health care, but it does not pay for all of them. Medicare Supplemental Health Insurance Policies, called "Medigap" or "Medi-Supp" are health insurance policies sold by private insurance companies to fill the "gaps" in the Original Medicare Plan. Since January 1992, insurance companies were limited to selling the ten standardized Medicare supplement plans identified by the letters "A" through "J." Effective February 15, 2005, two additional standardized policies, Plan K and Plan L, are offered by insurance companies.

A company does not have to sell every plan, but every Medicare supplement company must sell "Plan A" (Basic Benefits only). Benefits in each plan are identical with every company offering the product. For example, all Plan Ds offer identical benefits. Benefits to these standardized plans cannot be added or modified by the insurance company.

Premium prices for the identical plans, however, may vary. For example, in Iowa, the annual premiums for Medicare Supplement Plan F for a person age 65 vary from \$1057 to \$2447, depending on the insurance provider and other factors such as age and deductible. Call SHIIP at 1-800-351-4664 for two free guides that explain Medicare supplement insurance – Iowa Guide for Medicare Supplement Insurance and Iowa Medicare Supplement Premium Comparison Guide. SHIIP, the Senior Health Insurance Information program, provides free and unbiased counseling on matters of Medicare, Medicare supplemental insurance, long-term care

insurance, and other types of health insurance sold to people on Medicare. The State of Iowa Insurance Division provides the SHIIP program.

All Medigap policies must provide at least the following core benefits found in Plan A (dollar figures are for 2005):

- \$228 a day coinsurance for days 61 to 90 of a hospital stay;
- \$456 a day coinsurance for days 91-150 of a hospital stay (lifetime reserve days);
- All hospital approved costs from day 151 through 365.
- The cost of the first three pints of blood not covered by Medicare.
- The 20 percent coinsurance for Part B medical charges.

The other 11 policies provide different combinations of the following benefits: coinsurance for days 21 to 100 in a skilled nursing facility; Part A and Part B deductibles; foreign travel emergencies; and prescription drug coverage. The higher-letter plans are generally more comprehensive than the lower-letter plans. These plans allow purchasers to choose the combination that is right for them. Of course, the more Medigap coverage you purchase, the more you will pay in premiums.

Twelve Standard Medicare Supplement Plans												
Basic Benefits	Plan A	Plan B	Plan C	Plan D	Plan E	Plan F	Plan G	Plan H	Plan I	Plan J	Plan K	Plan L
Part A Hospital/Day 61-90	X	X	X	X	X	X	X	X	X	X	X	X
Coinsurance Day 91-150	X	X	X	X	X	X	X	X	X	X	X	X
Coinsurance 365 More days - 100%	X	X	X	X	X	X	X	X	X	X	X	X
Part B Coinsurance or Copay	X	X	X	X	X	X	X	X	X	X	50%*	75%*
Parts A & B Blood	X	X	X	X	X	X	X	X	X	X	50%	75%
Additional Benefits	A	B	C	D	E	F	G	H	I	J	K	L
Skilled Nursing Facility Coinsurance Day 21-100			X	X	X	X	X	X	X	X	50%	75%
Part A Deductible		X	X	X	X	X	X	X	X	X	50%	75%
Part B Deductible			X			X				X		
Part B Excess						100%	80%		100%	100%		
Foreign Travel Emergency			X	X	X	X	X	X	X	X		
At-Home Recovery				X			X		X	X		
Basic Prescription Drugs								X	X			
Extended Prescription Drugs										X		
Preventive Medical Care					X					X		
Out-of-pocket annual limit											\$4,000	\$2,000

\*Plan K and L pay 100% Part B coinsurance for preventive services.

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## OPEN ENROLLMENT:

- Every Medicare recipient who is age 65 or older has a guaranteed right to buy a Medicare supplement policy during “open enrollment.” The company must accept you for any policy it sells, and it cannot charge you more than anyone else your age.
- Your open enrollment period starts when you are age 65 or older and enroll in Medicare Part B for the first time, and it ends six months later. Disabled and end-stage renal disease Medicare beneficiaries receive the same six-month open enrollment period upon attaining age 65. If you apply for a policy after the open enrollment period, some companies may refuse coverage because of health reasons.
- Pre-existing conditions may not be covered for up to six months after the effective date when you buy your first policy. A new pre-existing condition waiting period is not allowed when you replace one Medicare supplement with another (and you held the first policy at least 6 months). You may avoid a waiting period for pre-existing conditions if you are in your open enrollment period and you apply for your Medicare supplement within 63 days of the end of previous health insurance coverage.
- If you change Medicare supplement plans and the new plan has coverage not included in the previous coverage, a six-month waiting period may apply for the added benefits. Ask your insurance provider.
- In some situations, you have a guaranteed issue right to buy a Medigap policy because you lost certain kinds of health coverage. You should keep a copy of any letters, notices, and claim denials you get. Be sure to keep anything that has your name on it. Also, keep the postmarked envelope these papers come in. You may need to send a copy of some or all of these papers with your application for a Medigap policy to prove you lost coverage and have the right to these protections. Contact SHIIP for assistance.
- Some insurance companies may offer Guarantee Issue Without Open Enrollment. Guarantee issue

means an insurance company does not consider existing health conditions when issuing insurance coverage. However, such policies may have a higher premium and require a waiting period for pre-existing health conditions. Check with the insurance company about special rules and conditions for coverage.

## CONSIDERATIONS BEFORE YOU SELECT A MEDIGAP PLAN:

- What insurance coverage do you currently have?
- Do you need or want private health insurance in addition to Medicare.
- Do you have an employer-sponsored retiree health plan? Call SHIIP (800-351-4664) for the Getting Ready to Retire: Health Insurance Issues fact sheet.
- Do you receive Medicaid benefits?
- If you are married, does your spouse need a Medigap policy?
- Do you want coverage for specific benefits, such as routine physical exams or prescriptions?
- How important is choice of physician? Medicare Select is a type of Medigap policy that requires use of hospitals and physicians within its network to be eligible for full benefit.
- Did you comparison-shop for the best premium? To help you locate and compare Medigap programs available in Iowa, 2005 Iowa Medicare Supplement Premium Comparison Guide is available from Iowa Insurance Division, 330 Maple Street, Des Moines, IA 50319-0065, or call SHIIP at 1-800-351-4664

**MEDICAID RECIPIENTS:** Low-income people who are Medicaid eligible usually do not need additional insurance because they may qualify for certain health care benefits beyond those covered by Medicare. If you become eligible for Medicaid, you may be able to suspend your Medigap insurance policy for up to two years. A Medigap insurance policy purchased on or after November 5, 1991, provides for suspension

if you request it within 90 days of your entitlement to Medicaid. Should you become ineligible for Medicaid benefits during that two-year period, your Medigap policy will be reinstated if you give proper notice (90 days from the date Medicaid coverage ends) and begin paying premiums again.

**IF YOU CAN'T AFFORD A MEDIGAP POLICY:** If you don't qualify for Medicaid and can't afford a Medigap policy, you may be able to get help paying for the costs of Medicare.

There are three Medicare assistance programs, called Medicare Savings Plans:

**Qualified Medicare Beneficiary (QMB):** The QMB program pays for Medicare Part A premiums, Medicare Part B premiums and deductibles, and coinsurance and deductibles for Part A and Part B.

**Specified Low-income Medicare Beneficiary (SLMB):** The SLMB program pays for Medicare Part B Premium.

**Qualifying Individual (QI-1) Program:** The QI-1 program is an expansion of the SLMB program that you must apply for each year. It pays for Medicare's Part B Premium.

**CONSUMER TIPS IN THE PURCHASE OF A MEDICARE SUPPLEMENT (MEDIGAP) POLICY:**

1. Assess your own health profile and decide what benefits and services you are most likely to need.
2. Purchase ONE good Medicare supplemental policy. You are paying for unnecessary duplication if you own more than one. If you have a spouse, your Medigap policy may not cover the health care costs for your spouse. Check it out.
3. Do not be pressured into buying a policy. If you have questions or concerns, contact your local Senior Health Insurance Information Program (SHIIP) counselor. SHIIP provides free objective information about Medicare supplement insurance policies as well as on long-term care insurance and Medicare benefits. 1-800-351-4664

4. You are not insured by a new Medicare supplement policy on the day you apply for it. Generally, it takes at least 30 days to be approved.
5. A policy should be delivered within a reasonable time after application (usually 30-60 days).
6. Consider carefully whether you want to drop one policy and purchase another. Do not cancel a policy until you have been accepted by the new insurer and have a policy in hand.
7. Do not pay with cash. Pay by check, money order or bank draft payable to the insurance company, not the agent. Completely fill in the check before giving it to the agent.
8. You have a 30-day free look period from the time you receive a policy to review it and get a premium refund if you decide not to take the coverage.
9. Any Medicare supplement sold in Iowa after December 1, 1990, must be guaranteed renewable. That means the company cannot drop you as a policyholder unless you fail to pay the premium.
10. Complete the application carefully and truthfully. Read the health information recorded by the agent before signing the application. If you leave out medical information requested, the insurer could deny coverage for that condition or cancel your policy.

**CHANGES TO MEDIGAP WITH THE 2006 MEDICARE PRESCRIPTION DRUG BENEFIT.** In 2006, Medicare coverage will expand with the Medicare Prescription Drug Coverage program, formerly referred to as Medicare Part D. Everyone on Medicare must decide if they want to enroll in this program. Those with Medigap or Supplemental insurance may be effected differently, depending upon current plan benefits.

If your Medicare supplement plan has prescription drug coverage, you will receive a notice before November 15, 2005 from your insurance company. It will explain how your plan will work with Medicare drug coverage and your options.

- If you have a Medicare supplement policy H, I, or J with drug coverage, you must decide if you want to keep it or choose a different policy.

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- If you keep the original H, I or J plan with drug coverage and do not enroll in a Medicare drug plan you will be subject to a premium penalty if you decide to enroll at a later date.
- If you decide to enroll in a Medicare drug plan during the initial enrollment period, you can keep plan H, I or J with the prescription drug coverage removed or choose a different Medicare supplement plan. Your choices will be plans A, B, C, F, K or L.

If you have an employer/union plan that supplements Medicare and has drug coverage, you will receive a notice before November 15, 2005 from your employer/union that says if your plan's prescription benefit is as good as, or better than the Medicare prescription drug plan.

- If your employer drug plan is as good as or has better coverage than Medicare drug coverage, you can stay with that plan and join a Medicare prescription drug plan later with no penalty. Make sure you keep the notice with your important papers. This is your proof to protect you from a premium penalty at a later time.
- If your prescription drug plan offers less coverage than Medicare drug coverage, you can keep your plan and add a Medicare drug plan for more complete coverage.

OR

If you stay on your current drug plan and decide to join a Medicare prescription drug plan later (after May 15, 2006), at a higher Medicare drug plan premium.

If your Medicare supplemental insurance does not have prescription drug coverage, carefully consider your options.

- You can keep your supplement and enroll in Medicare prescription drug coverage.
- You can keep your current coverage and not enroll in a Medicare plan. If you do not enroll during the six-month enrollment period, you will pay a premium penalty if you choose to enroll at a later

time. The longer you wait to enroll the higher the premium will be.

- You can choose to receive your Medicare benefits, including Medicare drug coverage, through other Medicare Health Plans (HMO, PPO and PFFS) instead of through traditional Medicare and a supplement.

**MEDICAID RECIPIENTS:** Low-income people who are Medicaid eligible usually do not need additional insurance because they may qualify for certain health care benefits beyond those covered by Medicare. If you become eligible for Medicaid, you may be able to suspend your Medigap insurance policy for up to two years. A Medigap insurance policy purchased on or after November 5, 1991 provides for suspension if you request it within 90 days of your entitlement to Medicaid. Should you become ineligible for Medicaid benefits during that two-year period, your Medigap policy will be reinstated if you give proper notice (90 days from the date Medicaid coverage ends) and begin paying premiums again.

## IF YOU CAN'T AFFORD A MEDIGAP POLICY

If you don't qualify for Medicaid and can't afford a Medigap policy, you may be able to get help paying for the costs of Medicare.

There are three Medicare assistance programs, called Medicare Savings Plans:

**Qualified Medicare Beneficiary (QMB):** The QMB program pays for Medicare Part A premiums, Medicare Part B premiums and deductibles, and coinsurance and deductibles for Part A and Part B.

