



IDAHO LEGAL AID SERVICES, INC.

SENIOR LEGAL GUIDEBOOK

FREE Available to view and print at www.idaholegalaid.org
August 2011

Seniors and their family, friends, neighbors and caregivers will find this guidebook helpful. Look inside for **general information** about legal issues that seniors frequently encounter and **practical options** about **where to look** and **whom to call** for more detailed information.

No guidebook can substitute for specific legal advice from an attorney about your unique case. Nor can it cover every legal issue that you may encounter. However, this guidebook may give you a better basic understanding about your legal rights and options in many situations.

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Idaho Legal Aid Services

Regional Offices

Boise	310 N. 5th St.	345-0106
Caldwell	1104 Blaine St.	454-2591
Coeur d'Alene	410 Sherman Ave., # 303	667-9559
Idaho Falls	482 Constitution Way, # 101	524-3660
Lewiston	633 Main St., # 103	743-1556
Pocatello	150 S. Arthur Ave., # 203	233-0079
Twin Falls	475 Polk St., # 4	734-7024

Statewide Hotlines

- **Idaho Senior Legal Hotline** **1-866-345-0106** (en español **1-866-954-2591**)
Legal advice and brief services for eligible low-income Idahoans 60 and over
- **TTY (Deaf and Hearing Impaired) Hotline** **1-800-245-7573**
- **Idaho Domestic Violence Legal Advice Line** **1-877-500-2980**

Website

www.idaholegalaid.org

Free information, interactive legal forms, and links to other organizations

Credits



Idaho Legal Aid Services (ILAS) wrote this guidebook.

ILAS received a 2011 **Community Outreach Grant** from the **United States District and Bankruptcy Court, District of Idaho**, making publication and distribution of the guide possible.



This Guidebook was also prepared with valuable assistance from the **Justice Alliance for Vulnerable Adults (JAVA)**, a network of organizations and individuals working to prevent abuse and neglect of elders in Idaho.

Do You Need a Lawyer?

If you are low-income and meet our eligibility requirements, Idaho Legal Aid Services may be able to help you.

Depending on your unique situation, we may be able to give you legal advice over the telephone, mail legal information to you, or perform other brief legal services. We may also refer you to a private attorney or an Idaho Legal Aid Services staff attorney for more extended representation.

If you are eligible, we may be able to help you with certain types of civil cases:

- **Family:** Guardianships for grandchildren or incapacitated adults, divorces and child custody cases involving domestic violence, protection orders
 - **Housing:** Eviction defense, tenants needing repairs, fair housing, foreclosures
 - **Health Care:** Medicaid eligibility for long-term care facilities
 - **Planning Documents:** Durable Power of Attorney documents, “living wills”
- ▶ We are **prohibited** from representing anyone in **criminal** cases (including DUI and traffic offenses), representing anyone in jail or prison, or taking **personal injury** or class action suits.

You may need a private attorney.

If you don't qualify for our services, you may need a private attorney. You can use the **Idaho State Bar Lawyer Referral Service** to find a lawyer who will meet with you for a free or low-cost brief consultation. Call **(208) 334-4500** or look online at <http://isb.idaho.gov>.

If you are low-income, the **Idaho Volunteer Lawyers Program** may be able to help you free of charge in some types of cases. Call **1-800-221-3295** or **(208) 334-4510** (in Boise area).

You may need some help representing yourself.

Every county courthouse in Idaho has a **Court Assistance Office (CAO)** to help people who don't have a lawyer in family law and other civil cases. The CAO has a variety of legal forms and legal educational materials. Many of the materials and free legal forms can also be found at: www.courtselfhelp.idaho.gov and also www.idaholegalaid.org.

Before Meeting with a Lawyer

A lawyer should be able to explain to you:

- The **steps** in the legal **process**
- Your legal **options**, along with each of their **risks** and **benefits**
- The lawyer's duties to you: **confidentiality, diligence, loyalty**
- The **limits** of the lawyer's representation
- The lawyer's **fees**: how they are calculated and what you can expect to pay

A lawyer will ask you a lot of questions about your case and the results you want. It will be easier for the lawyer to help you if you have all the important facts together beforehand.

What are your legal questions?

1 _____
2 _____

Why are you most worried? What are you afraid will happen?

1 _____
2 _____

Who's involved? List important names.

1 _____ 3 _____
2 _____ 4 _____

When did it start? List important dates.

1 _____ 3 _____
2 _____ 4 _____

Where did it happen? List important places.

1 _____
2 _____

How do you want it to be resolved? What are your objectives?

1 _____
2 _____

Services for Seniors

Your local Area Agency on Aging (AAA) may help you.

Your local AAA may help seniors with many types of challenges, including:

- Chores and homemaking
- Help and respite for caregivers
- Group meals & home-delivered meals
- Transportation help
- Adult day care
- Long-term care options counseling

Counties served by each AAA	Regional AAA
Benewah, Bonner, Boundary, Kootenai, & Shoshone	Area Agency on Aging of North Idaho (208) 667-3179 or 1-800-786-5536 www.aaani.org
Clearwater, Idaho, Latah, Lewis, & Nez Perce	Community Action Partnership (208) 746-3351 or 1-800-326-4843 www.cap4action.org
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, & Washington	Sage Community Resources (208) 322-7033 or 1-800-859-0321 www.sageidaho.com
Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, & Twin Falls	College of Southern Idaho Office on Aging (208) 736-2122 or 1-800-574-8656 http://officeonaging.csi.edu
Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, & Power	Southeast Idaho Council of Governments (208) 233-4032 or 1-800-526-8129 www.sicog.org/AreaAgencyonAging.html
Butte, Bonneville, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, & Teton	E. Idaho Community Action Partnership (208) 522-5391 or 1-800-632-4813 www.eicap.org

Aging and Disability Resource Connections: a place to look online for more help.

