by Lois Greisman, Elder Justice Coordinator, FTC

Do you or a loved one live in a nursing home or assisted living facility? Are you (or they) on Medicaid? If you said “yes” to both, please read on and prepare to get mad. We’ve been hearing that some facilities are trying to take the stimulus payments intended for their residents on Medicaid. Then they’re requiring those people to sign over those funds to the facility. Why? Well, they’re claiming that, because the person is on Medicaid, the facility gets to keep the stimulus payment.

But here’s the deal: those economic impact payments are, according to the CARES Act, a tax credit. And tax law says that tax credits don’t count as “resources” for federal benefits programs, like Medicaid. So: when Congress calls these payments “tax credits” in the CARES Act, that means the government can’t seize them. Which means nursing homes and assisted living facilities can’t take that money from their residents just because they’re on Medicaid. And, if they took it already, get in touch with your state attorney general and ask them to help you get it back.
The Florida Department of Agriculture and Consumer Services is the state’s clearinghouse for consumer complaints, protection and information. Consumers who would like information about filing a complaint against a business or who believe fraud has taken place can visit us online at FloridaConsumerHelp.com or contact the department’s consumer protection and information hotline by calling 1-800-HELP-FLA (435-7352) or 1-800-FL-AYUDA (352-9832) for Spanish speakers.

This is not just a horror story making the rounds. These are actual reports that our friends in the Iowa Attorney General’s Office have been getting – and handling. Other states have seen the same.

If you’ve experienced this already, tell your state attorney general’s office first, and then tell the FTC: ftc.gov/complaint. If a loved one lives in a nursing facility and you’re not sure what happened to their payment, talk with them soon. And consider having a chat with the facility’s management to make sure they know which side of the law to be on.

Need more back-up? Then let me get legal on you for a minute. You can go right here to get the federal tax law that says refunds aren’t considered a “resource” in federal benefits programs. And you can click this link to get the Congressional Summary that talks about the funds as tax credits not countable as resources for federal government programs. (It’s on page 3.) And here’s even more helpful information from the National Center on Law & Elder Rights for people who live in nursing homes or assisted living facilities.

Again, though: if this has happened to you or a loved one, find your state attorney general’s office contact information at naag.org and talk with them right away.