**Specified Low-income Medicare Beneficiary (SLMB):** The SLMB program pays for Medicare Part B Premium.

**Qualifying Individual (QI-1) Program:** The QI-1 program is an expansion of the SLMB program that you must apply for each year. It pays for Medicare's Part B Premium.

To qualify for these programs, you must be eligible for Medicare Part A (even if you are not enrolled) and

have limited income and resources. Qualification for these programs is dependent upon income, assets and circumstances. Because these qualifications vary over time, contact your local Department of Human Services for assistance. In general, the following limits are applied.

## Program and Income Limits:

### QMB:

Monthly income must be at or below 100 percent of the poverty level. For 2005, the income limits are \$818 for individuals and \$1,090 for couples.

### SLMB:

Monthly income must be between 100 percent and 120 percent of the poverty level. For 2005, the income limits are \$977 for individuals and \$1,303 for couples.

### QI-1:

Monthly income must be between 120 percent and 135 percent of the federal poverty level. For 2005, the income limits are \$1,097 for individuals and \$1,303 for couples.

## ASSISTANCE FOR PRESCRIPTIONS:

In 2006, the introduction of the Medicare Prescription Drug Coverage may change current drug assistance programs. The agencies below listed currently (in 2005) provide assistance to older Iowans who need medications. Another resource, not included in the list, is your physician, who may have sample medications or who may be able to link you with a pharmaceutical company drug assistance program.

Senior Health Insurance Information Program (SHIIP) [www.shiip.state.ia.us](http://www.shiip.state.ia.us)

The Senior Health Insurance Information Program (SHIIP), Iowa Insurance Division, provides a free guide, "Reducing Prescription Drug Costs-What Those with Medicare Need to Know." This guide explains how to evaluate options such as discount programs, Internet sources and insurance plans. Call SHIIP at 1-800-351-4664 for a copy of the guide. SHIIP will also help if you call or send a list of the drugs you take. SHIIP will verify which drugs are covered by prescription assistance programs and provide information

about contacting the appropriate drug company. They can also assist you in finding the Medicare prescription card that is best for you.

Iowa Priority Prescription Savings Program  
[www.iowapriority.org](http://www.iowapriority.org)

Iowa Priority Prescription Savings Program is specifically designed to reduce the cost of prescription drugs for Medicare-eligible Iowans. Members pay an annual individual membership fee of \$20 to receive discounted prescription prices, the discounts will vary with each prescribed medication. Iowa Priority members will also receive a coupon for a free review (called the Brown Bag Assessment Program), of all prescription medications, over the counter and herbal products. If you would like to enroll, call Iowa Priority, toll free, at 1-866-282-5817 or visit the web site.

AARP Pharmacy Service  
[www.aarp-pharmacy.com](http://www.aarp-pharmacy.com)  
Phone number: 800-305-6992.  
Prescription order number: 800-289-8849.

The AARP maintains their own on-line pharmacy and you can use their pharmacy to save money, not only on prescription medications, but also on a variety of nonprescription products, such as vitamins, aspirin, etc. You do not need to be a member of AARP to benefit from their savings. Individuals must not have other prescription drug coverage, and there is a \$19.95 annual membership fee.

Veterans Benefit [www.va.gov](http://www.va.gov)  
If you are a Veteran or military retiree, you may be able to get prescription healthcare benefits through the VA. You can call toll free at 1-877-222-8387. If you or your spouse are retired from the military, call the Department of Defense at 1-800-538-9522 for more information.

**CHANGES TO MEDIGAP WITH THE 2006 MEDICARE PRESCRIPTION DRUG BENEFIT:**  
In 2006, Medicare coverage will expand with the Medicare Prescription Drug Coverage program, formerly referred to as Medicare Part D. Everyone on Medicare must decide if they want to enroll in this program. Those with Medigap or Supplemental insurance may be affected differently, depending upon current plan benefits.

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If your Medicare supplement plan has prescription drug coverage, you will receive a notice before November 15, 2005, from your insurance company. It will explain how your plan will work with Medicare drug coverage and your options.

- If you have a Medicare supplement policy H, I, or J with drug coverage, you must decide if you want to keep it or choose a different policy.
- If you keep the original H, I or J plan with drug coverage and do not enroll in a Medicare drug plan you will be subject to a premium penalty if you decide to enroll at a later date.
- If you decide to enroll in a Medicare drug plan during the initial enrollment period, you can keep plan H, I or J with the prescription drug coverage removed or choose a different Medicare supplement plan. Your choices will be plans A, B, C, F, K or L.

If you have an employer/union plan that supplements Medicare and has drug coverage, you will receive a notice before November 15, 2005, from your employer/union that says if your plan's prescription benefit is as good as, or better than the Medicare prescription drug plan.

- If your employer drug plan is as good as or has better coverage than Medicare drug coverage, you can stay with that plan and join a Medicare prescription drug plan later with no penalty. Make sure you keep the notice with your important papers. This is your proof to protect you from a premium penalty at a later time.
- If your prescription drug plan offers less coverage than Medicare drug coverage, you can keep your plan and add a Medicare drug plan for more complete coverage.

OR If you stay on your current drug plan and decide to join a Medicare prescription drug plan later (after May 15, 2006), at a higher Medicare drug plan premium.

If your Medicare supplemental insurance does not have prescription drug coverage, carefully consider your options.

- You can keep your supplement and enroll in Medicare prescription drug coverage.
- You can keep your current coverage and not enroll in a Medicare plan. If you do not enroll during the six month enrollment period, you will pay a premium penalty if you choose to enroll at a later time. The longer you wait to enroll, the higher the premium will be.
- You can choose to receive your Medicare benefits, including Medicare drug coverage, through other Medicare Health Plans (HMO, PPO and PFFS) instead of through traditional Medicare and a supplement.

## CONSUMER TIPS IN THE PURCHASE OF A MEDICARE SUPPLEMENT (MEDIGAP) POLICY:

- Assess your own health profile and decide what benefits and services you are most likely to need.
- Purchase ONE good Medicare supplemental policy. You are paying for unnecessary duplication if you own more than one. If you have a spouse, your Medigap policy may not cover the health care costs for your spouse. Check it out.
- Do not be pressured into buying a policy. If you have questions or concerns, contact your local Senior Health Insurance Information Program (SHIIP) counselor. SHIIP provides free objective information about Medicare supplement insurance policies as well as on long-term care insurance and Medicare benefits. Call 1-800-351-4664.
- You are not insured by a new Medicare supplement policy on the day you apply for it. Generally, it takes at least 30 days to be approved.
- A policy should be delivered within a reasonable time after application (usually 30-60 days).
- Consider carefully whether you want to drop one policy and purchase another. Do not cancel a policy until you have been accepted by the new insurer and have a policy in hand.

- Do not pay with cash. Pay by check, money order or bank draft payable to the insurance company, not to the agent. Completely fill in the check before giving it to the agent.
- You have a 30-day free look period from the time you receive a policy to review it and get a premium refund if you decide not to take the coverage.
- Any Medicare supplement sold in Iowa after De-

ember 1, 1990, must be guaranteed renewable. That means the company cannot drop you as a policyholder unless you fail to pay the premium.

- Complete the application carefully and truthfully. Read the health information recorded by the agent before signing the application. If you leave out medical information requested, the insurer could deny coverage for that condition or cancel your policy.

## MULTI-PARTY BANK ACCOUNTS

During the last several years, the American public has increasingly viewed multiparty bank accounts as a simple and effective means to plan for incapacity during life and avoid probate at death. The use of certain multiparty accounts can eliminate the need to probate an individual's estate at death. Other multiparty accounts are effective in planning for incapacity. However, opening any type of multiparty account can have unintended consequences to those who are not fully aware of the nature of the multiparty account they are opening.

**JOINT ACCOUNT:** The language used in a deposit agreement determines the type of bank account that has been created. To create a joint tenancy account, a depositor ("Donor") would simply add another individual's name to the account ("Donee") (i.e. Mr. John Donor and Mrs. Jane Donee). Once the Donor has added the Donee's name to the account, both the Donor and the Donee have the right to withdraw the entire account balance from the joint account. Upon death, the surviving account holder becomes the owner of the entire remaining balance of the joint account.

**POTENTIAL ADVANTAGES OF JOINT ACCOUNT:** Joint accounts offer a Donor two potential estate planning benefits:

**Planning for Incapacity.** A cotenant on a joint account would continue to have access to the funds deposited in the joint account even if the Donor becomes mentally or physically incapacitated. Creating a joint account may help avoid the need to have a court-created conservatorship for the incapacitated cotenant.

**Probate Avoidance.** Probate may be avoided if the Donor is survived by the Donee, as the funds in the joint account would not be considered part of the estate of the Donor depositor. However, creation of a joint account would not avoid estate or inheritance taxes if the Donor continued to have access to the funds deposited in the joint account.

**POTENTIAL DISADVANTAGES OF JOINT ACCOUNTS:** When creating a joint account, the Donor should use great care when selecting whom to add to the account, as naming the wrong donee on the account could cause serious problems:

**Dishonest Donee.** Only a highly trusted individual should be named as a cotenant on a joint account. Bank employees do not closely monitor who is making deposits to and withdrawals from joint accounts. A dishonest non-contributing Donee could easily withdraw all of the account funds and use them for his or her own benefit, rather than for the benefit of the Donor;

**Donee with Debts.** The creditors of the Donee may have access to the entire joint account for the purpose of paying the Donee's debts (even that portion contributed by the Donor). Therefore, an individual with significant credit problems may not be a good cotenant on a joint bank account;

**Predeceasing Donee.** If the Donee dies before the Donor, the law will consider the entire balance of the joint account as transferring back to the Donor, and would therefore, consider it a probate asset of the Donor upon death;

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Donee Attempting to Qualify for Medicaid. The existence of a joint account may cause the non-contributing Donee to be ineligible for Medicaid. For further discussion of Medicaid eligibility requirements, other sections of this Manual should be consulted.

**CHANGING A JOINT ACCOUNT:** Most Joint Account Deposit agreements allow the Donor to change the account from a joint account to some other form of account. If you have created a joint account and feel this type of account is no longer right for you, you should contact your banker about changing the account. Alternatively, a Donor can simply create a new bank account and write a check from the joint account to the new account.

**PAY ON DEATH ACCOUNT:** A Pay-on-Death (POD) account allows the depositor to retain all rights to the bank account during life, but directs that any funds remaining at death are paid to a designated beneficiary. Like the Joint Account, the Donor depositor has the right during life to revoke the account or change the beneficiary designation. To create a POD account, the following language could be used: "John Donor pay-on-death Jane Donee."

**ADVANTAGES OF POD ACCOUNT:** This type of account provides the same probate avoidance benefits of a Joint Account because all of the funds in a POD account will not be considered part of the Donor's estate. Unlike a Joint Account, a POD account does not give the beneficiary access to the account during life. A POD account has few of the potential disadvantages of a joint account and should be considered if the only purpose of creating the account is to avoid probate. The Donor of a POD account may change the beneficiary designation or revoke the account but may not do so by Will.

**POTENTIAL DISADVANTAGES:** Because the POD account does not give the beneficiary access to the account during the life of the donor, a POD account is not a good method of planning for the incapacity of the donor account holder, and the POD account cannot be used by any other party for the benefit of an incapacitated depositor. As with Joint Accounts, estate and inheritance taxes are not avoided by a POD account.

**AGENCY ACCOUNT:** An Agency account allows the depositor to authorize another person, called an agent,

to make deposits and withdrawals in the account. The agent can assist the depositor in writing checks, making deposits and paying bills. Like the Joint account, the agent would continue to have access to the funds deposited in the Agency account even if the Donor becomes mentally or physically incapacitated. However, unlike the Joint account, the proceeds in the Agency account do not automatically pass to the agent at the Donor's death.

**ADVANTAGES OF AGENCY ACCOUNT:**  
**Planning for Incapacity.** An Agency account can be useful if the depositor wants to have an agent act on the depositor's behalf during the depositor's life, but without giving that agent any rights to use the account proceeds for themselves. In addition, you can name an agent to manage your accounts while you are alive, but leave the funds to another person (through a will) when you pass away. This could be especially useful for a Donor who has children who live a long distance away. That Donor can name a trusted friend to help manage the funds while the Donor is alive, but leave the funds to the children when the Donor passes away.

**No Problem if Agent has Debts.** Unlike the Joint account, the creditors of an agent have no right to share in the depositor's account, because the agent has no ownership of the funds deposited in the account.

**No Problem with Medicaid Qualification.** Because the agent does not own the funds deposited in the account, the fact that he/she is an agent will not affect the agent's eligibility for government programs, including Medicaid.

