



# The Elder & Disability Advocacy Firm

of Christine A. Alsop, LLC  
ATTORNEYS AT LAW



# The Advocacy Update

Our monthly firm newsletter

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## Medicare Beneficiaries Across the Country Still Denied Needed Coverage Due to Illegal Use of Improvement Standard

*Content provided by The Center  
for Medicare Advocacy, Inc.*

On March 1, 2016, The Center for Medicare Advocacy and Vermont Legal Aid filed a Motion for Resolution of Non-Compliance with the Settlement Agreement in the landmark case, Jimmo v. Sebelius.

The filing comes after three years of urging the Centers for

Medicare & Medicaid Services (CMS) to fulfill its obligation to end continued application of an "Improvement Standard" by Medicare providers, contractors and adjudicators to deny Medicare coverage for skilled maintenance nursing and therapy.

Jimmo was brought on behalf of a nationwide class of Medicare beneficiaries who

were denied coverage and access to care because they did not show sufficient potential for "improvement."

This long-practiced standard contradicts Medicare law.

The Jimmo Settlement leaves no doubt that, under the law and related regulations and policies, it is not necessary to "improve" in order to obtain Medicare coverage for skilled services.

Medicare is available for skilled nursing and therapy to maintain an individual's condition or slow deterioration.

If truly implemented and enforced, the Settlement

should improve access to skilled maintenance nursing and therapy for thousands of older adults and people with disabilities whose Medicare coverage for skilled care is denied or terminated because their conditions are "chronic," "not improving," "plateaued" or "stable."

Unfortunately, providers and contractors continue to illegally deny Medicare coverage and care based on an "Improvement Standard," resulting in beneficiaries, nationwide, failing to obtain needed skilled nursing and therapy coverage.

This continued loss of skilled care, based on an "improvement"

requirement, is occurring despite the assertion by CMS that it has completed the education campaign required by the Settlement.

That campaign, however, has clearly failed to educate key components of the provider community and Medicare decision-making system.

*The Center for Medicare Advocacy, Inc. "Jimmo v. Sebelius Plaintiffs Return to Court to Urge Enforcement." CMA. 1 Mar. 2016. Web. 8 Mar. 2016.*





## **IMPORTANT DEADLINE - April 29, 2016: Last Chance to Use the "File and Suspend" Strategy for Claiming Social Security Benefits**

### **The April 29, 2016 Deadline is Approaching**

Time is running out to use a potentially very lucrative Social Security benefits-claiming strategy. Spouses will no longer be able to use the "File and Suspend" strategy after **April 29, 2016**. Beware, however, that the new rules are causing confusion at some Social Security offices.

### **What is the "File and Suspend" Strategy?**

The federal budget agreement that was signed in the fall of 2015 ended two Social Security strategies that some spouses have used

to maximize benefits. The first, the "File and Suspend" strategy, allowed a worker to file for benefits and then suspend them. The worker's spouse or children could then begin to receive spousal or children's benefits while the worker postponed receiving benefits and continued to earn retirement credits.

### **The New Law**

Under the new law, which takes effect on April 29, 2016, a spouse cannot begin receiving benefits until the worker is actually receiving benefits too. Workers can still "file and suspend," but spouses (or

other dependents, including minor and disabled children) cannot receive benefits during the suspension. There is an exception for divorced spouses. A divorced spouse can continue to receive spousal benefits if the worker suspends benefits.

### **What is the "Claim Now, Claim More Later" Strategy?**

The second strategy, "Claim Now, Claim More Later," allowed a spouse, at full retirement age, to choose whether to take spousal benefits or benefits on his or her own record. Under the new law, if you were not 62-years

old by January 2, 2016, you do not get to choose which benefit to take. You may take whichever benefit is higher, but you cannot take spousal benefits and then switch to your own record later.

### **Things to Consider**

If you are 66-years old or older before April 29, 2016, you should immediately consider whether or not you want to “file and suspend” your Social Security benefits. If you do not “file and suspend” before April 29, 2016, your spouse will not be able to collect spousal benefits, unless you are also receiving benefits. “File and

Suspend” can be a beneficial strategy for certain couples.

### **File and Suspend Example**

For example, suppose a husband is 66-years old and his wife is 65-years old. The husband can “file and suspend” before April 29, 2016.

Because the wife was 62-years old or older on January 2, 2016, when she turns 66-years old, she can choose to take her spousal benefit while her own benefit continues to accrue. Meanwhile, the husband continues to work, so his benefit is also growing.

### **Caution**

If you do decide to “file and suspend” before the deadline, beware that some Social Security offices are giving out incorrect information about using the “File and Suspend” strategy before the new law takes effect, claiming that a worker can only “file and suspend” if his or her spouse is also 66-years old. If you run into trouble with a Social Security office, you may need to be persistent in order to obtain the correct information.

## **Helpful Links:**

Married Couples Can Maximize Their Social Security Benefits Using File and Suspend:

**<http://tinyurl.com/FileSus>**

Advisers Rethink Retirement Plans Amid Social Security Changes:

**<http://tinyurl.com/AdvisersRethink>**

You May Be Able to Claim Social Security Benefits Now and Claim More Later:

**<http://tinyurl.com/ClaimNowClaimMore>**

New Federal Budget Ends Two Spousal Social Security Claiming Strategies:

**<http://tinyurl.com/NewFedBud>**

File and Suspend Frequently Asked Questions:

**<http://tinyurl.com/PlanRetire>**

Social Security Finally Explains Its New Claiming Rules:

**<http://tinyurl.com/SocSecExplains>**



# A Few Things to Remember at Tax Time

As tax time draws near, you want to make sure that you file all of the proper forms and take all of the deductions to which you are entitled. Here's a quick tip list of things to keep in mind as you prepare your tax forms and get ready for April 15, 2016.