The **Idaho Commission on Aging** provides information about long-term care planning, applying for government benefits, and answers to many other common questions about seniors' options at

www.idahoaging.com.

Know about Elder Abuse

Elder abuse has many forms. Abuse can mean any mistreatment of a senior, such as bodily injury, threats, confinement, abandonment, neglect, unwanted sexual contact, or financial exploitation. Neighbors and friends might see signs such as a senior's severe weight loss, dehydration, or even bruises and broken bones. They might see a senior giving away large amounts of money and suspect someone is taking advantage of him or her.

Myth: "We don't have that problem in our community." Some people believe that elder abuse is not a problem in their neighborhood. However, every community has its share of seniors suffering from neglect or exploitation, often out of sight and unreported.

Fact: Abuse is often unseen and unrecognized.

Myth: "It's just part of growing old." While aging involves many natural challenges, every senior deserves respect and no one should tolerate abuse. No senior should be physically harmed, sexually harassed, have money misused, or deprived of food, medicine, or contact with friends.

Fact: Abuse is preventable.

There are **criminal** and **civil penalties** for different types of abuse. It takes friends, family members, case managers, police officers, and attorneys all working together to find how best to help someone suffering from abuse.

Idaho's **Adult Abuse, Neglect and Exploitation Act** (Idaho Code Section 39, Chapter 53) empowers state agencies to help **vulnerable adults** who can't protect themselves from abuse, neglect, or exploitation because of physical or mental impairment.

You can find help! Many people have experienced what you are going through.

You don't deserve abuse. It's not your fault if someone is abusing you.

People should have your permission to make decisions for you.

You shouldn't have to live in fear or violence.

Abuse is unacceptable.

You Can Call for Help

- ▶ **If you or someone else is in danger, call 911.**
- ▶ **If you are suffering from ongoing abuse, neglect, or exploitation, call Adult Protection Services (APS).** You can call when the person harming you has calmed down or is not around.

- ▶ **If someone you know is suffering abuse, neglect, or exploitation, call APS.**

APS can investigate allegations of abuse, neglect, and exploitation of vulnerable adults.

APS can work with the police, nursing homes, bank managers, lawyers, and the Idaho Department of Health and Welfare to help seniors.

- ▶ **If you suspect or observe abuse, neglect, or exploitation in an institution (like a nursing home), call Adult Protection Services first. Then call the Area Agency Ombudsman.**

Ombudsmen investigate complaints about long-term care and assisted-living facilities.

Counties Served	Adult Protection Services (APS)	Ombudsman
Benewah, Bonner, Boundary, Kootenai, & Shoshone	(208) 667-3179 or 1-800-786-5536 After hours emergency: (208) 667-3179	(208) 667-3179 x 223 1-800-786-5536
Clearwater, Idaho, Latah, Lewis, & Nez Perce	(208) 743-5580 or 1-800-877-3206 After hours emergency (208) 743-5580 x 399	(208) 798-4195 1-800-877-3206
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, & Washington	(208) 322-7033 or 1-800-859-0321 After hours emergency: (208) 489-6909	(208) 322-7033 x 239 (208) 322-7033 x 259 1-800-859-0321
Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, & Twin Falls	(208) 736-2122 or 1-800-574-8656 After hours emergency: (208) 732-6605	(208) 736-2122 1-800-574-8656
Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, & Power	(208) 233-4032 or 1-800-526-8129	(208) 233-4032 x 35 1-800-526-8129
Butte, Bonneville, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, & Teton	(208) 522-5391 or 1-800-632-4813 After hours emergency: (208) 522-5391	(208) 522-5391 x 1027 1-800-632-4813

Putting a Stop to Financial Exploitation

“I notice my neighbor giving lots of her money away... and now she isn’t able to pay her bills.”

“My brother is taking mom’s Social Security and buying things for himself.”

Financial exploitation includes scams, misuse of a senior’s property, undue influence over how a senior spends money, and outright theft. Some signs to look out for:

- A senior who has a sudden inability to pay bills or buy necessities
- A senior who does not understand financial arrangements made for him or her
- Others having an unusually high interest in a senior’s assets (new “best friends”)
- A nursing home, caregiver, or other business overcharging a senior

An attorney may be able to help recover a senior’s money through a civil lawsuit.

Some of these actions may be a crime (theft or fraud) and the abuser could go to jail.

Call **Adult Protection Services** and an **attorney** if you suspect financial exploitation.

Be smart about scams. Know how to say “No!”

New scams are born every day and many target seniors. The best cure for scams is prevention.

- ▶ Don’t give your credit card number or other personal information to people who contact you.
- ▶ Don’t pay for anything that comes in the mail if you didn’t order it.
- ▶ Don’t buy under pressure. You can just hang up or shut the door!

Be smart *before* you sign. Know what’s in your contract or warranty!

Caution: Idaho does not have a “cooling off period” (a few days to cancel a contract after you sign) except for door-to-door sales. Slow down and read the whole agreement *before* you sign!

- ▶ Before you sign something, read all of it. If you don’t understand anything, ask questions!
- ▶ Get a copy and take it home to read it. If someone won’t give you a copy, don’t sign it!
- ▶ If a contract has un-filled in blanks, don’t sign it!