**POTENTIAL DISADVANTAGES OF AGENCY ACCOUNT:**

**Probate not Avoided.** Unlike the Joint and POD accounts, probate will not be avoided using an Agency account, as the funds in this account are considered part of the estate of the depositor upon the depositor's death.

**Dishonest Agent.** Only a highly trusted individual should be named as agent on an account. Bank employees do not closely monitor who is making deposits to and withdrawals from Agency accounts. A dishonest Agent could easily withdraw all of the account funds and use them for his or her own benefit, rather than for the benefit of the depositor.

Multiparty bank accounts may offer an effective alternative to probate, and may be an effective method of planning for incapacity in certain circumstances. However, the careful selection of joint account holders or agents is extremely important, as the wrong selection could

jeopardize the depositor's funds. If you have questions regarding whether some form of multiparty account is right for your situation, you should discuss this matter with your banker or consider contacting an attorney.

### POWER OF ATTORNEY

Ordinarily, when we use the word "attorney," we think of a trained, licensed attorney-at-law. But the law recognizes another type of attorney that is not necessarily a licensed lawyer. This type of attorney is called an "attorney-in-fact." His or her legal status as "attorney-in-fact" is created by a written document called a "power of attorney."

A power of attorney is simply a written document by which one person gives to another person (the "attorney-in-fact") the authority to act on the first person's behalf in one or more matters. There are several types of powers of attorney: general powers, limited powers and durable powers.

**GENERAL POWER OF ATTORNEY:** A "general power of attorney" authorizes the attorney-in-fact to act on your behalf in all your personal financial transactions and affairs. The general power of attorney authorization automatically ceases upon your death. Unless the document states otherwise, it also terminates upon your disability or incapacity. See the discussion below regarding durable powers of attorney.

**LIMITED POWER OF ATTORNEY:** A "limited power of attorney" authorizes the attorney-in-fact to act on your behalf only in the matters specifically designated in the written document. Examples of such limited authority might be: to perform maintenance on a particular piece of property; to sign checks for a limited amount of money or for a limited time; or to purchase a certain piece of real estate, but only if it can be purchased at a certain price and in a certain condition. As with a general power of attorney, the authority granted in a limited power of attorney also terminates upon your death. Unless the document states otherwise, it also terminates upon your disability or incapacity. See the discussion below regarding durable powers of attorney.

**DURABLE AND STANDBY POWERS OF ATTORNEY:** A "durable power of attorney" differs sig-

nificantly from the two previously discussed "powers of attorney" because it is effective even if you become disabled or incapacitated. Furthermore, a durable power of attorney can be made effective upon the occurrence of a future event. For example, it is quite common to have a power of attorney only become effective if your doctor diagnoses you as being disabled or incapacitated. Because the effective date is delayed, this second type of durable power of attorney is sometimes referred to as a "standby power of attorney."

The advantage to this form of power of attorney is that it can serve as a planning tool. It allows you to determine who will handle your affairs and who will make decisions for you if you become disabled or incapacitated. Examples of how a durable power of attorney might be used are: You could designate an attorney-in-fact to handle your banking and bill paying presently, and the attorney-in-fact would continue to take care of those matters after you become incapacitated or disabled; or, you can continue to handle your own affairs, but specify in your power of attorney that a specific attorney-in-fact is authorized to handle your personal financial affairs upon your disability. The attorney-in-fact can also be authorized to make medical decisions on your behalf in the event that you become disabled or incapacitated.

The durable power of attorney document must be carefully worded. You must make it clear that your intent is to provide a power of attorney that will survive your disability or incapacity or become effective only if you become disabled or incapacitated. All powers of attorney terminate automatically upon your death.

**HOW TO MAKE A POWER OF ATTORNEY:** In order to create an effective power of attorney, the following elements must be present. This is true whether the power of attorney is to be general, limited, or durable.

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- You must be competent (rational and capable of making your own decisions).
- The power of attorney must be in writing. It can be handwritten or typed, or preprinted forms can be used.
- The power of attorney document must contain the following:
  - a. The name of the person authorized to act as your attorney-in-fact.
  - b. The powers and responsibilities given to the attorney-in-fact.
  - c. Your signature, which must be signed and attested in the presence of a notary public.
- If the power of attorney affects real estate, the document should include the legal description of the property and it should be filed with the office of the county recorder where the property is located. If the power of attorney affects health care decision making, a copy of the documents should be provided to your attending physician.
- If recorded, you may obtain certified copies of your power of attorney document from the county recorder and make them available to persons affected by them, such as your doctor, your banker, etc.

It is not necessary to have a lawyer write your power of attorney document, but it would be wise to do so.

**HOW TO CANCEL A POWER OF ATTORNEY:** All powers of attorney may be canceled at any time simply by delivering a written notarized document to that effect to the attorney-in-fact. If the power of attorney has been recorded, the document revoking the power of attorney also should be recorded. Under some circumstances, you may wish to provide a copy of your revocation to those with whom your attorney-in-fact had authority to transact on your behalf.

**ADVANTAGES OF A POWER OF ATTORNEY:** Powers of attorney are simple and inexpensive to prepare. The attorney-in-fact may begin exercising his or her authority under the document immediately with-

out the need for court authorization. Because there is no court supervision and annual accountings are not required, it is mandatory that you trust implicitly the nominated attorney-in-fact.

**POTENTIAL DISADVANTAGES OF POWERS OF ATTORNEY:** The same characteristic that makes a power of attorney convenient and inexpensive also constitutes the biggest potential disadvantage. Because there is no court supervision and annual accountings are not required or scrutinized by anyone, it is mandatory that you trust implicitly the nominated attorney-in-fact. With a power of attorney, there is ample opportunity for the attorney-in-fact to exercise the authority in an unethical or dishonest manner. For these reasons, it is vitally important that you have a high degree of trust and confidence in any person to whom you grant your power of attorney.

It is a good idea to consult with the individual you intend to appoint as attorney-in-fact. It is also advisable to nominate a second or third choice in case your first choice is unwilling or unable to serve in this capacity. Where more than one person is nominated, be sure to make it clear if each person has authority to act individually or if they must act together.

The annual reporting requirements of a conservatorship or guardianship provide a certain amount of protection to the conservator, and thus helps protect that individual against allegations of wrongdoing. Furthermore, because many attorneys-in-fact are family members, the court's supervisory role may help insulate that individual from disputes by family members.

**POWERS OF ATTORNEY FOR FINANCIAL MATTERS:** The most common purpose for the use of a power of attorney is to grant authority to transact business on your behalf. Depending on how much authority you wish to convey, you may grant to your attorney-in-fact any one or all of the following:

- Open, maintain or close bank accounts or brokerage accounts;
- Sell, convey, lease, or maintain real estate;
- Access to safe deposit boxes and their contents;
- Make financial investments;

- Borrow money, mortgage property, or renew or extend debts;
- Prepare and file federal and state income tax returns (IRS Form 4868 also should be executed);
- Vote at corporate meetings;
- Purchase insurance for your benefit;
- Initiate, defend, prosecute or settle any lawsuit;
- Start or carry on a business;
- Employ professional and business assistants of all kinds, including lawyers, accountants, real estate agents, etc.;
- Apply for benefits and participate in governmental programs;
- Transfer to a trustee any and all property; and
- Disclaim part or all of an inheritance.

To be effective, the power of attorney must be signed before a notary public. If it affects real estate, it should include the legal description of the real estate and it should be filed with the county recorder in the county in which the real estate is located. Third parties will be more likely to follow your attorney-in-fact's directions the more specific you are about what actions you authorize. Think about what actions can be taken with the types of property you own, and which of those actions you feel comfortable authorizing your attorney-in-fact to do for you.

**POWERS OF ATTORNEY FOR HEALTH CARE PURPOSES:** In May 1991, a new Iowa law became effective that allows individuals to confer upon an attorney-in-fact the authority to make medical and health care decisions on behalf of the person granting the powers. A health care power of attorney essentially takes the place of a guardianship and allows the attorney-in-

fact to make daily health care decisions without court supervision. A recent federal law now requires medical facilities to inform all patients, prior to admission, of the right to sign a living will or a health care power of attorney.

By executing a health care power of attorney, you authorize the attorney-in-fact to make "health care decisions" on your behalf if your attending physician determines you are unable to make those decisions. "Health care decisions" means the consent, refusal to consent or the withdrawal of consent to "health care." "Health care" means any care, treatment, service or procedure the purpose of which is to maintain, diagnose or treat an individual's physical or mental condition.

It is a good idea to nominate an alternate attorney-in-fact, in case your first choice is not able or is no longer willing to serve as your attorney-in-fact. However, it is not recommended that you appoint co-attorneys-in-fact. This will avoid potential deadlocks or disputes over health care decisions.

You may revoke a power of attorney at any time. To make an effective revocation, you must communicate your intent to revoke. This communication may be oral or written. The communication should be made to the attorney-in-fact. However, if a health care provider currently is providing health care services, then you may effectively revoke the power of attorney by communicating your intent to the health care provider.

The health care power of attorney allows you to grant to the attorney-in-fact the authority to make decisions regarding the use of life-sustaining procedures. Because of this, it has been said that the execution of a living will no longer is necessary. However, it is important to realize that the execution of a living will memorializes your intent and desires regarding the use of life-sustaining procedures, and not what your attorney-in-fact thinks you desire. The presence of a living will relieves the attorney-in-fact from making that difficult decision, if the situation arises.

## PROPERTY TAX RELIEF FOR THE ELDERLY

Under Iowa law, elderly and disabled citizens may be eligible for property tax and rent relief. For specific questions about property tax relief, contact your county treasurer. For questions on rent reimbursement, contact the Iowa Department of Revenue and Finance.

**HOMESTEAD TAX CREDIT:** Most homeowners qualify for a homestead tax credit to lower the property taxes on their homes, regardless of age. To qualify, the homeowner must file a verified statement and designation of homestead with the County Tax Assessor by July 1 of the year in which the credit will first be claimed, and must live on the property on July 1<sup>st</sup> of each year and for at least six months of each year. The credit will then continue without need for re-filing, until the property is sold or until the owner no longer qualifies. A homestead is defined as the dwelling owned and actually occupied by the person filing for the credit. The credit is also available to certain persons confined to a nursing home, extended-care facility, or hospital and to persons residing in mobile, manufactured, and modular homes.

**PROPERTY TAX CREDIT:** In addition to the homestead tax credit, individuals may be eligible for a property tax credit if they are age 65 or older (by December 31 of the year preceding the year in which the claim is filed) or are totally disabled and at least eighteen years old. A person must also be a year-round Iowa resident and have a total annual household income less than \$18,035 in order to qualify. Renters who meet the same qualifications are entitled to a reimbursement of rent payments. The credit is also available to persons residing in mobile, manufactured, and modular homes if the home is taxed as real estate. If it is not taxed as real estate, an owner may claim a credit on the property where the home is located, assuming that the owner of the home also owns the land on which the home is located.

**RENT REIMBURSEMENT:** Eligibility for rent reimbursement entitles persons presently living in Iowa who rent a house, apartment, or a mobile home lot of one acre or less, and in some cases those who reside in a nursing home or extended care facility, to reimbursement of a portion of the rent they paid in the year before they filed their application. The precise amount of reimbursement is calculated according to a formula set by the Iowa Department of Revenue and Finance. Persons are eligible only if the place they rent or the nursing home in which they live is subject to property tax. If you are uncertain about the tax status of the place you rent, ask your landlord or the city or county assessor. For nursing homes, this means that it must be operated for profit.

In order to qualify for either the property tax credit or rent reimbursement, a person must have a household income of less than \$18,035 and be either at least 65 years old or totally disabled and older than age 18 by December 31 of the year prior to the year in which they file their verified application. The definition of income is very broad for calculation of the income threshold and includes such things as wages, salaries, tips, in-kind assistance (i.e., housing and utility expenses paid for you, except Federal Energy Assistance), rent subsidies, utilities assistance, Title 19/Medicaid benefits, social security income, disability compensation, pensions and annuities, interest and dividend income, profit from business and/or farming, capital gains, monetary contributions, child support, alimony, welfare payments (not including food stamps or other non-cash government benefits such as clothes, food, medical supplies, etc.), and insurance income. You must file an application with the county treasurer for the property tax credit and for rent reimbursement between January 1 and June 1 of each year. However, procedures do exist for requesting an extension for filing, but you should seek an extension before the deadline has expired.

