Dear NASHIA Member,

Although States are lifting restrictions relating to COVID-19, individuals with brain injury and their families may still need information during this pandemic. This issue features information regarding stimulus checks (Economic Impact Payments); employee protections with regard to disability discrimination (ADA); visitation guidelines with regard to congregate settings; disability rights; social isolation and other resources. Meanwhile, NASHIA maintains an array of resources on its website. We wish you to stay safe and well.

IRS Alerts Nursing Home and Other Care Facilities that Stimulus Payments Belong to Recipients

Last week, the Internal Revenue Service (IRS) alerted nursing home and other care facilities that Economic Impact Payments (EIPs), known as stimulus checks, generally belong to the recipients, not the organizations providing care. The IRS issued a reminder following concerns that people and businesses may be taking advantage of vulnerable populations who received the Economic Impact Payments and who live in nursing or other residential care facilities. However, the payments are intended for the recipients, even if a nursing home or other facility or provider receives the person's payment, either directly or indirectly by direct deposit or check. In addition, these payments do not count as a
resource for purposes of determining eligibility for Medicaid and other federal programs for a period of 12 months from receipt.

The Social Security Administration (SSA) has issued FAQs on this issue, including how representative payees should handle administering the payments for the recipient. SSA has noted that under the Social Security Act, a representative payee is only responsible for managing Social Security or Supplemental Security Income (SSI) benefits. An EIP is not such a benefit; the EIP belongs to the Social Security or SSI beneficiary. A representative payee should discuss the EIP with the beneficiary. If the beneficiary wants to use the EIP independently, the representative payee should provide the EIP to the beneficiary. Additional information about EIPs and representative payees involving Social Security and Supplemental Security Income benefits can be found on SSA's website. Additional information on EIPs provided by the IRS can be found here.

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**Employee Rights Under the Americans with Disabilities Act During COVID-19**

There are federal workplace anti-discrimination laws, and in some States, local or State laws that provide protections for employees with disabilities that continue to apply during the time of the COVID-19 pandemic, but they do not interfere with or prevent employers from following the Centers for Disease Control and Prevention’s (CDC) guidelines and suggestions or State or public health authorities about steps employers should take regarding COVID-19. These laws include:

- the Americans with Disabilities Act (ADA),
- the Rehabilitation Act (which include the requirement for reasonable accommodation and non-discrimination based on disability, and rules about employer medical examinations and inquiries),
- Title VII of the Civil Rights Act (which prohibits discrimination based on race, color, national origin, religion, and sex, including pregnancy),
- the Age Discrimination in Employment Act (which prohibits discrimination based on age, 40 or older), and the
- Genetic Information Nondiscrimination Act (GINA).

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**Check on Rules Before Visiting Residential Facilities**

As States and counties ease the stay-at-home orders, visitation rules and guidance for nursing, residential and group home facilities will likely be set by State, county and/or by the provider agency. Your State health department may have a hotline or website that has that information, as well as the facility.

Of course, the Centers for Disease Control and Prevention (CDC) recommends that those with symptoms should not be permitted to enter a facility. The CDC guidelines state that any visitors that are permitted must wear a cloth face covering while in the building and restrict their visit to the resident's room or other location designated by the facility. They should also be reminded to frequently perform hand hygiene.

**OCR Resolves Complaint Regarding State’s Visitation Policies in Short-term Medical Facilities**

Last week, the Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services (HHS) announced that it has reached an Early Case Resolution (ECR) with the State of Connecticut after the State issued an executive order regarding non-visitations policies for short-term hospitals, outpatient clinics, and outpatient surgical facilities to ensure that people with disabilities are not denied...
discrimination Act.

The U.S. Equal Employment Opportunity Commission (EEOC), which enforces workplace anti-discrimination laws, has updated its webpage and handouts regarding these federal protections during the pandemic and materials can be found there. The ADA, which protects applicants and employees from disability discrimination, is relevant to pandemic preparation in at least three major ways:

1) The ADA regulates employers’ disability-related inquiries and medical examinations for all applicants and employees, including those who do not have ADA disabilities.

2) The ADA prohibits covered employers from excluding individuals with disabilities from the workplace for health or safety reasons unless they pose a "direct threat" (i.e. a significant risk of substantial harm even with reasonable accommodation).

3) The ADA requires reasonable accommodations for individuals with disabilities (absent undue hardship) during a pandemic.

Publications

About COVID-19

- Important Things to Know about COVID-19, Brandeis Lurie Institute for Disability Policy

- Plain Language Fact Sheet on COVID-19, Information By and For People with Disabilities, Green Mountain Self Advocates

Disability Rights

- IDEA Part B Dispute Resolution Procedures, A Q/A document regarding dispute resolution procedures during COVID-19, U.S. Office of Special Education Programs (OSEP)

reasonable access to needed support persons. As part of the resolution, Connecticut is issuing an executive order to ensure that people with disabilities have reasonable access to support personnel in hospital settings in a manner that is consistent with disability rights laws and the health and safety of patients, health care providers, and support persons.

The order includes establishing a statewide policy requiring hospitals and other acute care settings to permit the entrance of a designated support person for a patient with a disability and permitting family members, service-providers or other individuals knowledgeable about the needs of the person with a disability to serve as a designated support person. Where patients with a disability are in such a setting for longer than one day, they may designate two support persons, provided only one is present at a time.

How to Address Social Isolation During COVID-19

The recent NASHIA survey regarding the impact of COVID-19 on individuals with brain injury indicated that social isolation as a major issue. Some people are relying on video conferencing, although some are citing “Zoom” fatigue. Social media is another way that people with brain injury are keeping connected. ADvancing States has collected initiatives that State aging and disability programs have implemented to address social isolation, some of which are noted below:

California created the Neighbor-to-Neighbor program that encourages neighbors to connect using the Nextdoor website or app. Volunteers are able to use the site to ensure neighbors have necessities during California’s stay at home order.

Florida's Project: VITAL (Virtual Inclusive Technology for All), utilizes virtual technology to allow seniors, their families and caregivers to remain virtually engaged and connected through specially designed
• Pandemic Preparedness in the Workplace and the Americans with Disabilities Act, U.S. Equal Employment Opportunity Commission

• Safeguard Against Disability Discrimination During COVID-19; Center for Dignity in Healthcare for People with Disabilities

General Information

• Guidance on Returning to Work, Occupational Safety and Health Administration

Tablets that can access resources such as music, books, games and the ability to video chat and email with family outside. The Florida Department of Elder Affairs also delivered over 1,000 MP3 players, pre-loaded with a range of music, donated by the Florida Alzheimer’s Association.

The National Council on Aging (NCoA) has developed a tip sheet on tools for reaching a remote audience.

Do you have examples to share? Send to publicpolicy@nashia.org.

Visit Our Website

The National Association of State Head Injury Administrators assists State government in promoting partnerships and building systems to meet the needs of individuals with brain injuries and their families.

National Association of State Head Injury Administrators | PO Box 1878, Alabaster, AL 35007