

August 7, 2020

Dear Guardian,

We understand that many Guardians have questions about the Coronavirus Aid, Relief, and Economic Security (CARES) Act and specifically about the cash payments of up to \$1,200 to people who qualify. These payments are commonly referred to as stimulus checks or funds. Below are some frequently asked questions that the Division of Developmental Disabilities (DDD) has received about the stimulus payments from legal guardians of those that reside at the State Operated Developmental Centers.

1. Can the State Operated Developmental Center (SODC) claim the stimulus check for the center?

No, neither the SODC nor the Division of Developmental Disabilities may take the stimulus checks of residents. This would be an illegal claim under federal tax law: the stimulus checks are a result of a tax credit, not a federal benefit like Medicaid. See <https://www.dhs.state.il.us/page.aspx?item=123869>.

2. Does the person for whom I am a guardian qualify for the stimulus check?

The Division does not make the decision as to whether an individual will get what is commonly referred to as a stimulus check from the federal government. We can direct you to the following website where you can check. See <https://www.irs.gov/coronavirus/economic-impact-payment-information-center> or <https://www.irs.gov/coronavirus/get-my-payment>.

3. The individual for whom I am a guardian is entitled to a stimulus check. How do I find out if they received one?

You should reach out to your Center Director. We've included the Centers and the Center Directors' email addresses below:

Shapiro: Lynne.gund@illinois.gov

Ludeman: Tameka.L.Watson@illinois.gov

Mabley: Kelly.Sullivan@illinois.gov

Fox: Sybil.Nash@illinois.gov

Murray: Lori.Demijan@illinois.gov

Choate: Bryant.Davis@illinois.gov

Kiley: Kim.Kilpatrick@illinois.gov

4. What is the Center doing with the checks?

Center staff have deposited the checks into each individual's personal account.

5. **Will receipt of a stimulus check affect the individual's receipt of government benefits?**

No. The stimulus checks are being structured as tax credits (even if the resident paid no taxes). Tax refunds do not count against Medicaid, SSI, and most other government programs. See also the question and answer to #1. See <https://www.dhs.state.il.us/page.aspx?item=123869>.

6. **Can the Center send me the stimulus check or fund ?**

That depends on the type of guardianship as issued on your Letters of Office. Only those Guardians whose Letters of Office indicate that they are the Guardians of the Estate are able to request the check.

7. **My Letters of Office indicate that I am the Guardian of the Estate of the resident. Will the Center send me the stimulus check or funds?**

Yes, you may request the funds after submitting your Letters of Office, confirming that you are the Guardian of the Estate. Please contact the Center directly. See contact information under #3.

8. **My Letters of Office do not indicate that I am Guardian of the Estate. Will the Center send me the stimulus check or funds?**

No, but the money will be maintained in the individual's account. As the Guardian of the Person, however, the Division understands that you have a legal obligation to do what is in the best interest of your Individual regarding how the stimulus money will be spent. The Center will work with you to achieve that outcome.

For example:

- The Division may reimburse a Guardian of the Person for expenses for the individual when presented with proper receipts.
- The Division will consult with guardians for any single item purchases over \$100 for guardian approval.

9. **Why does the type of guardianship I have determine whether I get the stimulus money?**

The Illinois Probate Code establishes the powers and duties of guardians. Under Illinois law, a guardian can serve as the Guardian of the Person, the Guardian of the Estate, or the Guardian of both the Person and the Estate. The general role and responsibilities of the Guardian of the Person and the Guardian of the Estate are detailed below:

Guardian of the Person, 755 ILCS 5/11a-17:

- responsible for the personal and medical care of the individual
- make decisions for the individual relating to personal care, healthcare, and living arrangements, to the extent specified in the guardianship order.
- file written reports to the court, describing the individual's current condition, living arrangements, and a summary of contacts with the individual.

Guardian of the Estate 755 ILCS 5/11a-18:

- manage the individual's finances and invest their assets.
- duty to use the assets of the estate for the comfort and "suitable support and education" of the individual.

- duty to appear on behalf of the individual in legal proceedings that affect their finances.
- account to the court about the individual's money that came into the estate and money that has been spent.

10. If I am the Guardian of the Person only; can I transfer the stimulus check or funds to an ABLE account for the individual?

Section 11a-3 of the Illinois Probate Act (755 ILCS 5/11a-3) without an order of court, allows a Guardian of the Person to open, maintain, and transfer funds to an ABLE account on behalf of the ward and the ward's minor and adult dependent children, as specified under Section 16.6 of the State Treasurer

Act. <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=001505050K16.6#:~:text=The%20assets%20of%20ABLE%20accounts,exempt%20from%20federal%20income%20taxation.>

Please note, this letter should not be considered as legal advice for specific questions and answers. Please consult with your attorney and/or other professionals as necessary. Situations and guidance are subject to change. We will communicate updated guidance for those who are receiving disability benefits or other financial supports as it becomes available.

Sincerely,

Center Director

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