## REVERSE MORTGAGES

In the past decade, the subject of home financing has become a subject of regular conversation for homeowners and consumers. One aspect of this broader topic has particular relevance for older Iowans: reverse mortgages.

A reverse mortgage is similar to a traditional mortgage except that a homeowner's equity in the home declines over time rather than increases as payments are made. This is because the payments that are made in the reverse mortgage situation are not made by the ho-

meowner, but rather by the financing institution, which forwards funds to the homeowner that are then applied as debt on the home. The funds advanced may be used for any purpose for which the homeowner desires. These payments may supplement other public benefits the homeowner is receiving, provide a cash infusion for home improvements, or any other number of purposes.

**QUALIFYING FOR A REVERSE MORTGAGE:** To qualify for a reverse mortgage, the borrower must be a homeowner over the age of sixty-two who owns the home outright or carries a mortgage balance so low that it can be paid off at closing with proceeds from the new reverse mortgage. The borrower must also live in the home. There are additional qualifications on the type of home for which a reverse mortgage can be obtained as well.

With a reverse mortgage, the primary financial concern is homeownership rather than income. For this reason, reverse mortgages are available regardless of current income. The amount of money that may be borrowed is dependent on the value of the home, your age, and the loan rate. Although no payments are required to be made by the homeowner with a reverse mortgage, he or she remains responsible for paying property taxes and other costs associated with homeownership, such as utilities and maintenance. However, as no payments are due under the reverse mortgage, there is no entity that can “force” the homeowner to vacate the home for missing mortgage payments.

**SOME THINGS TO CONSIDER:** A reverse mortgage may offer an older homeowner several advantages. The homeowner can receive a portion of the cash value of the home without having to repay debt. This is especially advantageous if the person’s home has increased significantly in value since purchase and his/her current income limits that person’s ability to repay debt. Predatory lenders often approach seniors who have extensive health-related costs or need home repairs to take out a first or second mortgage on their home. If the senior cannot repay the debt, the lender will take the home. In this case, a reverse mortgage as an alternative to a home loan.

However, these advantages are coupled with elements that may be considered disadvantages. A reverse mortgage comes due and payable when the last surviving

borrower dies, sells the home, or permanently moves from the home, i.e., moves for over one year. As noted, with a reverse mortgage, the underlying debt is accrued by funds advanced to the borrower. When the mortgage comes due, a significant debt may exist.

Another consideration is whether the homeowner has the resources to continue to pay the property taxes and maintain the home so that the value of the home does not decline over time. Reverse mortgage loans often have clauses that require that homeowner to do so.

In certain circumstances, the reverse mortgage debt may be paid off by new or existing funding or financing options, including the sale of the home. Unfortunately, however, the death of some reverse mortgage borrowers will be the cause for the mortgage coming due. At this point, the underlying debt will present an issue to be encountered by those left behind. Options exist for these individuals by which the reverse mortgage debt can be extinguished, but the debt will no doubt have an effect on the extent of any estate left by the deceased borrower. In other words, you will use up some or all of the equity in your home, leaving fewer assets for you and your heirs.

Ultimately, reverse mortgages present advantages and disadvantages that must be taken into consideration in a thoughtful and thorough examination of whether such a tool is right for a prospective borrower. If you do determine that a reverse mortgage is right for you, please remember the following:

- Make your own choice about how to use your reverse mortgage funds.
- A reverse mortgage should NEVER be contingent upon spending your money with any particular service provider or contractor.
- Insist that all reverse mortgage funds are paid directly to you.
- Don’t let anyone persuade you to “sign over” the funds.

## REVOCABLE TRUSTS

There has been much publicity in recent years about revocable trusts (sometimes called a living trust or inter vivos trust). A revocable trust is an agreement made by the trustor, also called the grantor, and the trustee. The trustor gives his/her property to the trustee. The trustee manages the property in accordance with the instructions of the trustor as they appear in the trust agreement. The revocable trust may be amended or revoked at any time during the trustor's lifetime so long as he or she is competent, or by the trustor's will if the trust instrument authorizes revocation in that manner. Under Iowa law, a trust created during the grantor's lifetime is revocable unless the trust instrument expressly states that it is irrevocable. If the trust is not revoked, it becomes irrevocable at the trustor's death.

**TRUSTEES:** You can be the trustee of your own trust. If you are the trustee of your trust, you continue to manage your own financial affairs. The only difference is that from a legal standpoint the assets are owned by your trust. If you are not the trustee, you may choose to name a trustee an individual with investment expertise, or a bank. Following the instructions in the trust agreement, the trustee will manage your property, handle the collection of income from the assets, and pay expenses from the trust if you desire. In addition, if instructed, the trustee will also make investment decisions. If you name a professional trustee, you should inquire about the fee for administering the trust.

There are several reasons people choose to set up revocable trusts. One reason people consider a revocable trust is to obtain privacy in their financial affairs. A living trust is a private arrangement between the trustor, the trustee and the beneficiaries. Upon your death, unlike your will, a living trust agreement is not usually filed with the Court, and does not become a part of the public record. Even if the trust agreement is not filed with the court, the value of the assets in your trust may have to appear on an inventory that would be filed with the court.

**INCAPACITY:** Another reason people establish a revocable trust is to provide for continued management of their assets upon incapacity. If you have established a trust and transferred your assets into the trust, the

trustee (or a successor trustee, if you were the original trustee) can continue to manage your financial affairs should you become incapacitated. This eliminates the need for a court to appoint a conservator to handle your finances.

**PROBATE:** Many people are interested in establishing a revocable trust because it will allow their estate to avoid probate. If you have transferred all your assets to a living trust, there will be no need to probate your estate at your death. But, if you have not transferred all your property into the trust or you have acquired additional property that was not transferred into the trust, probate proceedings will probably be necessary. If there is a probate of your estate, an inventory of your assets must be filed with the court, and the value of your trust would be included.

For persons with real property (including condominiums) in two or more states, it is often advisable to transfer title to the real property in the state that is not the state of your permanent residence into a revocable trust in order to avoid ancillary probate proceedings in that state.

While establishing a living trust may avoid the need for the probate of your estate, it does not eliminate all costs associated with probate. You may still need to have someone prepare tax returns. Having a revocable trust does NOT eliminate the necessity to file an Iowa Inheritance Tax Return or a Federal Estate Tax Return if required, or to pay the tax. There may also be costs associated with transferring property to the trust beneficiaries. Probate fees, including executor and legal fees, are based on the value of your gross estate, which includes the value of your probate estate as well as the value of the assets in the revocable trust.

**WILLS:** Even with a revocable trust, it is still necessary to have a will. If you do not transfer all your assets into the trust, you should have a will that would "pour-over" (transfer) any assets of your estate to the trust. In addition to a will, you should also have a power of attorney and a living will. (These topics are also discussed in this Handbook). A power of attorney, however, terminates with your death.

A revocable trust can be an integral part of your estate plan. You should contact an attorney experienced in estate planning to see if a revocable trust is right for you.

### SOCIAL SECURITY: RETIREMENT BENEFITS, DISABILITY, AND SUPPLEMENTAL SECURITY INCOME (SSI)

**INTRODUCTION:** Social Security provides a minimum income to eligible workers and their families when the worker retires, becomes disabled, or dies. There are three primary types of benefits that will be discussed in this chapter. The first program is Retirement benefits. The second program is known as Social Security Disability. The third program is known as Supplemental Security Income (SSI). This discussion also includes the steps to follow if your request for Social Security benefits is denied. Although some specific eligibility information will be provided, do not conclude that you are ineligible for some program based on this information alone.

**RETIREMENT BENEFITS:** To be eligible for retirement benefits, you must have worked for a certain number of years and had Social Security taxes (FICA) withheld from your paycheck. Anyone born in 1929 or later needs a minimum of ten years of work. The amount you will receive is computed by the Social Security Administration (SSA) according to a formula based on your past earnings. (Benefits available to certain surviving relatives of a deceased worker are discussed below.)

You may receive full Social Security benefits at your full retirement age. The full retirement age is determined by year of birth, and ranges from age 65 (for a person born before 1938), to age 67 (for a person born after 1959). You may choose eligible to receive benefits as early as age 62. If you elect to receive benefits before your full retirement age, your benefits will be permanently reduced based on the number of months you will receive checks before you reach full retirement age. You will continue to receive this reduced benefit rate after you attain your full retirement age. For planning purposes, the Social Security Administration issues annual statements to working Americans who are older than age 24. Your statement shows how much money you have earned under the Social Security system and provides estimates for future benefits.

In 2005, a person under full retirement age (age 65 and 6 months) is considered retired if annual earnings are \$12,000 or less. If you are under full retirement age (currently age 65) when you start getting your Social Security payments, \$1 in benefits will be deducted for each \$ you earn above the \$12,000 limit. Beginning in January of the year in which you will reach your full retirement age, the limit is increased (to \$31,800 in future years beginning with 2003. Earnings at or after FRA do not count toward 2005) and the deduction for exceeding the limit is lessened (\$1 for each \$3 above the \$31,800 limit). When you reach full retirement age, you no longer need to report your earnings to Social Security.

If you are under full retirement age (currently age 65) when you start getting your Social Security payments, \$1 in benefits will be deducted for each \$2 you earn above the annual limit— \$12,000 for 2005. For examples on how this works, see: [www.ssa.gov/retire2/whileworking2.htm](http://www.ssa.gov/retire2/whileworking2.htm).

When you reach full retirement age (65 for people born before 1938) you no longer need to report your earnings to Social Security. In 2005, a person under full retirement age (age 65 and 6 months) is considered retired if monthly earnings are \$1,000 or less.

Some of your Social Security benefits may be subject to federal income tax. One half of your Social Security benefits may be subject to federal income tax, to a maximum of 85%, if your income is high enough. For more information on whether any of your Social Security benefits may be subject to federal income tax, contact a tax advisor or the IRS Publication #917.

To apply for retirement benefits, you may file an application online or schedule an appointment to talk with a Social Security representative by phone or in person. Appointments can be made by calling 1-800-772-1213.

# Handbook for Older Iowans

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**DISABILITY BENEFITS:** If you are younger than age 65 and have worked for a significant portion of your life and have a serious disability, you may be eligible for disability benefits.

The disability or combination of disabilities must have lasted or be expected to last for at least twelve consecutive months, or to result in death. The disability may be a physical or mental impairment and may consist of pain. There must be medical evidence to substantiate the alleged impairment or disability. The impairment must be severe enough to keep you from performing activities basic to your past work or work that you may be qualified for in view of your age, education and work experience.

Workers' compensation benefits can reduce social security disability benefits in some cases. You can check by calling the SSA to see how this rule applies to you.

To apply for disability benefits, you can apply online at [www.socialsecurity.gov](http://www.socialsecurity.gov) schedule an appointment to talk with a Social Security representative by phone or in person. Appointments can be made by calling 1-800-772-1213. You should be prepared with your work history and a list of the names and address of all the doctors and hospitals where you have been treated for your impairments.

**SUPPLEMENTAL SECURITY INCOME (SSI):** This program provides a guaranteed minimum income to the aged, blind, and disabled. These benefits are based on the recipient's needs. Unlike Social Security Retirement benefits, you may be eligible for SSI even if you have never worked. To be eligible you must be 65 years of age, or blind or disabled. However, since this program is based on need rather than the work record of the disabled person, income and resource guidelines must also be met. You may be able to get SSI if your resources are worth no more than \$2,000. A couple may be able to get SSI if they have resources worth no more than \$3,000. If you own property that you are trying to sell, you may be able to get SSI while trying to sell it.

Social Security does not count everything you own in deciding whether you have too many resources to qualify for SSI. For example, Social Security does not count:

- The home you live in and the land it is on;

- Life insurance policies with a face value of \$1,500 or less;
- Your car (usually);
- Burial plots for you and members of your immediate family; and
- Up to \$1,500 in burial funds for you and up to \$1,500 in burial funds for your spouse.

**BENEFITS FOR THE WORKER'S FAMILY - RETIREMENT OR DISABILITY:** If a worker is receiving retirement or disability benefits, monthly benefits can also be paid to his or her:

- Unmarried children under 18 (or under 19 if full-time high school students);
- Unmarried children 18 or over who were severely disabled before age 22 and who continue to be disabled;
- Spouse if age 62 or over;
- Spouse under age 62 if he/she is caring for a child under age 16 or a disabled child who is receiving benefits based on the worker's earnings.

