

## Long-Term Care Survey Alert

### RESIDENT RIGHTS : Reality Check: Are Residents Deciding How to Spend Their Stimulus Checks?

Tread very carefully to sidestep this potential F-tag trap.

The government's \$250 stimulus checks earmarked for certain senior citizens may not sound like much money, but if your facility unwittingly taps the funds to pay residents' bills or doesn't ensure residents have access to the money for their personal use, don't count on minor survey consequences.

**What it is:** The American Recovery and Reinvestment Act of 2009 (Recovery Act) provides the cash benefit to people who have a Social Security benefit, Railroad Retirement pension, Veterans Administration disability pension, or Supplemental Security Income (SSI), reminds a recent survey & cert memo. And "facilities that receive the money directly on behalf of the resident must set the money aside in the resident's personal needs account," the memo instructs. The resident can spend or save the money as he pleases.

Also: Because the benefit check isn't considered to be income, it won't be counted as a resource for 10 months, including the month it was received, in calculating the person's benefits under federal or state programs with federal funding, such as Medicaid, the memo continues.

"Therefore, residents who still have this money in March 2010 may become ineligible for Medicaid only if the benefit check causes them to exceed the resource limit beginning that month."

Beware: Nursing facilities that simply take the resident's \$250 to pay his nursing home bills could end up looking at F tags for misappropriation or mismanagement of the person's property (F158-F162 and F224).

Instead: If the resident owes the facility money, ask the resident or guardian whether they plan to use the stimulus payment to pay outstanding bills, suggests **Joseph Bianculli**, an attorney in private practice in Arlington, Va. If the answer is no, "then the facility presumably has to act as if it does not have the money available, and take otherwise applicable collection steps," he says.