Contact Idaho’s **Consumer Protection Division** (1-800-432-3545 or www.ag.idaho.gov) for the Attorney General’s **Senior Citizens Manual**. The Manual describes common scams targeting seniors involving telemarketing, online shopping, sweepstakes, home repair rip-offs, prescription drugs, living trusts, charities and churches, and it gives tips on how to protect yourself.

Did Someone Break a Contract or Scam You?

- You can **write a demand letter** to the business or person. *Look on page 29 for an example.* Keep a **copy** for your records. Carefully state what you want them to do and why. Include a copy of your receipt, contract, warranty, or other documents. Send it **certified mail**, return receipt requested. Wait a reasonable time for a response. The letter may be useful if you have to sue later.
- File complaints with the **Better Business Bureau** (1-800-218-1001 or www.bbb.org) and the Attorney General's **Consumer Protection Division** (1-800-432-3545 or www.ag.idaho.gov). While these agencies may not represent you individually, they may take further action if many people file complaints against the same person or business.
- If your demand letter gets no response, you may sue for damages (money) you are owed. *Read page 30 for information on Idaho's court system.*

Before You Borrow

Loan offers often sound like a great deal, but many loans are created to make as much money as possible for the lender. Be careful, because loans often cause more problems than they solve. You are not legally excused from your debts even if you lose your job, get sick or can't afford to pay for another reason. If you miss a payment, the creditor may try to sue to collect the debt.

Be smart before you get a loan. Know what's in your loan agreement!

- ▶ Know the **total cost** of the loan, including **interest** and all **fees**.
- ▶ Know **how many payments** you'll have to make and each payment's **due-date**.
- ▶ Know **your own budget**: can you really make all the payments?
- ▶ Keep copies of all records of any loan agreement and payments you make. Collection letters and bills often contain errors. If you notice a mistake in the numbers, send a letter to let the creditor know that you dispute the amount of money they say you owe.

- **Know what lenders know about you: get a copy of your own credit report.** Get your free credit report: 1-877-322-8228 or www.annualcreditreport.com.

Dealing with Debt

You can negotiate with your creditors.

Write the creditor and explain your situation and why you're unable to pay. The creditor may accept an offer of a different payment arrangement (like smaller monthly payments). If you and the creditor agree, ask for a written copy of the new payment terms.

Debt counseling services may help you, but watch out for scams!

Some debt counseling services can counsel you and negotiate with creditors on your behalf for lower payment plans. Be wary of debt "consolidation" or "settlement" companies—many cost more than they're worth. Don't commit to a company over the phone. Insist on meeting in person with a counselor. Before you sign any contract, you can check up on the company with the **Better Business Bureau (1-800-218-1001** or www.bbb.org.

You can fight debt collectors who harass you.

If you owe a debt, the creditor may sell the right to collect the debt to a collection agency. Debt collectors and their lawyers will sometimes harass you or try to scare you into paying a debt. A federal law, the **Fair Debt Collection Practices Act (FDCPA)**, prohibits lenders, collection agencies and their lawyers from harassing tactics such as threatening you with criminal prosecution or violence, calling your friends or neighbors, calling you at work if your boss doesn't allow it, and calling before 8:00 am or after 9:00 pm. If a debt collector keeps harassing you, you can write a **cease communication letter** which may look like the following example:

Dear Sir/Madam:

Re: Account # _____

You contacted me about an alleged debt. Please send me: (1) written proof of this debt, (2) the name and address of the original creditor and (3) a copy of your collection agent permit issued by the Idaho Department of Finance.

*Except for these documents, I request you **cease communication** with me. This request is made under the Idaho Collection Agency Act and the Fair Debt Collection Practices Act. I understand I can report you to the Idaho Attorney General's Consumer Protection Division, the Idaho Department of Finance, and the Federal Trade Commission for violations of these Acts.*

Sincerely, _____

Are You Being Sued Over a Debt?

If you owe a debt, a creditor or a collection agency may sue you and ask a court to issue a judgment declaring you owe the debt. First, you will get a **Complaint** (a court document that tells you what debt you're being sued over) and **Summons** (tells you when and how to respond). *Read page 30 for information on Idaho's court system and how to respond.*

You have 20 days to file an Answer with the Court.

You may have a have a good defense to the creditor's claim that you owe the debt. Your **answer** is where you state your defenses. Some collectors have inaccurate records, and it will be hard for them to prove that you actually owe the debt and that they have the right to collect it. An attorney may be able to identify some defenses in your situation.

Some common defenses:

Mistaken or stolen identity: "I didn't run up this debt."