**Survivors' BENEFITS FOR THE DECEASED WORKER'S SURVIVORS**

Monthly payments can be made to a deceased worker's:

- Unmarried children under age 18 (or under 19 if attending high school fulltime);
- Unmarried children 18 or over who were severely disabled before age 22 and who continue to be disabled;
- Spouse if age 60 or over;
- Spouse under age 60 if he/she is caring for a child under age 16 or a disabled child who is receiving benefits based on deceased worker's earnings;
- Spouse age 50 or older who becomes disabled within seven years after worker's death;

- Dependent parents age 62 or older;
- Divorced spouse age 60 or over, or disabled surviving divorced spouse at age 50 or over, if the marriage lasted ten or more years.

**IMPORTANT DOCUMENTS YOU WILL NEED IN APPLYING FOR BENEFITS:** When applying for Social Security retirement benefits, you will need the following documents:

- Your Social Security card or a document which contains your Social Security number.
- Your birth certificate or a pre-age 5 baptismal record—this must be an original or certified copy. If you are applying for widow or widower's benefits, your marriage certificate.
- If applying for benefits on behalf of your child, the child's birth certificate.
- Your W-2 forms for the last two years, or if you are self-employed, a copy of your federal income tax returns for the last two years.
- Your military entrance and discharge papers if you had military service or a DD214.

**APPEAL OF DECISION:** Decisions made by the Social Security Administration are issued in writing. If you disagree with a decision made by the Social Security Administration, you have the right to appeal. Usually your appeal must be filed within 60 days of the written decision. The first level of this appeal is referred to as a Request for Reconsideration. If your Reconsideration is denied, you will then have 60 days to appeal the denial. The next appeal is known as a Request for Hearing. At this level, an Administrative Law Judge (ALJ) will hear your case. When you reach this stage, you should contact an attorney (if you have not already) who is familiar with such cases.

If you are again unsuccessful, the next appeal is to the Appeals Council in Falls Church, Virginia. The Appeals Council reviews the ALJ's decision. If the Appeals Council does not reverse that decision, your attorney can appeal to the federal court system for a final determination. If you are eventually successful during one of the appeal stages, you will be entitled to receive back benefits retroactively to the date the court determined that you should have initially received benefits.

**FOR MORE INFORMATION AND HELP:** The Social Security Administration can provide you with pamphlets as well as advice and answers to your questions. Call the toll free number 1-800-772-1213, business days from 7:00 am to 7:00 pm for materials or further assistance. The TTY number is 1-800-325-0778.

Social Security Online provides online access to a variety of services, tools and resources. At [www.socialsecurity.gov](http://www.socialsecurity.gov) you can: contains useful information. Helpful written materials are also available from Iowa Legal Aid, listed in the resource section of this Handbook.

- Access any of Social Security's publications, many in up to 14 languages
- Use retirement planning tools
- File an online application for retirement, spouse's or disability benefits
- Order a replacement Medicare card
- Notify Social Security of a change of address, phone or direct deposit
- Order a benefit verification letter
- Request a Social Security Statement
- View press releases, statistics and reports about Social Security

## VETERANS BENEFITS

The U.S. Department of Veterans Affairs ("VA") offers a wide variety of benefits and services for which service members and their families may be eligible, including Disability Benefits, Education and Training

Benefits, Vocational Rehabilitation & Employment, Home Loans, Burial Benefits, Dependents' and Survivors' Benefits, Life Insurance, and Health Care. Whether you may be eligible for one or more of these benefits

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will depend on your individual situation. Generally, to be eligible you must have been discharged from active military service, in a manner other than dishonorable circumstances. This article will focus on three of these benefits: Health Care Benefits, Disability Benefits, and Death Benefits.

**HEALTH CARE BENEFITS:** Health care benefits are usually initiated by applying for enrollment, though some veterans do not need to be enrolled before receiving benefits. For instance, you are not required to enroll if you have a service-related disability equal to or greater than 50 percent, or if you are seeking health care only for injuries that were incurred in the service, or which were aggravated in the line of duty. If these conditions do not pertain to you, you can apply by filing a VA Form 10-10EZ, "Application for Health Benefits," available at the VA regional office or by calling 1-877-222-VETS (8387). If congressional appropriations are limited when you apply, applicants will be placed in a priority group, and health care benefits will be available based in order of priority. After you have become enrolled, you may receive medical care at any VA facility in the United States, subject to any financial requirements and/or co-pays that need to be met.

In addition to outpatient dental treatment, pharmacy services, and hospital services, the VA also provides nursing-home care through several national programs: (1) VA-owned and operated nursing homes, (2) state-owned state nursing homes, and (3) contract community nursing homes. Each of these types of facilities has its own criteria for eligibility and admission. Generally, to be eligible for nursing home care, veterans must be medically stable, be diagnosed with a condition requiring inpatient nursing home care, and be assessed by a health care professional to be in need of nursing home care. The VA also offers alternative extended stay services, including adult day care, respite care, geriatric evaluation, hospice, and home-based primary care. As with a nursing home arrangement, these services may require a co pay.

**DISABILITY BENEFITS:** There are two types of disability benefits for veterans. The first type of benefit is disability compensation benefits. A veteran may be entitled to disability compensation for any medical condition or injury that was incurred in or aggravated by military service if the veteran was released from ac-

tive military duty with anything other than dishonorable discharge. The amount of the benefit is based on the degree of disability and there is no time limit to apply for benefits, but applying within one year of release from active duty permits entitlement to be established retroactively to the date of separation. Otherwise, the effective date of eligibility is based on the date of the claim.

The second type of disability benefit for living veterans is non-service-connected pension. In general, to be eligible for this benefit, a veteran must have had 90 days or more of service of which at least one day was during a period of war. Enlisted personnel serving after September 8, 1980 and officers serving after October 17, 1981 must have served a complete tour or have been discharged for hardship or disability. Contact the Regional Office for details. The following wartime periods have been established by the Department of Veterans Affairs:

WW I: April 6, 1917–November 11, 1918

WW II: December 7, 1941–December 31, 1946

KOREA: June 27, 1950–January 31, 1955

VIETNAM: August 5, 1964–May 7, 1975

PERSIAN GULF: August 2, 1990–Date to be determined by Congress

There are also special periods for veterans who served during the Spanish American War, during the Mexican Border period (just prior to WWI), and on the Russian front (just after WWI). Special provisions apply to these periods so contact the VA Regional Office for details. As the name implies, this is a benefit for veterans who are disabled, but not as a result of the service. Any wartime veteran who is permanently and totally disabled may be eligible for this pension if he/she has very limited income and assets. The VA will consider unemployability and age of the veteran.

In addition to the basic pension level, there are two higher levels of disability pension. The first is housebound disability pension which is payable to those veterans who are basically confined to their own home or yard because of their health conditions. Travel outside of his or her immediate environment can usually only be accomplished with assistance from someone else. The highest level of pension is aid and attendance benefits. If a veteran is so disabled that help is needed to

perform everyday functions such as cooking, bathing, dressing or the veteran cannot be trusted to take medication, the veteran may be eligible for this allowance. It is common for a veteran receiving these benefits to be living in a nursing facility.

Each level of disability pension has progressively higher income limitations. Additional income is also permitted if the veteran has dependents. All of the payments are made in one check except in the event of estrangement. In this case, an apportionment can be made to the separated spouse or to the custodian of the veteran's children. An ex-spouse is not entitled to benefits on his or her behalf. Instead, he or she can only receive an apportionment as the custodian of the veteran's children.

To further complicate matters, veterans' non-service-connected pension can be obtained under one of three different laws. Each of the laws is slightly different and a veteran now applying for benefits is eligible for the most recent law, the Improved Pension.

Each of the former programs was "grand-fathered in" when a replacement law was passed. The oldest program is known as the Old Law Pension. Veterans on this program had to have been on the pension rolls prior to July 1, 1960. Section 306 Pension replaced the Old Law Pension in 1960 until December 31, 1978 when the Improved Pension came into existence. It is common for veterans to continue to receive benefits under the Improved Pension law since this law may provide greater benefits in their circumstances.

**DEATH BENEFITS:** There are several types of death benefits payable to the dependents of veterans. These benefits are payable regardless of the dependent's age or disability.

With one exception, these benefits are dependent on whether or not the veteran's death is service connected. If a veteran dies while in service or dies of a service-connected cause, then his or her dependent survivors are entitled to Dependency Indemnity Compensation (DIC). Widows, children or dependent parents can receive this benefit. For widows, the amount of the benefit is based on the rank of the veteran while he or she was in military service. The amount of these benefits can range from about seven hundred fifty dollars to well over one thousand dollars per month. Additional

allowance can be paid if the widow has dependents, is housebound or in need of aid and attendance.

For VA purposes, a "dependent child" is defined as being unmarried, under age 18 or between 18 and 23 and in school, or any age if the child is considered helpless (the disability rendering the child helpless must have occurred prior to his or her eighteenth birthday). Children are eligible for DIC benefits, but not for additional allowance, because of being housebound or in need of aid and attendance.

Parents are eligible for DIC benefits only if they have limited income. It must be shown that the parents were or would have been dependent on the veteran for at least part of their income. Parents may be eligible for additional allowance if they are in need of aid and attendance but not if they are housebound.

Another program for certain survivors of veterans who died of service connected causes prior to August 13, 1981, is called the Reinstated Entitlement Program for Survivors (REPS). The benefits under the REPS program are similar to the benefits for students and surviving spouses with children between ages 16 and 18, which were eliminated from the Social Security Act. These benefits are payable in addition to any other VA benefits to which the family may be entitled. The amount of this benefit is based on information obtained from the Social Security Administration.

There is one benefit for the dependents of veterans who died of service-connected causes which has been "grand-fathered in." This is called Death Compensation and was available before January 1, 1957. In most situations, it was more advantageous for recipients of Death Compensation to elect to receive DIC because it is usually a higher benefit. Some dependent parents still receive the Death Compensation benefit. No additional allowances for housebound or aid and attendance are available with this benefit.

Death Pension is available to the widows and children of wartime veterans who died of non-service-connected causes. To be eligible for payments, the dependents must have very limited income and assets. This benefit is not available to dependent parents.

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Widows can be eligible for higher payments if they have dependent children or if they are housebound or in need of aid and attendance. Children are not eligible for extra payments if they are housebound or in need of aid and attendance.

Dependents of veterans can also receive benefits under any one of the three previously listed laws. The former death benefits programs were "grand-fathered in" just like the veterans programs.

The one exception to the service connected versus non-service-connected benefit distinction is Government Life Insurance. This program is administered by the Veteran's Administration and is handled like any other life insurance program. If an insured veteran dies, the insurance proceeds can be paid in a lump sum or in the form of an annuity. The annuity can be over a specified number of months or over the lifetime of the beneficiary. Some widows or parents of World War II servicemen killed in action are still receiving monthly annuity checks.

**OTHER PROVISIONS:** Due to the rising wave of identity theft, the Department of Veterans Affairs (VA) has designed a new identity card for veterans that will safeguard confidential information. The new identification card seeks to ensure that personal information is protected, and helps prevent fraudulent access to the veterans' benefits. This card, which used to be known as the Veterans Identification Card (VIC), will include the veteran's photo and identify him or her as an enrollee in the VA's health care system. Veterans can request the new card at their local medical center, and processing should take five to seven days once eligibility can be verified. VA hopes to complete the conversion to the new card by mid-November 2005. Veterans can continue using their existing cards until they receive their new ones.

**CONCLUSION:** We have tried to give you a brief overview of the Department of Veterans Affairs' disability and death benefits. As you can see, the type and range of benefits is complex and there are additional veterans or dependents benefits to which older Iowans may be entitled. These include medical care at VA facilities, loan guaranty, and insurance benefits for those who kept their insurance after they left service. There are also additional benefits for veterans who

have specific service connected disabilities. The space here is too limited to discuss these benefits in detail. If you have questions about your individual case, or about benefits in general, please contact your local VA office. You can reach a Veterans Benefits Counselor at 1-800-827-1000. You can also apply for Compensation, Pension or Vocational Rehabilitation Benefits online at: [www.vabenefits.vba.va.gov](http://www.vabenefits.vba.va.gov).

Please contact the VA at the number above for further information, or you can call the following numbers for questions on a specific topic:

- Health Benefits 877-222-8387
- Education Benefits 888-442-4551
- VA Life Insurance 800-669-8477
- Office of SGLI 800-419-1473
- CHAMPVA 800-733-8387
- Gulf War 800-749-8387
- Headstones (status of claims only) 800-697-6947
- Telecommunication Device for Deaf (TDD) 800-829-4833
- Direct Deposit 877-838-2778

All telephone exchanges in the state of Iowa ring into the Des Moines Regional Office. You can also visit the Department of Veterans Affairs internet home page at [www.va.gov](http://www.va.gov) to obtain additional information.