## Gifts

Did you give away any money this year? The gift tax can be very confusing. If you gave away more than \$14,000 in 2015, you will have to file a Form 709, the gift tax return. This does not necessarily mean that you will owe taxes on that money, however. Visit <http://tinyurl.com/OweGiftTax> for more information.

## Medical Expenses

Many types of medical expenses are tax deductible, from hospital stays to hearing aids. To claim the deduction, your medical expenses have to be more than 10% of your adjusted gross income. For taxpayers who are 65-years old and older, this threshold will be 7.5% through 2016. This includes all out-of-pocket costs for prescriptions, including deductibles and co-pays, and Medicare Part B, Part C and Part D premiums. Medicare Part B premiums are usually deducted from your Social Security benefits, so be sure to check your 1099 for the amount. You can only deduct medical expenses that you paid during the year, regardless of when the services were provided, and medical expenses are not deductible if they are

reimbursable by insurance. Visit <http://tinyurl.com/deductmed> for more information.

## Parental Deduction

If you are caring for your mother or father, you may be able to claim your parent as a dependent on your income taxes. This would allow you to get a \$4,000 exemption, in 2015, for him or her. Visit <http://tinyurl.com/parentded> for more information.

## Long-Term Care Insurance Premiums

Premiums for "qualified" long-term care policies are treated as an unreimbursed medical expense. Long-term care insurance premiums are deductible for the taxpayer, his or her spouse and other dependents. Visit <http://tinyurl.com/lcpcprem> for more information.

## Social Security Benefits

Although Social Security benefits are generally not taxable, people with substantial income, in addition to their Social Security, may pay taxes on their benefits. If you file a federal tax return as an individual and your "combined income," including one-half of your Social Security benefits and nontaxable interest income, is between \$25,000 and \$34,000, 50% of your Social Security benefits will be considered taxable. If your combined income is above \$34,000, 85% of your Social Security benefits is subject to income tax. Visit <http://tinyurl.com/socsecbene> for more information.

## Home Sale Exclusion

Married couples can exclude, from income, up to \$500,000 in profit on the sale of a home (\$250,000 for single individuals).

If a surviving spouse sells the home, he or she can still claim the exclusion as long as the house was sold no more than two years after his or her spouse's death. Visit <http://tinyurl.com/homesaleex> for more information.

## Elderly or Disabled Tax Credit

Some people who are elderly, or people who are disabled, and who have low income are entitled to a special tax credit. To be eligible, you must meet income limits. Visit <http://tinyurl.com/credelddis> for more information.

## Tax Refunds

Getting a federal tax refund should not affect your Medicaid or Social Security benefits. For a year after receiving a tax refund from the federal government, the refund will not be considered income or resources for SSI or Medicaid purposes. You can also transfer the refund within a year without incurring a penalty. Visit <http://tinyurl.com/taxrefbene> for more information.

The IRS's Tax Counseling for the Elderly (TCE) Program offers free tax help to taxpayers who are 60-years old and older. Visit <http://tinyurl.com/taxcouneld> for more information. The IRS also publishes a Tax Guide For Seniors: <http://tinyurl.com/taxguidesen>

# LUNCH & LEARN



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## A GUIDE FOR PERSONAL INJURY ATTORNEYS:

- Is a Medicare Set-Aside Arrangement (MSA) required in a personal injury case?
- What are the basics of Medicaid, SSI and SSDI?

Join us for this Lunch & Learn to and gain a complete understanding of MSAs and government benefits which is crucial when settling personal injury matters. Attorney Christine Alsop will present on the complex topic of MSAs and explain how to properly strategize and plan so that your clients' income or healthcare coverage is not harmed.

**THURSDAY, APRIL 21, 2016 | 11:00am to 2:00pm**  
**We currently have 2 remaining spots left.**

This Lunch & Learn will be held at our office:

6654 Chippewa Street, St. Louis, MO 63109

There is free street parking and a rear parking lot.

**Lunch will be provided and this course is free of charge.**



THE MISSOURI BAR HAS APPROVED  
THIS PRESENTATION FOR  
**3.3 CLE CREDIT HOURS.**

*Please contact Whitney Priebe at [wpriebe@AlsopElderLaw.com](mailto:wpriebe@AlsopElderLaw.com) or at (314) 644-3200 and RSVP today! You may also contact our office to schedule a private Lunch & Learn for your firm on a wide-array of financial and legal topics.*



We provide a wide-range of solutions for people who are **facing crisis** and those who **wish to avoid crisis** through proper planning.

We focus on formulating **client-specific plans** that are **carefully designed** to accommodate the many different familial, financial and health-related circumstances of our clients.

**Call us today** to schedule your initial consultation with **Christine A. Alsop**.



The content of this newsletter is not to be construed as or substituted for legal advice and is provided for informational purposes only.

### **OUR PRACTICE AREAS:**

Client Advocacy | Fiduciary Litigation | Estate Planning  
(Durable Powers of Attorney, Wills, Trusts, etc.)  
Special Needs Trusts | Probate & Trust Administration  
Guardianships & Conservatorships  
Asset Preservation Tactics | Long-Term Care Planning  
Government Benefits Eligibility | Medicaid Planning  
Veterans Benefits | Lien Resolution  
Medicare Set-Aside Arrangements (MSAs)



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