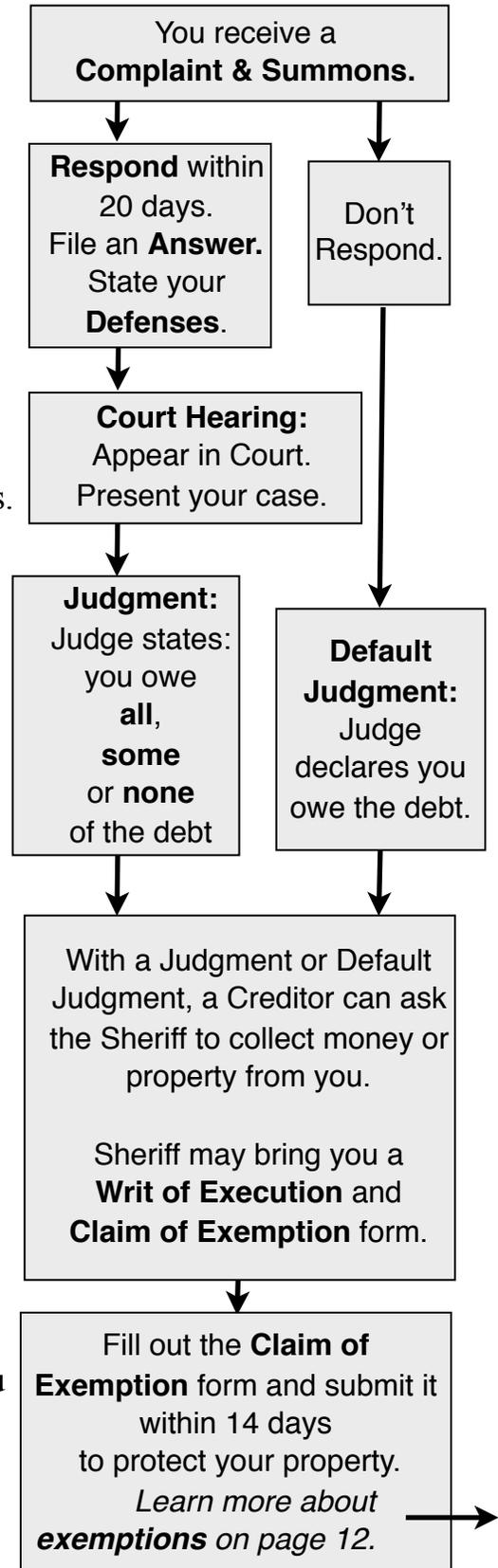
Debt paid or discharged: "I don't owe that anymore!"

Wrong amount: "I paid part of that debt off."

Statute of limitations: "They waited too long to collect!"

A creditor has a limited amount of time to try to collect a debt. For "revolving" debts (like credit cards), the limit is **four years** from the date of the last charge or payment on the account. For "fixed" debts (like a hospital bill), the limit is **five years** from the date the debt was charged.

If you know you owe the debt, and don't have any defenses, you may lose the collection suit, whether you file an answer or not. In fact, filing an answer may increase the attorney's fees awarded against you. Even if a judge declares you owe some money, you can still protect your property. *Read more on pg. 12.*



Protect Your “Exempt” Property & Money

You will have an opportunity to protect certain types of income and property (that the state has declared “exempt” from collection) even if a creditor wins a judgment against you. To enforce a judgment and take some of your paycheck, property, or money in a bank account, a creditor must go through a formal process.

The creditor can’t collect by itself; it has to ask the sheriff to do it. In most cases, the sheriff will do this by bringing you a **Writ of Execution** (a document that says a creditor is trying to collect) and a **Claim of Exemption** form. To protect your property, you must fill out the Claim of Exemption form and turn it back in to the sheriff within **14 days**.

What kind of property can be protected from creditors?

● **Most government benefits are exempt**, including all Social Security, Veterans’ benefits, public assistance, and unemployment benefits.

● **Some other kinds of money is exempt**, including payments for child and spousal support, worker’s compensation, life insurance benefits, pensions, and retirement income.

Caution: Don’t mix exempt money with “non-exempt” money (like gifts or your wages) or you risk losing the exemption. You may have to keep them in a separate bank account.

● **Much of your personal property is exempt, including:** one motorcycle, car, or truck (with net value up to \$7000), appliances, furniture, books, clothing (with net value up to \$7500), food and water, jewelry (worth up to \$1000), and other miscellaneous personal property (up to \$800).

● ***Can they take my paycheck?***

A creditor may ask your employer to take some of your paycheck (“garnish your wages”) to pay the judgment, but the creditor cannot take all of it– you will be left with some money to live on.

● ***Can they take my home?***

Up to \$100,000 of the net value (value of the property minus how much you owe on it) of your house or manufactured home may be protected from creditors, under the “homestead exemption.”

There are many other exemptions.

Contact **Idaho Legal Aid Services** for a detailed list of exemptions and instructions on how to claim them. The list is also available at www.idaholegalaid.org.

Is Bankruptcy a Good Option?

Bankruptcy cancels many debts.

When you file for bankruptcy, most (but not all) debt collection processes are **automatically stayed** (collectors have to stop trying to collect the debt). You then have to disclose all of your financial information to an official of the bankruptcy court. After your bankruptcy case is final, the court may issue a “**discharge**” which cancels most kinds of debt and gives you a fresh start. However, some kinds of debts, such as taxes, spousal support, child support, student loans, court fines, and “secured” debts (such as mortgages and car title loans) are not discharged.

Bankruptcy can cost money and hurt your credit rating.

There are costs to filing for bankruptcy. For example, the filing fee for Chapter 7 is \$299 (in 2011), but you may qualify for a filing fee waiver if you have very low income. Also, you may have to hire a private attorney to help you (which usually costs between \$800 and \$1200). Bankruptcy also remains in your credit history and it might be harder to get loans after you file.

Two main types of bankruptcy for individuals: Chapter 7 and Chapter 13.

Both kinds can only be filed once every eight years. You may want to wait to file if you have other debts coming due in the near future.

Chapter 7: Some of your property is sold, but you keep your “exempt” property.

The court chooses a trustee who will sell some of your property to pay back creditors.

However, much of your property may be protected (“exempt”) and won’t be sold. *Read the previous page for a basic list of “exemptions” that may apply in bankruptcy.*

Chapter 7 may be for you if you have low income and very little property.