Should you have questions about Iowa specific facilities, including available services and hours of operation, you may contact them directly as follows:

## Medical Centers

- Central Iowa HC System
  - § Des Moines 50310 (3600 30<sup>th</sup> St., 800-294-8387)
  - § Knoxville 50138 (1515 W. Pleasant St., 800-816-8878)

- Iowa City 52246 (601 Hwy 6 West, 319-338-0581)

## Clinics

- Bettendorf 52722 (2979 Victoria St., 563-332-8528)
- Dubuque 52001 (200 Mercy Dr., Suite 106, 563-589-8899)
- Fort Dodge 50501 (804 Kenyon Rd., Suite 160, 515-576-2235)
- Mason City 50401 (910 N. Eisenhower, 641-421-8077 or 800-351-4671)
- Sioux City 51104 (1551 Indian Hills Dr., Suite 206, 712-258-4700)
- Waterloo 50701 (1015 S. Hackett Rd., 319-235-1235)

## Regional Office

- Des Moines 50309 (210 Walnut St., Rm. 1063; statewide, 800-827-1000)

## Veterans Centers

- Cedar Rapids 52402 (1642 42<sup>nd</sup> St. N.E., 319-378-0016)
- Des Moines 50310 (2600 Martin Luther King, Jr. Pkwy., 515-284-4929)
- Sioux City 51104 (1551 Indian Hills Dr., Suite 204, 712-255-3808)

## National Cemetery

- Keokuk NC 52632 (1701 J. St., 309-782-2094)

## WILLS

**WHY YOU SHOULD HAVE A WILL:** If you die without a valid will, you have no control over where your property goes. Instead, the laws of the State of Iowa make that decision. According to these laws, your property will be distributed to your relatives in a certain manner based upon your relationship (blood or marriage) to those persons. Without a will, there is no method of giving your assets to a charity or to a friend, if you so choose.

If you own real property, dying without a will may complicate the transfer of that property, either to your family or by sale to another. Further, since the State decides who gets the land, it might not pass to the next generation in one parcel. Finally, if there is not a will, the court will select someone to take care of your affairs, called an "administrator." This person may be someone who would be unacceptable to you. Generally, the court appoints the surviving spouse or a surviving child to administer the estate.

**SOME BASIC FACTS ABOUT WILLS:** A well-prepared will is the best way to make sure that your property, called your estate, passes as you wish to your

family and others, after your death. Generally, your estate consists of property and cash assets that you own at your death. It includes bank accounts, land, furniture, buildings, cars, stocks and bonds, proceeds from life insurance that are payable to your estate, and retirement benefits payable to you by your employer. It also includes your Individual Retirement Accounts (IRAs). However, any property held in joint tenancy with another person passes directly to the surviving joint tenant. Life insurance proceeds and retirement benefits payable to named beneficiaries pass to those designated beneficiaries. Thus, joint tenancy property and life insurance and retirement benefits payable to named beneficiaries will pass to the intended person outside of your will.

**REQUIREMENTS FOR A WILL:** In Iowa, a valid will must comply with these requirements:

- The maker must be at least eighteen (18) years of age or married.
- The maker must be of "sound mind."

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- The will must be written and signed by the maker in the presence of at least two competent witnesses, at least 16 years of age, who also sign the will in the presence of the maker and each other.
- The maker must tell the witnesses that it is his or her will.

To make certain that your will is validly executed and complies with Iowa law so that your wishes can be carried out, you should consult an attorney in making and signing the will. A self-proving will that verifies the signatures of the witnesses will also require an acknowledgment from a notary public.

You will need to name the executor of your will. The executor is the person you desire to carry out the provisions of your will. It is also a good idea to name an alternate executor as a substitute in case your first choice is unable to serve. If you do not name a person who is willing and able, the court will appoint an executor for you.

**RESTRICTIONS ON PROPERTY DISTRIBUTION IN A WILL:** Generally, Iowa law allows you to distribute your property as you wish. However, there are some significant restrictions. You may not completely exclude a spouse from receiving any of your estate. Even if you attempt to cut your spouse out of the will, the law will allow your spouse to take a certain percentage of the assets. Likewise, if you hold property (such as real estate, bank accounts, cars and household goods) in joint tenancy with another person, that property cannot be distributed by will. The surviving joint tenant automatically becomes the sole owner of that property upon your death.

**HOW LONG IS A WILL VALID?** A will that meets all of the requirements described earlier is good until it is changed or revoked by you. Changed circumstances may require an addition or correction. These changes may be reflected in a document called a codicil. This allows for the changes without redoing your entire will. The codicil must comply with the same requirements as the original will. However, you may need to completely redo the will if the changes are substantial ones.

**FEDERAL ESTATE TAX:** Under federal law, your estate (property) will be taxed based upon its value. In other words, if the estate is valued in excess of the

threshold amount, there will be a federal tax due. If the estate is valued under the threshold amount, then there is no federal tax due. In 2005, the threshold amount is \$1,500,000 and this amount will eventually increase to \$3,500,000 by the year 2009. The tax is scheduled to be eliminated entirely in the year 2010. In 2011, the threshold amounts will revert back to their pre-2002 status barring any changes in the law.

**IOWA INHERITANCE TAX:** The persons to whom you leave property may be required to pay Iowa Inheritance Tax. This tax is based upon the value of the property and relationship of the person to whom the property passes. After July 1, 1997, there is no Iowa Inheritance tax on property that passes to a surviving spouse or lineal descendants or ascendants, such as children, grandchildren, or parents. There is also no tax on property passing to a qualified charitable organization. For property that passes to all others, tax will be paid according to the degree of your relationship to the person inheriting the property and the amount inherited. Typically, the more distant the relationship, the higher the tax.

**WHAT TO DO WHEN SOMEONE DIES:** When there is a death in the family, often the last thing the surviving relatives attend to is the legal distribution of the deceased's property. When there is a will, the decedent is "testate," meaning that he or she had a will. The executor should be contacted. The executor should then get in touch with a lawyer as soon as possible. It may be possible to avoid probate or administration (the court system for handling estates). However, whether or not the court system is used, certain documents must be filed and taxes paid to properly finalize the deceased's affairs. For these reasons, a lawyer should be consulted.

In the event that there is no will, the person is said to be "intestate." In this case, the state of Iowa has laws which direct the payment of expenses and debts and a formula for the distribution of remaining property. The surviving family member should get in touch with a lawyer as soon as possible to determine if probate administration will be necessary, and if it is necessary, begin the process as promptly as possible.

## RESOURCES

**ADULT DAY SERVICES:** Adult day service is any program which provides an organized program of supportive care during the day in a group environment to older persons who need a degree of supervision and assistance, or both. Services may include, but are not limited to rehabilitation services, personal care, transportation services, social/recreational activities and preventive or restorative services. Contact your local area agency on aging for the location of the nearest adult day services program.

**ALZHEIMER'S ASSOCIATION:**  
The Iowa Chapter Network

Big Sioux Chapter  
502 11<sup>th</sup> St.  
Sioux City, Iowa 51105  
(712) 279-5802  
800-272-3900  
[www.alz-sioux.org](http://www.alz-sioux.org)

Greater Iowa Chapter  
1730 28<sup>th</sup> St.  
West Des Moines, Iowa 50266  
(515) 440-2722  
1-800-272-3900

East Central Iowa Chapter  
1570 42<sup>nd</sup> St. NE  
Cedar Rapids, Iowa 52402  
(319) 294-9699  
1-800-272-3900  
[www.alzeci.org](http://www.alzeci.org)

**AREA AGENCIES ON AGING:** The Iowa Department of Elder Affairs has designated thirteen Area Agencies on Aging (AAA's) to administer programs for older persons at the local level throughout the state. Each AAA is responsible for developing, coordinating, and delivering aging services within its designated geographical area. The AAA's provide four types of services to Iowans aged 60 and over:

- Access Services—transportation, outreach, and information and referral;
- Community Service—congregate meals, continuing education, legal services, counseling, assessment, case management, and assistance;

- In Home Services—home health, homemaker, home-delivered meals and chore maintenance; and
- Services to Residents of Care Providing Facilities—casework, placement, relocation, grievance resolution, and care review committees.

Iowa Department of Elder Affairs  
(515) 242-3333  
[www.state.ia.us/elderaffairs/](http://www.state.ia.us/elderaffairs/)

A listing of each AAA has been provided beginning on page 72.

**ASSISTIVE TECHNOLOGY:** IOWA COMPASS offers a free information and referral service for assistive technology. Iowa Compass provides free, up-to-date-product information on commercially available adaptive equipment for people with disabilities or people who are elderly.

Iowa Compass  
1-800-779-2001  
(319) 353-8777  
TTY Modem 877-686-0032  
[www.medicine.uiowa.edu/iowacompass](http://www.medicine.uiowa.edu/iowacompass)

**CASE MANAGEMENT PROGRAM FOR THE FRAIL ELDERLY:** The Case Management Program for the Frail Elderly is a multi-disciplinary approach to coordinating community based services to frail and vulnerable elderly which helps the elderly and their families to make long term care choices and avoid inappropriate or premature institutionalization. To learn more about the Case Management Program for the Frail Elderly, contact your local Area Agency on Aging or the Iowa Department of Elder Affairs at (515) 242-3333.

**CITIZEN'S AIDE—OMBUDSMAN:** This office receives, investigates and tries to resolve complaints concerning state and local government. Note that complaints concerning county care facilities are within the Citizens Aide's activities, but other nursing home (long-term care facility) complaints are referred to the Long-Term Care Ombudsman, listed in the Long-Term Care Facility part of the resource section.

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Office of Citizen's Aide—Ombudsman  
Ola Babcock- Miller Building  
1112 E. Grand Ave.  
Des Moines, IA 50319  
(515) 281-3592  
1-888-426-6283  
[www.legis.state.ia.us/ombudsman](http://www.legis.state.ia.us/ombudsman)

## CONSUMER ISSUES:

**CONSUMER PROTECTION DIVISION:** Provides information and assistance with a variety of consumer matters, focusing primarily on problems related to consumer fraud, such as unfair practices and deceptive advertising. Call the number below for assistance, and to find out how you can lodge a complaint.

Iowa Attorney General  
Hoover Building-2<sup>nd</sup> Floor  
1305 East Walnut  
Des Moines, IA 50319  
(515) 281-5926  
[www.state.ia.us/government/ag/](http://www.state.ia.us/government/ag/)

**BETTER BUSINESS BUREAU:** Better Business Bureaus (BBB's) can provide information on whether a business has a satisfactory performance record and whether a charity is sound and reputable. The BBB also has consumer education pamphlets and a complaint handling procedure, which includes the possibility of arbitration.

BBB/Quad Cities  
2435 Kimberly Rd, Suite 260 N  
Bettendorf, IA 52722-4100  
(563) 355-6344  
800-222-1600

BBB of Central & Eastern Iowa  
505 5<sup>th</sup> Ave Suite 950  
Des Moines, IA 50309  
(515) 243-8137  
[www.desmoines.bbb.org](http://www.desmoines.bbb.org)

**INSURANCE DIVISION:** Insurance Division personnel are available to investigate complaints as well as to answer your questions about insurance companies and practices.

