

April 16, 2020

The Honorable Tim Walz
Governor
State of Minnesota
130 Capitol
St. Paul, MN 55155

Re: Protection of Federal Stimulus Payments from Garnishment

Dear Governor Walz:

The undersigned community and legal services organizations write to urge you to issue, as soon as possible, an Executive Order prohibiting the garnishment of the federal stimulus payments provided under the CARES Act.¹ While the CARES Act carved out exemptions from seizure or offsets for government debts owed, the **stimulus payments may be taken** by private debt collectors.²

Sadly, what we fear is already materializing here and elsewhere. The New York Times today reported that a Minnesota woman and her husband, a disabled veteran, lost 100% of their stimulus payments, which they had been “counting on...to help pay rent and buy formula for [their] 10-month-old daughter.”³ To prevent these very kind of harms, this week the Governors of Illinois and Washington have suspended garnishments relating to consumer debt collection.⁴

That these payments were meant to help Americans in need and not be diverted to debt collectors was made clear by United States Senators Sherrod Brown (D-Ohio) and Josh Hawley (R-Missouri) in a letter, dated April 9th, to Treasury Secretary Mnuchin. Prophetically, they warned that “direct payments are at risk of being seized by debt collectors” and clarified “[that] is not what Congress intended.”⁵ And, notably, because the financial institutions must and do follow the law, the American Bankers Association and other banking groups, the National Creditors Bar Association, and Receivables Management Association International (representing debt buyers) all support keeping these funds sacrosanct and seek governmental authorization to allow them to not freeze bank accounts and seize stimulus payments.⁶

¹ Child support payments would still be subject to garnishment.

² CARES Act, Pub. L. No. 116-136, SEC. 2201(d).

³ Emily Flitter and Alan Rappeport, *Some Banks Keep Customers' Stimulus Checks if Accounts Are Overdrawn*, NEW YORK TIMES, April 16, 2020; available at <https://www.nytimes.com/2020/04/16/business/stimulus-paychecks-garnish-banks.html?smtyp=cur&smid=fb-nytimes>. See also Kelly Davis, *Private debt collectors can access stimulus money from personal bank accounts, advocacy groups warn*, WGN9, April 14, 2020; at <https://wgntv.com/news/coronavirus/private-debt-collectors-can-access-stimulus-money-from-personal-bank-accounts-advocacy-groups-warn/>. See also John Roberts, *Debt collectors could seize your stimulus check before you have a chance to use it, lawmakers warn*, FORTUNE, April 13, 2020; at <https://fortune.com/2020/04/13/stimulus-check-payment-debt-collectors-when-will-it-arrive-coronavirus-checks-cares-act-irs-treasury/>

⁴ See State of Illinois, Executive Order 2020-25 (April 14, 2020); at <https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-25.aspx> and State of Washington, Order 20-49, PROCLAMATION BY THE GOVERNOR AMENDING PROCLAMATION 20-05 (April

⁵ Letter from Sherrod Brown and Josh Hawley, United States Senators, to Steven Mnuchin, Secretary, Department of Treasury (April 15, 2020).

⁶ See Letter from American Bankers Association et al. to Congress (April 15, 2020); National Creditors Bar Association, *The National Creditors Bar Association (NCBA) Supports Exemption of CARES Act Stimulus Payments from Garnishment* (April 16, 2020); and Letter from Receivables Management Association International to Steven Mnuchin, Secretary, Department of Treasury (April 13, 2020).

In this time of need, with so many Minnesotans anxious about not only their personal health and safety, but also their financial stability, it is essential that while the pandemic rages Minnesotans are able to marshal all their available resources to continue to be able to buy food and medicine for their families, pay the rent or mortgage, pay utility bills, and survive.

Further, an alarming number of seniors are saddled with debt. According to the National Council on Aging, “more seniors are carrying debt into retirement...than ever before, and the amount of debt burden has skyrocketed over the past decade.”⁷ This includes significant medical and credit card debt – all of which is subject to seizure unless an Executive Order protecting the stimulus payments is issued.

Obviously, the financial fragility of elder Minnesotans and all Minnesotans has been substantially exacerbated under the current circumstances. As of April 7, more than 11% of Minnesotans have applied for unemployment.⁸ And Legal Aid estimates that tens of thousands of Minnesotans are not eligible for the unemployment stimulus.

Without protection against garnishment of the stimulus payments, the harm done to Minnesotans will be irreparable. Therefore, we respectfully ask that you issue an Executive Order that would exempt all federal stimulus payments, except for child support, made to any person residing in the state, either under the CARES Act, Public Law 116-136, or any subsequent congressional act, from garnishment, attachment, or seizure under Minnesota Statutes, section 571.91 to 571.915, chapter 550, or chapter 551. Thank you so much for your leadership during this crisis and your consideration of this urgent request.