Chapter 13: Part of your paychecks go to pay off some of the debt over time.

The court chooses a trustee who sets up a repayment plan: a portion of your future paychecks will be taken to pay back creditors. After a certain portion of the debt is repaid, the court can issue a discharge of the rest of the debt. Chapter 13 may be for you if you have steady income or some valuable property that you don’t want sold.

You may find a referral to a bankruptcy attorney from the **Idaho State Bar Lawyer Referral Service** at (208) 334-4500 or <http://isb.idaho.gov>.

Basics of Government Benefits

- **Apply early.** Apply for benefits well before the time you think you'll need financial help. The process can be confusing, and you may need to gather lots of information together to apply.
- **Keep records.** Keep every written notice from a government agency in a file. Read everything carefully and pay attention to dates! Keep a record of your contacts with the agency, including names and what people tell you.
- **Appeal quickly.** If you've been denied a benefit, or if your usual payment is reduced or cut off, you may have an opportunity to appeal. There are short time limits for asking for an appeal, so don't wait. Carefully read and follow instructions on any notice from an agency.

Are you 65 or over? Blind? Disabled?

You may qualify for income supplements from the federal **Supplemental Security Income (SSI)** program and Idaho's **Aid to the Aged, Blind & Disabled (AABD)** Cash Assistance program. Apply for SSI at the **Social Security Administration: 1-800-722-1213** or www.ssa.gov. Apply for AABD at your local **Idaho Department of Health and Welfare** office.

Social Security Retirement & Social Security Disability Insurance (SSDI)

These two programs are funded from deductions made from your or your spouse's paychecks. Find more information at the **Social Security Administration: 1-800-722-1213** or www.ssa.gov.

Help with Veterans Benefits

Idaho's Office of Veterans Advocacy (OVA) helps veterans and their family members learn about and apply for benefits: **(208) 577-2300** or www.veterans.idaho.gov.

SCAM ALERT! Be aware that some companies have similar-sounding names and charge you for help with veterans benefits. You shouldn't have to pay to apply for veterans benefits! Contact OVA if you are unsure about a particular company. Veterans may also find legal self-help and other useful information at <http://statesidelegal.org>.

Idaho Legal Aid Services may be able to give you more detailed information on how to apply for certain government benefits, or help you understand how to appeal if you are denied eligibility.

County Assistance for Medical Emergencies

If you cannot afford hospital care and medicine, the county may temporarily help you pay for necessary medical services if you really have no other way of paying (as a “last resort”). Ask for an application at your **County Courthouse** as soon as you think you might need help. The county may ask you to repay the money in small payments over time or may attach a lien to your house. If you are denied, you must ask for an appeal hearing within 28 days. Contact **Idaho Legal Aid Services** for a more detailed brochure about County Assistance eligibility and applications.

Medicare is Not Medicaid

Medicare is a type of federal health insurance for people **65 and over**, people who have received Social Security Disability payments for over 2 years, and people with certain kidney diseases.

Medicare is available regardless of your income while **Medicaid** is only for low income people.

Medicare is like other health insurance: it has premiums, co-payments, and deductibles.

Medicare covers some kinds of health expenses: **short** stays in hospitals or nursing facilities, some home health care needs, and some doctor visits, ambulances, medical aids, and prosthetics. More information is available at **1-800-MEDICARE** or www.medicare.gov.

If you are in a hospital or nursing facility, and a doctor or a hospital worker says that **Medicare** will no longer pay for you to stay there, you have a right to appeal. When you are denied coverage, you should be given a written “notice of non-coverage” from the doctor or hospital. The notice should explain how to appeal. If you are denied coverage, you can call **Qualis Health’s Appeals Helpline** at **1-877-290-4346** and ask for an immediate review of the denial.

Are you eligible for Medicaid?

Medicaid helps many **low-income** people pay for **medical necessities**, including **long-term care** in a nursing home or assisted-living facility. Apply for **Medicaid** at any **Idaho Department of Health and Welfare** office. You may be eligible if:

- your income is less than Medicaid’s income limit AND
- your total resources (money and property) are fewer than Medicaid’s resource limit AND
- you are 65 or older, blind, disabled, raising a child, pregnant or within a few other special categories.

Long-Term Care: Medicaid and Other Basics

Medicaid has an income limit and a resource limit.

Medicaid may help you pay for a long-term care facility, if you have a **low monthly income** and you have **few resources** (assets and property).

When you apply for Medicaid, the **Idaho Department of Health & Welfare (DHW)** looks at all of your (and your spouse's) income and resources to determine if you are eligible. DHW doesn't count *all* of your resources when deciding if you qualify. Some resources are "exempt" and don't count towards the limit. Generally, some common exemptions include:

- your house
- a car
- certain burial plots
- certain life insurance plans

If you have too many "non-exempt" assets to qualify, (like money in a savings account or more than one car) you may have to consider "**spending down**" some of the assets before you will qualify for Medicaid. Many people pay for long-term care "out of pocket" for a while and apply for Medicaid only when they have few enough resources to qualify. If you have many resources, consider talking to a private attorney about planning for long-term care, because spending assets can involve taxes and other complicated issues. You may get a referral to an attorney from the **Idaho State Bar Lawyer Referral Service** at (208) 334-4500 or <http://isb.idaho.gov>.

If you have a little too much income, a "Miller Trust" may help you qualify.

