



NEWS RELEASE

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Federal stimulus payments intended for basic needs may disappear for thousands of low-income Nebraskans unless action is taken now

Federal CARES Act stimulus payments will soon be arriving in low-income Nebraskans' bank accounts, many of whom have already lost their jobs and steady income due to the COVID-19 pandemic. But this stimulus payment, intended to help pay for food, rent, utilities, and other basic necessities, is at risk for thousands of low-income families. Bank garnishments are likely to begin for past debts and judgments, taking away the stimulus payments and freezing up accounts at the worst possible time, with low-income Nebraskans expecting the stimulus payment to help them afford vital necessities such as food and rent during this crisis.

Starting this next week, it is expected that CARES Act stimulus payments of up to \$1,200 per individual and \$500 per child will be deposited into bank accounts. In most instances, payments will be automatically deposited into the bank account connected with the taxpayer's 2018 or 2019 income tax return.

Although Congress protected the stimulus payments from debts owed to the federal government (excluding child support), Congress did not protect these payments from other creditors. This leaves many low-income Nebraskans fully exposed to the risk of having their stimulus payments taken to pay old debts rather than being used to meet current basic needs.

Although under Nebraska law these payments are probably ultimately exempt for most low-income families (after a complex legal process, including a court hearing), creditors can still take these stimulus payments by moving ahead and garnishing bank accounts. And this happens quickly, often without a family noticing until they go to the grocery store and their money is gone or they are frozen out of their bank account.

Contact Legal Aid of Nebraska immediately if bank account funds are frozen or garnished.

Legal Aid is raising this concern because of present law and the lowered ability of the courts to respond during this crisis- raising great fear that these stimulus payments, intended to keep families afloat, will instead be used largely to pay old debts.

Individuals who have their bank accounts garnished need to act fast.

Bank account funds are frozen until there is a hearing, meaning the account cannot be accessed to pay for rent, food or other necessities. The presumption will be the stimulus payment funds are not exempt, unless the debtor requests a hearing, files an inventory, and attends a court hearing. When a bank account is garnished, there are only three days to request a hearing. After three days, if no hearing is requested, creditors can request that the bank turn the funds over to the creditor.

Almost all low-income debtors (98%) have no legal representation in these exemption claims.

Self-represented debtors are at a serious disadvantage when trying to protect their limited funds and claim their stimulus payment is exempt. Debtors representing themselves are unlikely to know how to do this. Plus, they are not able to file anything electronically, and must go down to the courthouse to file their paperwork during this public health emergency.

Further, Nebraska County Courts (who hear these claims of exemptions) have responded to the COVID-19 threat differently all across the state. There is no one way being used by every court to handle civil cases, including exemption hearings, during this public health emergency. Although the courts remain “open,” in some counties the doors to the court house may literally be locked, making it difficult for self-represented debtors to even file the necessary court paperwork.

Additionally, the debtor herself may be under quarantine, sick, or caring for small children or a sick family member, and unable to attend a hearing in person. Even if she knew enough to request a hearing and fill out an inventory, this will cause her claim of exemption to be denied.

Individuals who are experiencing or at risk of bank garnishment should do the following.

- Monitor bank account activity to determine whether funds have been deposited or garnished.
- Consider withdrawing the cash or using a pre-paid debit card to store the stimulus payments.
- Contact Legal Aid of Nebraska immediately if bank account funds are garnished. Legal Aid makes protection from bank garnishment a priority and will provide qualifying individuals with an attorney who can electronically file the necessary claim of exemption and appear at a hearing telephonically so that no one needs to risk exposure to the COVID virus.
- **Please call Legal Aid's COVID-19 Disaster Relief Hotline: 1-844-268-5627**

What needs to happen to further protect these stimulus payments.

Without an automatic exemption for the stimulus payment, Legal Aid fears those who it was meant to help will lose the ability to pay for necessities in this very tough time.

If the stimulus payments were automatically exempt, low-income Nebraskans could access these necessary funds immediately without risk of losing them to creditors. This could occur through an Executive Order of the Governor per the present state of emergency, or other change in Nebraska law.

Furthermore, if automatic exemptions not possible, hearings on garnishments should only be telephonic hearings at this time. Most debtors representing themselves, though, do not know how to request a telephonic hearing. County Courts should immediately require all garnishment hearings to be telephonic.

About Legal Aid of Nebraska

[Legal Aid of Nebraska](http://www.legalaidofnebraska.org) was established in 1963 and is the only statewide non-profit civil legal aid provider in Nebraska, providing free, high quality services to low-income Nebraskans in all 93 counties. Legal Aid's mission is *"to promote justice, dignity, hope and self-sufficiency through quality civil legal aid for those who have nowhere else to turn."* Legal Aid's administrative offices are in Omaha, Nebraska.

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