- For inquiries concerning life insurance: (515) 281-4222
- For inquiries concerning health insurance: (515) -281-4409 or (515) 281-5880
- For inquiries concerning property and casualty insurance: (515) 281-4409 as well as (515) 281-4445
- To register a complaint: (515) 281-7758 or (515) 281-6348

Iowa Insurance Division  
330 Maple Street  
Des Moines, IA 50319-0065  
877-955-1212

## DISABILITY PROGRAMS:

Alliance for the Mentally Ill  
5911 Meredith Drive, Suite E  
Urbandale, IA 50322  
(515) 254-0417  
1-800-417-0417  
[AMIIowa@aol.com](mailto:AMIIowa@aol.com)

ARC of Iowa  
715 E. Locust  
Des Moines, IA 50309  
(515) 283-2358  
[ARClowa@aol.com](mailto:ARClowa@aol.com)

Iowa Association of Community Providers  
7025 Hickman Road, Suite 5  
Urbandale, IA 50322-4843  
(515) 270-9495  
[www.iowaproviders.org](http://www.iowaproviders.org)

Iowa Compass  
1-800-779-2001

Deaf Services Commission  
Department of Human Rights  
Lucas Building  
321 East 12<sup>th</sup> Street  
Des Moines, IA 50319  
(515) 281-3164  
888-221-3724  
TTY 515-281-3581

Department for the Blind  
524 4<sup>th</sup> Street  
Des Moines, IA 50309  
(515) 281-1333  
1-800-362-2587  
[www.blind.state.ia.us](http://www.blind.state.ia.us)

Governor's Developmental Disabilities  
Council  
River Hills Business Park  
617 E. 2<sup>nd</sup> Street  
Des Moines, IA 50309  
(515) 281-9082 or 1-800-452-1936  
[www.state.ia.us/government/ddcouncil](http://www.state.ia.us/government/ddcouncil)

Iowa Protection & Advocacy Services  
950 Office Park Rd., Ste. 221  
West Des Moines, IA 50265  
(515) 278-2502  
1-800-779-2502

## DISCRIMINATION AND CIVIL RIGHTS:

**IOWA CIVIL RIGHTS COMMISSION:** This statewide office receives, investigates and tries to resolve complaints involving age discrimination (as well as illegal discrimination on other grounds, such as race, sex, disability, national origin or religion). For more information or to file a complaint, contact either your local human rights commission (if you live in a city that has one) or contact the statewide Commission at the number below.

Iowa Civil Rights Commission  
400 East 14<sup>th</sup> Street  
Des Moines, IA 50309  
(515) 281-4121  
1 800-457-4416  
[www.state.ia.us/government/crc](http://www.state.ia.us/government/crc)

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC):** The district office of the EEOC handles employment discrimination complaints arising under federal law. The federal law covering employment discrimination on the basis of age applies to anyone 40 or older. To file a complaint with the EEOC, contact the office below as soon as possible after the discriminatory act. The EEOC can assign an investigator and may attempt to resolve the problem.

Equal Employment Opportunity Commission (EEOC)  
310 West Wisconsin Avenue, Suite 800  
Milwaukee, WI 53203  
(414) 297-1111 or 1-800-669-4000  
[www.eeoc.gov](http://www.eeoc.gov)

**IOWA CIVIL LIBERTIES UNION:** The Iowa Civil Liberties Union (ICLU) is a private membership organization which can assist individuals and groups in asserting or protecting their constitutional rights. The ICLU works through the courts, the legislature and through the education of the public to protect such rights as freedom of speech and freedom of religion, among others.

Iowa Civil Liberties Union  
505 Fifth Avenue, Suite 901  
Des Moines, IA 50309  
(515) 243-3576  
[www.iowaclu.org](http://www.iowaclu.org)

## DOMESTIC VIOLENCE AND SEXUAL ABUSE:

Iowa Coalition Against Domestic Violence  
2603 Bell Avenue, Suite 100  
Des Moines, IA 50321  
1-800-942-0333  
[icadv@aol.com](mailto:icadv@aol.com)

Iowa Coalition against Sexual Assault  
211 28<sup>th</sup> Street, Suite 107  
Des Moines, IA 50312  
(515) 244-7424  
1-800-284-7821  
[iowacasa@aol.com](mailto:iowacasa@aol.com)

## EDUCATION:

**IOWA STATE UNIVERSITY (ISU) EXTENSION SERVICE:** There is an Extension Service office for each county, providing a wide range of education-related services, including seminars on such subjects as nutrition, family economics, and human relations. Free publications available through the extension service cover such subjects as retirement planning, selecting nursing home insurance, housing for the elderly, and wellness. For more information, contact your county office, by checking the telephone book under Iowa

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State University Extension Service, or in some areas, United States Department of Agriculture (USDA).

**AREA COMMUNITY COLLEGES:** There are 15 area community colleges in Iowa. Your area community college may offer education programs of special interest to the elderly, and may permit the elderly to register at reduced fees. Contact the community college in your area for more information.

**IOWA LEGAL AID:** Provides about 40 different pamphlets and booklets dealing with such law-related subjects as nursing homes, healthcare, medigap insurance, funerals, small claims, Social Security, age discrimination, Medicaid, guardianships/conservatorships, and landlord/tenant law. These publications are free to low-income Iowans, and others can purchase them at modest cost. For more information, call the central office of the Iowa Legal Aid.

Iowa Legal Aid  
1111 9<sup>th</sup> Street, Suite 230  
Des Moines, IA 50314-2527  
(515) 280-3636  
800-532-1503

## ELDER ABUSE:

**DEPENDENT ADULT ABUSE & NEGLECT REPORTING:** This toll-free hotline of the Iowa Department of Human Services (DHS) is for reporting suspected instances of abuse or neglect of dependent adults, in the community and facility.

Long Term Care Complaints  
Iowa Dept. Elder Affairs  
800-532-3213

If you suspect adult abuse, please call: 1-800-362-2178 (24 hours a day, 7 days a week) or call your local DHS office

To reach the Department of Inspections & Appeals (DIA) call: (515) 281-7102 general number; Nursing Home Complaint Hotline: 1-800-383-4920; Welfare Fraud Hotline: 1-800-831-1394

## EMPLOYMENT:

**IOWA WORKFORCE DEVELOPMENT:** There are offices throughout Iowa that provide a range of employment related services, including job placement for older workers seeking full or part-time employment and mentoring programs. To locate the office near you call (515) 281-5387 or 800-562-4692.

**AARP—SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM:** This program provides on-the-job training and employment services for Iowans age 55 and older. Participants must be able to work and their income must fall within certain guidelines. To locate the office near you contact:

AARP Foundation  
Senior Employment Program  
4601 SW 9<sup>th</sup> Street  
Des Moines, IA 50315  
(515) 287-1555

**GREEN THUMB SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM:** This service, which covers 66 Iowa counties, provides employment in community betterment jobs at minimum wage to low-income Iowans age 55 and older. Additionally, Green Thumb administers the dislocated older worker and experience works programs. Contact the state office at the number listed to see whether you qualify.

Green Thumb Senior Community  
Service Employment Program  
3720 N. 2<sup>nd</sup> Avenue  
Des Moines, IA 50313  
(515) 243-2430  
1-800-782-7519  
[www.experienceworks.org](http://www.experienceworks.org)

## SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM:

West Central Development Corporation  
1108 8<sup>th</sup> Street  
Harlan, IA 51537  
(712) 755-5135

Community Action Agency of Siouxland  
2700 Leach Avenue  
Sioux City, IA 51106  
(712) 274-1610 or 800-352-3725

## FINANCIAL:

### CONSUMER /DEBT COUNSELING:

National Consumer Law Center  
(617) 542-8010 or  
(202) 452-6252  
1-888-844-6227  
[www.consumerlaw.org](http://www.consumerlaw.org)

**DEPARTMENT OF HUMAN SERVICES (DHS):** DHS provides a wide range of services, including food stamps, and Medicaid. To contact your local office, check your telephone book or directory assistance.

**GENERAL RELIEF:** General Relief is the county program, which provides a range of basic services to needy persons. While any need may be brought to the attention of the county relief director, the main services provided relate to food, clothing and shelter. General Relief is intended to provide help in fulfilling those needs that cannot be fully met by other programs. Thus, the General Relief director is often very well versed in the various assistance programs available. To reach the General Relief office, contact the Department of Human Services or the county auditor in your county.

### GAMBLING ASSISTANCE:

Iowa Gambling Treatment Program  
(515) 281-8802  
1-800-BETS-OFF

## HEALTH:

**HEALTH PROMOTION OF THE IOWA DEPARTMENT OF PUBLIC HEALTH:** This statewide agency promotes the adoption of personal habits that will improve health and well being, primarily through the provision of technical assistance to other groups and agencies. Although the Bureau can provide direct services to individuals upon request, a person needing health information may first wish to contact the local public health nursing agency (see below) or the county extension service (see resources listed under Education).

Bureau of Iowa Department of Public Health  
Health Promotion and Disability  
321 E. 12<sup>th</sup> Street  
Lucas State Office Building  
Des Moines, IA 50319  
(515) 281-6779

**PUBLIC HEALTH OR VISITING NURSES:** Each Iowa county has a public health nurse or visiting nurse. These professional nurses provide skilled nursing services as well as health instruction to patients in the patient's own home. A sliding fee scale is typically used to determine the costs of these services. To contact the public health or visiting nurse in your county, check the county section of your telephone book or contact the local Area Agency on Aging.

**IOWA HOSPICE ORGANIZATION:** HOSPICE is a program of caring for the terminally ill and their families, providing practical care and human support in ways that will add to the comfort and quality of life. To see if there is one near you, check your telephone book or directory assistance under hospice or call or contact:

Iowa Hospice Organization  
100 East Grand Avenue  
Suite 120  
Des Moines, IA 50309  
Phone: (515) 243-1046  
[www.iowahospice.org](http://www.iowahospice.org)

## HOUSING:

**HOUSING AUTHORITIES:** There are local and regional housing authorities all over Iowa providing low cost housing to qualifying low-income people. The housing authority that serves your area of the state may be located in your town, or in a town or city nearby. To contact your housing authority, check your telephone book or directory assistance, or ask your city or county government officials for assistance.

Iowa Department of Elder Affairs  
Iowa Finance Authority  
(515) 242-3333  
100 E. Grand Avenue, Suite 250  
[www.state.ia.us/elderaffairs](http://www.state.ia.us/elderaffairs)  
Des Moines, Iowa 50309  
(515) 242-4990 or 800-432-7230  
[www.ifahome.com](http://www.ifahome.com)

The area agencies on aging can provide you with a list of rental units for seniors available across Iowa. The list includes the HUD, FmHA and privately financed apartment units that provide low-cost housing. Applications are made directly to the unit management. Call

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the IDEA number above and they will refer you to the area agency serving your community.

**INFORMATION & REFERRAL SERVICES:** There are about eleven Information & Referral Services in Iowa serving many (but not all) Iowa counties. Information & Referral service staff is equipped to direct you to the agencies and resources in your area, which can assist you with a given problem. These services go by a variety of names, although you may be able to find one in your area by checking under Information & Referral in your telephone book. Otherwise, you may call the Information & Referral Service in Des Moines ("First Call for Help") to find out whether it, or some other office, serves the county in which you live. The telephone number of the Des Moines service area is (515) 246-6555.

**SENIOR HEALTH INSURANCE INFORMATION PROGRAM (SHIIP):** The Senior Health Insurance Information Program (SHIIP) of the Iowa Insurance Division has trained local counselors in many parts of Iowa. The counselors are available to answer your questions concerning any of the following issues:

- Medicare prescription drug assistance
- Medicare Supplemental insurance policies
- Medicare, Part A and Part B
- Long-term Care insurance policies
- Comparing policy coverages
- Other types of health insurance sold to senior citizens
- Insurance and Medicare claims
- Tips on how to deal with agents, phone solicitors and mailings
- How to file a complaint with the Iowa Insurance Division

This is a free confidential service. Counselors do not sell insurance or promote specific companies, policies, or agents.

SHIIP  
Insurance Division  
Iowa Department of Commerce  
330 Maple  
Des Moines, Iowa 50319  
1-800-351-4664

## LEGAL SERVICES:

**LAWYER REFERRAL SERVICE:** This service of the Iowa State Bar Association can locate an attorney in your area willing to help with legal problems like yours. The cost for any service beyond the initial meeting is to be agreed upon between the attorney and client.

Lawyer Referral Service  
521 East Locust St. – 3<sup>rd</sup> Floor  
Des Moines, IA 50309  
(515) 280-7429  
800-532-1108

## H.E.L.P. LEGAL ASSISTANCE:

736 Federal St. #401  
Davenport, Iowa 52803  
(563) 322-6216

**IOWA LEGAL AID:** Provides free legal help in civil cases to qualifying low-income residents of all Iowa counties. Some offices may also provide legal help to non-low income elderly. To find out the location of the office serving your area of the state, call the central office at the numbers below.

Iowa Legal Aid  
1111 9<sup>th</sup> Street, Suite 230  
Des Moines, Iowa 50314-2527  
(515) 243-2151  
1-800-532-1275  
[www.iowalegalaid.org](http://www.iowalegalaid.org)

**VOLUNTEER LAWYERS PROJECT:** Volunteer lawyers from all over the state provide free legal help to qualifying low income Iowans in civil cases. All screening for the Project is performed by the regional offices of Iowa Legal Aid.

**DRAKE LEGAL CLINIC:** Provides free legal help in civil cases to Iowa residents 60 years of age and older in an eight county area of Iowa including, Boone, Dallas, Jasper, Madison, Marion, Polk, Story, and Warren.