Many low income people don't have anywhere near the amount of income or savings to pay for long-term care (like a nursing home), but they have just a little too much income to qualify for Medicaid. These people may be able to set up a special kind of trust account, often called a "Miller Trust," to qualify for Medicaid. Contact a private attorney or **Idaho Legal Aid Services** if you need help qualifying for Medicaid to pay for long-term care.

Your "Share Of Cost": You may still have to pay part of your long-term bill.

Even if Medicaid helps pay for part of your facility's cost, you may have to pay a share, called your "patient liability" or "share of cost." The **Idaho Department of Health and Welfare** calculates how much of your income you can keep each month. Usually, it's a small amount-- just enough to pay for toiletries and other small items. This is called your **personal needs allowance**. Your other income goes to the facility. Medicaid then pays the rest of the facility's bill directly.

“Transfer Penalty”: Medicaid “looks back” to see if you gave assets away.

Many people think they can just give away assets to meet Medicaid’s resource limit. However, this may cause a **penalty**, because Medicaid does not want you to give away assets just to qualify. Medicaid **looks back five years** from the time that you apply, to see if you transferred (gave away) any assets for less than “fair market value.” For example, if you deed a house to a son or daughter, Medicaid looks at the value of the house and calculates how many months of long-term care you could have paid for if you had sold it for “fair market value.” Then you will be disqualified from Medicaid for that many months. It’s important to start planning now and not give away assets if you might need Medicaid’s help to pay for care in the next few years.

“Estate Recovery”: Medicaid can get paid back after you (and your spouse) die.

You may have heard that Medicaid will put a lien on your house to pay itself back. This is partially true: Medicaid has a right to **recover** from your **estate** (property you leave when you die) the amount of money it paid for your care. However, if you are married, and your spouse is still living in the house, Medicaid will not simply take the house. It will not try to get repaid until after your spouse dies, too. Other kinds of property is protected from estate recovery as well.

Private Long Term Care Insurance isn’t for everyone.

Private insurance may help pay for long-term care if you buy it years in advance but it may not be a good idea if you have very few assets or low income. Contact the **Senior Health Insurance Benefits Advisors (SHIBA)**, at **1-800-247-4422** for more information about health insurance.

Sometimes a facility abuses or neglects a senior.

“When I went to visit mom at the nursing home, she had bruises and looked like she hadn’t eaten in days. I don’t think they’re taking care of her.”

Sadly, seniors may experience abuse while in the care of nursing homes and other institutions. Friends and family may rightfully worry if they notice a loved one:

- talks about verbal or physical abuse from staff
- hasn’t eaten enough
- has bedsores, bruises or other injuries
- is missing personal items
- isn’t taking medicine properly

Contact **Adult Protection Services (APS)** and the local **Ombudsman** if you suspect elder abuse. Ombudsmen investigate complaints and respond to requests for assistance from seniors living in long term care facilities, assisted-living facilities, and in residential care in the community.

Check page 7 for your local APS and Ombudsman’s phone numbers.

Renters' Rights & Options

Looking for a new place to rent?

Idahoans can get lists of available rentals at 1-877-428-8844 or www.housingidaho.com.

Need help paying rent?

There are several different **Federal Housing Programs**. Some give you a voucher to help pay rent in privately-owned apartments or houses. Other buildings are owned by a government agency that charges a reduced rent based on your ability to pay. Along with lower rent, renters in Federal Housing Programs enjoy certain rights, like special notices before rent hikes or evictions. There may be a long waiting list to get into a program, so applying early is best. Contact **Idaho Legal Aid Services** for a more detailed brochure about housing programs. If you qualify for our services, we may be able to help you if you are denied eligibility or lose your voucher unfairly.

Discrimination: unfair treatment when looking for a new place or while renting.

Landlords are prohibited from treating you differently from other renters because of your sex, race, nationality, religion, disability or just because you have children. If you think you might have suffered housing discrimination, these organizations may help:

Intermountain Fair Housing Council	1-800-717-0695
Idaho Human Rights Commission	1-888-249-7025
Fair Housing and Equal Opportunity Office (HUD)	1-800-877-0246

Renters with disabilities can ask landlords for accommodations.

If you are disabled, you can ask your landlord or housing program to make reasonable changes to allow you to fully use and enjoy your housing. Depending on your disability, you may be able to ask for an “accommodation” (a change in a rule or policy) or a “modification” (a structural change like an entry ramp or a lower countertop). The request must be **reasonable**: it should be practical and not cause an **undue burden** on your landlord. You may also have to ask a **health care provider** to write a letter stating why your disability requires the change.

Idaho Legal Aid Services may be able to give you more detailed information on how to make a formal request for a reasonable accommodation or modification. You can also get a free do-it-yourself packet of forms at www.idaholegalaid.org.

Repairs & Security Deposits

Landlords are required by law to make certain repairs and make sure rentals have adequate:

- water-proofing & weather-protection
- heating, ventilation & cooling systems
- smoke detector installation
- electrical & plumbing systems
- sanitary facilities
- non-hazardous & safe conditions

Landlords are required to return your security deposit no more than **30 days** after you move out. If any deductions are taken out for cleaning or repairs, your landlord should send you a detailed, **itemized list** stating what portion was spent, how and why. Landlords cannot deduct for normal wear and tear on the apartment, but only for cleaning and repairs mentioned in your lease.

What if your landlord refuses to make repairs or return your deposit?

