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## Elder Justice Act Requires Facilities, Employees to Report Reasonable Suspicion of a Crime to Local Law Enforcement

Des Moines, Iowa (July 6, 2011) – Local law enforcement agencies in Iowa may expect to see an increase in the number of suspected crimes being reported by long-term care facilities throughout the state. The federal Centers for Medicare & Medicaid Services (CMS) recently published a memorandum to explain Section 1150B of the Social Security Act, which requires specific individuals in applicable long-term care facilities to report any reasonable suspicion of a crime committed against a resident of that facility.

According to the provisions of the Elder Justice Act, a covered individual of a long-term care facility that receives at least \$10,000 annually from the federal government must report any reasonable suspicion of a crime against any resident of the facility to the Iowa Department of Inspections and Appeals (DIA) and to at least one local law enforcement agency. A “crime” is defined by the law of the jurisdiction where the facility is located. Covered individuals include not only owners, operators, and employees of an applicable long-term care facilities, but also include managers, agents, and contractors associated with the facilities. Applicable long-term care facilities are defined as nursing facilities, skilled nursing facilities, hospices that provide services in long-term care facilities, and intermediate care facilities for the mentally retarded.

The reporting requirements associated with the new law differ based upon the events that cause the suspicion:

- If an event results in serious bodily injury, the covered individual must report the suspicion immediately, but not later than two (2) hours after forming the suspicion.
- If an event does not result in serious bodily injury, the covered individual must report the suspicion not later than 24 hours after forming the suspicion.

Under the federal statute, if an individual fails to report any reasonable suspicion of a crime to DIA and local law enforcement, the covered individual shall be subject to a civil penalty of not more than \$200,000; and the individual may be excluded from participation in any Federal health care program. Additional penalties are possible if the individual’s failure to report exacerbates the harm to the victim of the crime or results in harm to another individual. Employees of facilities who report reasonable suspicion of a crime are granted protections from retaliation by a long-term care facility, which may be fined or excluded from the Medicare Program if it discharges, demotes, suspends, etc. any employee who reports a reasonable suspicion of a crime.

At the present time there are no CMS regulations that apply specifically to the Elder Justice Act responsibilities of covered individuals or applicable facilities. Rather, CMS believes its current requirements to report incidents provide sufficient justification and direction to implement the new provisions. A copy of the federal memorandum may be found on CMS’ website at [http://www.cms.gov/Surveycertificationgeninfo/downloads/SCLetter11\\_30.pdf](http://www.cms.gov/Surveycertificationgeninfo/downloads/SCLetter11_30.pdf).

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