

CENTER FOR MEDICARE ADVOCACY, INC.
1025 CONNECTICUT AVENUE, NW, SUITE 709
WASHINGTON, DC 20036
(202) 293-5760 FAX (202) 293-5764
www.medicareadvocacy.org

ATTORNEYS

Judith A. Stein*
Brad S. Plebani*
Margaret M. Murphy*
Pamela A. Meliso*
Gill Deford
Alfred J. Chiplin, Jr.
Toby S. Edelman
Vicki Gottlich
Patricia Nemore
Mary T. Berthelot*
Mary A. Ashkar*
Abigail G. Sheehan*

ADMINISTRATOR
Carolyn S. Boyle

ASSISTANT DATA MANAGER
Shaun Harrington

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OF COUNSEL

Sally Hart*
Wey-Wey Elaine Kwok*

*Admitted in other jurisdictions

Thomas Hamilton
Director, Survey and Certification Group
Centers for Medicare & Medicaid Services

Thomas.hamilton@cms.hhs.gov

Re: Stimulus checks for nursing home residents,
§2201, American Recovery and Reinvestment
Act of 2009

Dear Thomas:

Next month, nearly every nursing home resident in the country will receive a one-time cash benefit of \$250, under §2201 of the American Recovery and Reinvestment Act of 2009 (ARRA). Unfortunately, we have already begun to hear that some providers are telling families that facilities will get and keep the \$250. The Centers for Medicare & Medicaid Services needs to put an immediate stop to such misinformation. We are writing to ask your help in ensuring that state survey agencies and nursing facilities understand the law and their responsibilities.

As you know, the ARRA provides that residents will receive a one-time payment of \$250, which will not be considered income and will not be counted as a resource for ten months (including the month the money was received) in calculating eligibility for, or the amount of, benefits under any federal program or any state program with some federal financing. Residents will receive the payment either by direct payment or check. The money is theirs to use for whatever personal purpose they choose.

To ensure that residents receive and are freely able to use the full amount of their stimulus payments, we ask that you:

1. **issue a Survey and Certification letter to State Survey Agency Directors**, directing surveyors, beginning with all surveys conducted on or after May 4, 2009, to determine whether residents are

receiving their stimulus money and understand that they are able to spend the money in any way they choose.

Questions about the stimulus money should be included for sampled residents (Task 5C) and in group interviews and family interviews (Task 5D). Surveyors should also examine the records and accountings of residents whose money is held, safeguarded, and accounted for by the facility, on the resident's request, to ensure that the stimulus money is properly deposited in interest-bearing accounts. Surveyors may also need to examine facilities' financial records to determine compliance with the ARRA. States may need to utilize specialized survey teams, including auditors, to complete these reviews. 42 U.S.C. §§1395i-3(g)(4), 1396r(g)(4).

Surveyors should determine facilities' compliance with federal law on protection of residents' funds, 42 U.S.C. §§1395i-3(c)(6), 1396r(c)(6); 42 C.F.R. §483.10(c); State Operations Manual, Appendix PP, pages 19-29, Tags F158 –F162.

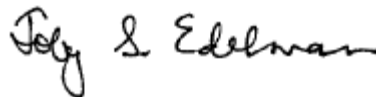
The Survey and Certification letter should advise surveyors to cite deficiencies at Tags F185 - F162, as appropriate, and to refer cases, to the State Attorney General's Office, as appropriate. CMS may want to identify directed plan of correction, requiring facilities to give residents the stimulus money, as one remedy. Other appropriate remedies might include directed in-service training of facility staff and civil money penalties.

2. send all administrators of Medicare and Medicaid nursing facilities a "Dear Administrator" letter telling them what the ARRA says and that the money belongs to the residents, not facilities. The letter should also cite the law and regulations on protection of residents' funds and advise facilities that surveyors will be determining compliance with the ARRA and imposing remedies for noncompliance.

We are writing to Bruce Yarwood, Larry Minnix, and Alan Rosenbloom at the three national trade associations and to ask them to inform their members of the requirements of the law (copy of letter attached).

Please let us know how we can work with you on this issue. Thank you.

Sincerely,



Toby S. Edelman

On behalf of:

Center for Medicare Advocacy
NCCNHR (The National Consumer Voice for
Quality Long-Term Care)