- 1)** You can **write a demand letter** to your landlord to notify the landlord about the needed repairs, unsafe conditions, or security deposit that you're owed. *Look on page 29 for an example.*
- 2)** Keep a **copy** of the letter. Deliver it by **certified mail** (return-receipt requested) or personally deliver it with a friend to witness that the landlord received it.
- 3)** After you deliver it, **wait three days** for a response.
- 4)** If your landlord doesn't respond, you can **file suit** in Small Claims Court or Magistrate Court. *Read page 30 for information on Idaho's court system.*

Idaho Legal Aid Services may be able to give you more detailed information on how to write a demand letter. You can also get free do-it-yourself legal forms at www.idaholegalaid.org. You can read the laws of repairs and deposits in **Idaho Code Sections 6-320 and 6-321**.

Contact Idaho's **Consumer Protection Division** (1-800-432-3545 or www.ag.idaho.gov) for the Attorney General's booklet, **Landlord and Tenant Guidelines**. The booklet describes Idaho's laws affecting tenants in more detail. It also has useful inspection checklists you can use before you move into an apartment to avoid problems with security deposits and repairs later.

Eviction Protection

Your landlord has a right to sue to evict you only for certain reasons and after proper notice:

- ▶ **If you have a month-to-month lease**, and the landlord gives you **30 days' notice**.
- ▶ **If you violate the lease agreement**, and the landlord gives you **three days' notice**.
- ▶ **If you don't pay rent on time** and the landlord gives you **three days' notice**.

In Idaho, you must pay rent on time, even if the place needs repairs or has pests! If you try to “withhold rent” and don't pay on time, your landlord may be able to legally evict you.

It is illegal for your landlord to force you out by turning off the utilities or changing the locks. It is illegal for your landlord to try to evict you in retaliation against you because you requested repairs, complained to the city about housing code violations, or joined a tenants' association.

Even if you violate the lease or don't pay rent, your landlord must give **three business days' notice**, and give you an opportunity to fix the mistake or pay rent in those three days. If you “cure” the lease violation or pay the back rent that you owe, the eviction process must stop.

If your landlord threatens you with eviction, you may need to defend yourself in court.

Idaho Legal Aid Services may be able to give you more detailed information on how to respond to an eviction notice. You can also get free do-it-yourself legal forms at www.idaholegalaid.org. You can also read the laws of evictions in **Idaho Code Sections 6-303** and **6-304**.

The house I am renting is in foreclosure! Am I going to get evicted soon?

Until 2013, the federal **Protecting Tenants in Foreclosure Act** gives extra protections to tenants who find themselves in houses in foreclosure because the landlord stopped making payments. For example, you may have **up to 90 days**, even beyond the end of your lease, to stay in the place while you try to find a new place to live. However, you must continue to **pay rent on time**, and you will have to take extra steps to make sure you can stay, such as sending written notices to prospective buyers and other people about your tenancy.

Contact **Idaho Legal Aid Services** for more detailed information about tenants' protections under this federal law and what you will have to do to enforce your rights.

Options for Homeowners in Foreclosure

Millions of people have found themselves in foreclosure recently, including seniors. Many times, homeowners ignore the problem and become further behind in payments, making things worse. People who are more active in asking for help from the lender and others are more likely to save their home. Often, homeowners may be able to ask the loan holder for an adjusted payment plan or another type of loan modification. Contact your local housing counselor to learn more about your options:

Idaho Housing & Finance Association	1-877-888-3135
Boise Neighborhood Housing Services	(208) 343-4065 x 119
Pocatello Neighborhood Housing Services	(208) 232-9468
Community Action Partnership in Lewiston	1-800-326-4893

Be aware that there are many companies pretending to help homeowners that are really **scams!** They may charge you high fees for services you can get for free from the organizations above. Contact Idaho's **Consumer Protection Division** (1-800-432-3545 or www.ag.idaho.gov) for a booklet about **Foreclosure Prevention and Foreclosure Scams: How to Tell the Difference**.

Manufactured Homeowners' Rights

Idaho's **Manufactured Home Residency Act** spells out certain rights unique to manufactured homeowners who rent a space in a manufactured home community. For example, the landlord of the manufactured home community has to give you **90 days' written notice** if he or she intends to raise the rent, change your lease or any community rules, or doesn't intend to renew your lease. The landlord also has to give **180 days' written notice** before selling the community land so you have more time to move.

Contact **Idaho Legal Aid Services** for a brochure with more detailed information about your rights as a manufactured homeowner. You can also read the Manufactured Home Residency Act in **Idaho Code Sections 55-2001** through **55-2020**.

Powers of Attorney & Advance Directives

Has a doctor, friend, or family member told you to give someone “**power of attorney?**”

There are different kinds of documents (sometimes called “**advance directives**”) that let you appoint someone (an **agent**) to have the power to make important decisions on your behalf.

The three most common types of **advance directives** have different purposes:

- A **Durable Power of Attorney for Financial Affairs** (or “General” Power of Attorney) document states **who** can take **legal** actions and make **financial** decisions for you.
- A **Durable Power of Attorney for Health Care** document states **who** can make **health care** decisions for you when you can’t make them for yourself.
- A **Living Will** states **what kinds** of medical treatment you want in specific situations.