Sincerely,



Ron Elwood, Supervising Attorney, on behalf of the Legal Services Advocacy Project and
Jason Adkins, Executive Director, Minnesota Catholic Conference
Dave Anderson, Executive Director, All Parks Alliance for Change
Sean Burke, Public Policy Director, Minnesota Elder Justice Center
Michael Dahl, Public Policy Director, HOME Line
Phil Duran, Director of Advocacy and Research, JustUs Health
Tracy Fischman, Executive Director, Prepare + Prosper
Bill Grant, Executive Director, Minnesota Community Action Partnership
Julie Gugin, President, Minnesota Homeownership Center
Cristen Incitti, Executive Director, Habitat for Humanity of Minnesota
Veena Iyer, Executive Director, Immigrant Law Center of Minnesota
Sharon Jones, Executive Director, Legal Assistance of Dakota County, Ltd.
Anne Krisnik, Executive Director, Joint Religious Legislative Coalition
Nan Madden, Director, Minnesota Budget Project
Sally Nankivell, Executive Director, LegalCORPS
Anna Odegaard, Legislative Advocate, Minnesota Asset Building Coalition
Meghan Olsen Biebighauser, Congregational Organizer for Economic Justice, Minneapolis Area Synod of the ECLA
Sara Nelson-Pallmeyer, Executive Director, Exodus Lending
Jennifer J. Polzin, CEO, Tubman
Karen Reid, Executive Director, Neighborhood Development Alliance (NeDA)
Dave Snyder, Organizing Director, Jewish Community Action
Erin Sutton, Advocacy Manager, Lutheran Social Service of Minnesota

⁷ National Council on Aging, *Senior Debt Facts*; at <https://www.ncoa.org/economic-security/money-management/debt/senior-debt-facts/>

⁸ Dane Mizutani, *Unemployment in Minnesota: 11.4 percent of labor force has applied for help during coronavirus crisis*, PIONEER PRESS, Apr. 8, 2020; available at: <https://www.twincities.com/2020/04/07/unemployment-in-minnesota-11-4-percent-of-labor-force-has-applied-during-covid-19-crisis/>

- c.c.:
- The Honorable Peggy Flanagan, Lieutenant Governor, State of Minnesota
 - The Honorable Keith Ellison, Minnesota Attorney General
 - The Honorable Melissa Hortman, Speaker of the House, Minnesota House of Representatives
 - The Honorable Paul Gazelka, Majority Leader, Minnesota Senate
 - The Honorable Kurt Daudt, Minority Leader, Minnesota House of Representatives
 - The Honorable Susan Kent, Minority Leader, Minnesota Senate
 - The Honorable John Lesch, Chair, Judiciary Finance and Civil Law Division, Minnesota House of Representatives
 - The Honorable Warren Limmer, Chair, Judiciary and Public Safety Finance and Policy Committee, Minnesota Senate
 - The Honorable Laurie Halverson, Chair, Commerce Committee, Minnesota House of Representatives
 - The Honorable Gary Dahms, Chair, Commerce and Consumer Protection Finance and Policy Committee, Minnesota Senate
 - The Honorable Peggy Scott, Republican Lead, Judiciary Finance and Civil Law Division, Minnesota House of Representatives
 - The Honorable Ron Latz, Ranking Minority Member, Judiciary and Pub. Safety Finance and Policy Comm., Minnesota Senate
 - The Honorable Tim O'Driscoll, Republican Lead, Commerce Committee, Minnesota House of Representatives
 - The Honorable Dan Sparks, Ranking Minority Member, Comm. and Cons. Protection Finance and Policy Comm., Minn. Senate
 - The Honorable Kelly Moller, Vice-Chair, Judiciary Finance and Civil Law Division, Minnesota House of Representatives
 - The Honorable Dan Hall, Vice-Chair, Judiciary and Public Safety Finance and Policy Committee, Minnesota Senate
 - The Honorable Zach Stephenson, Vice-Chair, Commerce Committee, Minnesota House of Representatives
 - The Honorable Karin Housley, Vice-Chair, Commerce and Cons. Protection Finance and Policy Committee, Minnesota Senate
 - Mr. Steve Kelley, Commissioner, Minnesota Department of Commerce
 - Ms. Emily Lefholz, Policy Advisor, Office of Governor and Lt. Governor
 - Mr. Jon Kelly, Policy Advisor, Office of the Governor and Lt. Governor
 - Ms. Carly Melin, Government Affairs Director, Office of the Minnesota Attorney General
 - Ms. Megan Verdeja, Director of Government Affairs, Minnesota Department of Commerce