Neal & Bea Smith Law Center  
Drake University Law School  
2507 University Avenue  
Des Moines, Iowa 50311  
(515) 271-2824  
www.drake.edu

**MUSCATINE LEGAL SERVICES:** Muscatine County residents are eligible for legal services based upon the federal income guidelines. Fees are based upon the type of legal services that will be provided. Clients pay for their court costs.

Muscatine Legal Services  
210 East Second Street  
Muscatine, Iowa 52761  
(563) 263-8663

**LEGAL AID SOCIETY OF STORY COUNTY:** Free legal help in civil cases for low-income Story County residents, as defined by federal income guidelines. Legal services provided include family law, probate, landlord/tenant, and bankruptcy.

Legal Aid Society of Story County  
937 Sixth Street  
Nevada, IA 50201  
(515) 382-2471  
1-800-896-8847  
E-Mail: legalaidstory@midiaowa.net  
Heartland Van: (515) 233-2906

**CLINICAL LAW PROGRAM OF THE UNIVERSITY OF IOWA:** Free legal help for Iowa residents, primarily in civil cases. The clinic focuses especially on problems involving government agencies, public benefits and discrimination. Family law issues are not handled by this Clinic.

Clinical Law Program  
University of Iowa  
College of Law  
386 Boyd Law Building  
Iowa City, IA 52242-1113  
Phone: (319) 335-9023  
Fax: (319) 335-9019

**LEGAL HOTLINE FOR OLDER IOWANS:** Iowans 60 years and older can get free and confidential legal advice and referrals over the telephone. Call (515) 282-

8161 in the Des Moines area or toll free at 1-800-992-8161, or online at [www.iowalegalaid.org/hotline](http://www.iowalegalaid.org/hotline).

## LONG TERM CARE (NURSING HOMES):

**STATE LONG TERM CARE OMBUDSMAN:** The Long Term Care Ombudsman represents the interests of residents of long term care facilities in Iowa. This includes investigating complaints, acting as an advocate for long term care residents, and monitoring state and federal laws affecting long term care in Iowa.

Office of the State  
Long Term Care Ombudsman  
Phone: (515) 242-3333  
Complaint Hotline:  
1-800-532-3213  
Fax: (515) 242-3300

## MEDICARE:

If you have a concern about a bill or service charged to Medicare or Medicaid and you are not sure if the provider is entitled to be reimbursed for what was submitted, you can call Operation Restore Trust of Iowa. This program of the Iowa Department of Elder Affairs works with a variety of agencies to educate Medicare and Medicaid beneficiaries on fraud, waste and abuse and can also provide information, education, and individual assistance. Please call 1-800-423-2449.

2101 Kimball Avenue, Suite 320  
Waterloo, IA 50702

Durable Medical Equipment-Medicare coverage and claims for medical equipment and supplies - 1-800-633-4223

Senior Health Insurance Information Program (SHIPP)- Health insurance counseling, Medicare & insurance claims assistance, medicare prescription drug:

1-800-351-4664  
330 Maple Street  
Des Moines, IA 50309-0065

## SOCIAL SECURITY ADMINISTRATION:

Medicare enrollment, eligibility, HMO disenrollment and card replacement  
1-800-772-1213

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## MEDICARE PART A:

Coverage and claims for hospitals and skilled nursing facilities  
(877) 910-8139

## MEDICARE RIGHTS HELPLINE:

Medicare quality of care complaints and assistance when the hospital notifies the patient that Medicare will no longer pay for stay  
1-800-752-7014  
[www.ifmc.org](http://www.ifmc.org)

Medicare Rights Center  
(202) 589-1396 or  
[www.medicarerights.org](http://www.medicarerights.org)

**NUTRITION:** The thirteen (13) area agencies on aging provide congregate and home-delivered meals and nutrition education to Iowans age 60 and over at more than 400 congregate meal sites located throughout the state. Eligible participants are given the opportunity to make a confidential contribution toward the cost of these meals.

**Meals on Wheels—**Meals on Wheels consists of local programs that deliver meals to the elderly.

Click on the city nearest to you for contact information [www.mealcall.org/meals-on-wheels/ia](http://www.mealcall.org/meals-on-wheels/ia). To locate the Meals on Wheels program in your city, check your local phone listing.

**PENSION RIGHTS:** The Upper Midwest Pension Rights project provides free information, counseling, and representation about pensions sponsored by employer, unions, and governments, including defined benefit plans and defined contribution plans such as 401(k) plans. This Iowa project is operated by Iowa Legal Aid at 800-992-8161 or visit them at [www.iowa-legalaid.org](http://www.iowa-legalaid.org).

## REFUGEE SERVICES:

Iowa Department of Human Services  
Bureau of Refugee Services  
1200 University Avenue, Ste. D  
Des Moines, IA 50314  
Phone: (515) 283-7999 or 800-362-2780  
Fax: (515) 283-9160  
E-Mail: [refugee@dhs.state.ia.us](mailto:refugee@dhs.state.ia.us)

**RESPIRE CARE:** Respite care provides temporary relief to the caregiver of a dependent individual, one or both of whom are aged 60 or older. The respite may be brief, 2-3 hours in duration, or longer than 24 hours, and the care may take place at the individual's residence or elsewhere. Contact your local area agency on aging for the location of the nearest respite care program.

## SOCIAL SECURITY:

**SOCIAL SECURITY ADMINISTRATION (SSA):** To contact the Social Security Information Center, call the nationwide, toll-free number, 1-800-772-1213 from 7 a.m. to 7 p.m. Monday through Friday. The TDD toll-free number is 1-800-325-0778. If you already know which of Iowa's 21 Social Security offices serves you, you may also get the number from the telephone book or directory assistance, and call that office directly. The Social Security office can provide assistance with Social Security retirement and survivor benefits, SSI (Supplemental Security Income), Social Security Disability, and Medicare, among other services and benefits of special importance to the elderly.

## TAX HELP:

**TAXPAYER SERVICE TAX COUNSELING FOR THE ELDERLY:** The United States Internal Revenue Service (IRS) maintains a Taxpayer Service which can attempt to answer your questions concerning federal taxes. For assistance in completing your tax return, you can call the same toll-free number to get the help of a trained volunteer through the Tax Counseling for the Elderly program. There are more than 500 volunteers in Iowa who will assist the elderly (and also low-income persons of any age) with their state and federal taxes, at no charge.

Taxpayer Service/Tax Counseling for the Elderly  
1-800-829-1040—IRS

To locate an AARP tax aide site call  
1-888-227-7669

**IOWA STATE DEPARTMENT OF REVENUE:** The Iowa Department of Revenue staff can answer your questions concerning Iowa taxes, including questions about preparation of your Iowa income tax forms. Call the number listed below. For information about prop-

erty tax credits, call (515) 281 4040. For information about rent reimbursement and elderly credit refunds call (515) 281-5722.

Iowa State Department of Revenue  
1305 E. Walnut  
Hoover Building, Taxpayer Services 4<sup>th</sup> Floor  
Des Moines, IA 50319  
Phone: (515) 281-3114 or  
1-800-367-3388  
[www.state.ia.us/tax](http://www.state.ia.us/tax)  
E-Mail: [idrf@idrf.state.ia.us](mailto:idrf@idrf.state.ia.us)  
Fax: (515) 242-6487

### VETERANS:

VETERANS' ADMINISTRATION REGIONAL OFFICE: Provides assistance with the wide range of benefits available to veterans and certain relatives of veterans. Contact the Veterans Administration for more information about benefits and about other sources of assistance for veterans and their families.

Veterans Administration Regional Office  
210 Walnut St., Room 1063  
Des Moines, IA 50309  
1-800-827-1000 or (515) 323-2669

### WOMEN:

Iowa Commission on the Status of Women  
Department of Human Rights  
Lucas State Office Building  
321 E. 12<sup>th</sup> Street, 2nd Floor  
Des Moines, IA 50319  
Phone: (515) 281-4461 or  
1-800-558-4427  
Fax: (515) 242-6119  
[www.state.ia.us/dhr.sw](http://www.state.ia.us/dhr.sw)

## AREA AGENCIES ON AGING

Area 01—Northland Agency on Aging  
808 River Street  
Decorah, IA 52101  
Phone: (563) 382-2941 or (800) 233-4603  
Fax: (563) 382-6248  
Online: [www.northlandaging.com](http://www.northlandaging.com)  
Director: Bruce Butters

Area 02, 05 & 12—Elderbridge Agency on Aging  
22 N Georgia, Suite 216, Mason City, IA 50401-3435  
Phone: (641) 424-0678 or (800) 243-0678  
108 South 8<sup>th</sup>, Ste 150, Fort Dodge, IA 50501-3954  
Phone: (515) 955-5244 or (800) 543-2380  
Fax: (515) 955-5245  
503 N West St, Carroll, IA 51401  
Phone: (712) 792-3512 or (800) 543-3265  
Fax: (712) 792-3534  
Online: [www.elderbridge.org](http://www.elderbridge.org)  
Director: Lahoma Counts

Area 03—Northwest Aging Association  
2 Grand Avenue  
Spencer, IA 51301  
Phone: (712) 262-1775 or (800) 242-5033  
Fax: (712) 262-7520  
Online: [www.nwaging.org](http://www.nwaging.org)  
Director: Cynthia Beauman

Area 04—Siouxland Aging Services, Inc.  
2301 Pierce Street  
Sioux City, IA 51104  
Phone: (712) 279-6900 or (800) 798-6916  
Fax: (712) 233-3415  
Online: [www.siouxlandaging.org](http://www.siouxlandaging.org)  
Director: Ann DeBoom

Area 06 & 07—Hawkeye Valley Area Agency on Aging  
2101 Kimball Avenue, Suite 320  
Waterloo, IA 50702-5057  
Phone: (319) 272-2244 or (800) 779-8707  
Fax: (319) 272-2455  
Online: [www.hvaa.org](http://www.hvaa.org)  
Director: Donna Harvey

Area 08—Scenic Valley Area Agency on Aging  
3505 Stoneman Road, Suite 4  
Dubuque, IA 52002-5218  
Phone: (563) 588-3970  
Fax: (563) 588-1952  
Online: [www.scenicvalley.org](http://www.scenicvalley.org)  
Director: Linda McDonald

Area 09—Generations Area Agency on Aging  
935 E 53<sup>rd</sup> St  
Davenport, IA 52807  
Phone: (563) 324-9085  
Fax: (563) 324-9384  
Online: [www.genage.org](http://www.genage.org)  
Director: Marvin Webb

Area 10—The Heritage Agency  
6301 Kirkwood Blvd SW, PO Box 2068  
Cedar Rapids, IA 52406  
Phone: (319) 398-5559 or (800) 332-5934  
Fax: (319) 398-5533  
Online: [www.heritageaaa.org](http://www.heritageaaa.org)  
Director: Liz Selk, Director

Area 11—Aging Resources of Central Iowa  
5835 Grand Avenue, Suite 106  
Des Moines, IA 50312-1437  
Phone: (515) 255-1310 or (800) 747-5352  
Fax: (515) 255-9442  
Online: [www.agingresources.com](http://www.agingresources.com)  
Director: Joel Olah

Area 13—Southwest 8 Senior Services, Inc.  
300 W. Broadway, Ste 240  
Council Bluffs, IA 51501  
Phone: (712) 328-2540 or (800) 432-9209  
Fax: (712) 328-689  
Online: [www.southwest8.org](http://www.southwest8.org)  
Director: Barbara Morrison

**Area 14—Area XIV Agency on Aging**  
 210 Russell Street  
 Creston, IA 50801  
 Phone: (641) 782-4040  
 Fax: (641) 782-4519  
 E-Mail: [areaxiv@iowatelecom.net](mailto:areaxiv@iowatelecom.net)  
 Director: Steve Bolie

**Area 16—Southeast Iowa Area Agency on Aging, Inc.**  
 509 Jefferson Street  
 Burlington, IA 52601-5427  
 Phone: (319) 752-5433 or (800) 292-1268  
 Fax: (319) 754-7030  
 Online: [www.southeastiowaagingservices.com](http://www.southeastiowaagingservices.com)  
 Director: Dennis Zegarac

**Area 15—Seneca Area Agency on Aging**  
 117 North Cooper Street, Suite 2  
 Ottumwa, IA 52501  
 Phone: (641) 682-2270 or (800) 642-6522  
 Fax: (641) 682-244  
 Online: [www.seneca-aaa.org](http://www.seneca-aaa.org)  
 Director: Connie Holland