Basic facts to know about Advance Directives:

- **Choose the best agent.** Don’t be pressured into choosing an agent against your wishes. The person you choose to have your “powers of attorney” should be a trusted friend or family member. Have a serious talk with your agent so he or she knows your wishes and beliefs. Make sure that they are comfortable following your wishes and will act in your best interest.
- “**Capacity**” means **knowing what you’re doing**. You must have **legal capacity** to make a valid advanced directive. That is, you must know what it is you’re signing, why you’re signing it, who your agent will be, what powers the agent will have, and when the agent will act for you.
- “**Durable**” documents **last longer**. Durable advance directives “endure” and allow an agent to act even after you have lost capacity and can no longer make decisions for yourself. If the document does not state that it is “durable” in just the right way, a bank or hospital might not respect your wishes after you lost capacity.
- “**Immediate**” vs. “**Springing**”: **you can give your agent powers now or later**. An immediate advance directive gives your agent power to make decisions for you the moment it is signed. Springing directives “spring” into action later— your agent will only have powers when you are unable to decide things for yourself (for example, if you are unconscious).
- **All these documents are revocable, so you can change your mind**. You can choose a different person to be your agent at any time, as long as you have capacity. You can simply **revoke** your old document, or you can make a new one, dating it after the first.

Durable Power of Attorney for Financial Affairs

You can choose an agent to make **financial** and **legal** decisions for you. You may want someone to help manage your bank accounts, pay taxes, or manage property, either now or in the future. You can place limits on your agent's powers, too. For example, you may want your agent to be able to handle your day-to-day expenses and pay bills, but not to give away or sell your house. You should have an **attorney** help you make this kind of document, and it should probably be **notarized** so banks and other organizations trust that it is authentic.

Durable Power of Attorney for Health Care

You can choose an agent to make **health care** decisions for you. If your doctors have a copy of this document, they will know who to call and ask about medical decisions if you no longer can speak for yourself (for example, if you are unconscious). It's a good idea to name substitute agents too, in case the first agent you choose is unavailable at the time of a medical emergency.

Living Will

You can choose **what kind of medical treatment** you want in specific situations. Living Wills only go into effect when you cannot make decisions and **two doctors** declare that you are either terminally ill and will die soon (even with procedures like a feeding tube and hydration), or you are in a **persistent vegetative state** and you will never regain consciousness.

You can instruct your doctors on what to do in these situations: to take as many medical measures as possible, take only certain steps, or withhold all artificial life-sustaining procedures.

● A free document that combines **both** the **Living Will** and the **Durable Power of Attorney for Health Care** is available at www.idaholegalaid.org. This document does not need to be notarized, but it does have to be signed and shown to your doctors.

● **Make Your Wishes Known.** You should give **copies** of these documents to your doctors, agents, family or close friends before you have any problems so they know your wishes. You can also register the documents for free at the **Idaho Secretary of State Health Care Directive Registry**. Doctors can then look up your documents on the secure registry and find out what your wishes are even if they don't have a copy of your document.

Call (208) 332-2814 or visit www.sos.idaho.gov/general/hcdr.htm for more information.

Wondering about Wills?

Most people know it's important to have a will to distribute your property after you die, yet most people do not have one. If you die **“intestate”** (without a will), Idaho's “intestacy” statutes will direct a court how to divide up your estate (your property). These laws are Idaho's attempt to distribute your property as you probably would have wanted. For example, if you leave behind a spouse but no children, all of your property will go to your spouse. Things can get complicated if you have more than one child, step-children, or other living relatives. It's easy to imagine that the laws might not distribute your estate exactly as you would have wished. However, you can direct how your property should be distributed with a valid will. You do not necessarily need a lawyer to write a valid will, but it is probably best to ask a lawyer to help, especially if you own a house or have many family members who may not agree with each other.

Basic facts to know about Wills:

- **“Capacity” & “Intent.”** You must have legal capacity to make a will. That means you must know what's in your estate and who will get what property. Also, your will must clearly show that you intend it to be a final, valid will, and not just a draft.
- **Signed, Dated, & Witnessed.** Typewritten wills must be dated, signed by you, and signed by **two** people who either witnessed you sign the will, or witnessed you acknowledge to them that the document was your will with your signature.
- **You may write your own will in Idaho.** A **“holographic”** (handwritten) will may be valid if you **sign** it and **all the “material” (important) provisions are in your own handwriting.** Any typed or printed-form portions will not be valid, because they are not in your handwriting. If you are worried about how to do this, or if you have a large estate, you should talk to a lawyer.
- **You can change your will at any time before your death,** as long as you have capacity. You can add or change just part of your will (an addition to a will is called a **“codicil”**) but you have to follow the same formalities as with a whole new will (signed and witnessed).
- **Revoking a will.** You can revoke an old will by destroying the original and all copies. You can also write a new will to replace the old one, stating **“I revoke all prior wills and codicils.”**
- ▶ **The laws of wills are complex. Many people's wishes have not been followed because of small mistakes. Talk to an attorney before writing or revoking a will or codicil.**

Avoiding Probate?

Probate has a bad reputation. Many people think they should “avoid” it. However, the legal process of distributing property after someone dies (often called “probate”) does not necessarily have to be complicated, expensive or heavily taxed. There are now simple and informal ways to settle small estates or distribute some kinds of property when a spouse or loved one dies.

When someone leaves behind only a few things, but no land or house:

If the value of all of a person’s property after they die is less than \$100,000, a relative or other heir may be able to use a **properly written “affidavit”** (a notarized, sworn letter) to show banks, landlords, the Dept. of Motor Vehicles, and others to collect the deceased person’s belongings and documents. This is called an **“Affidavit Collecting Personal Property of Decedent.”**

When a spouse passes away:

You may be able to use a sworn letter (an affidavit) to remove your spouse’s name from jointly owned house or land, without resorting to the probate court. This process is often used when a couple owned few assets other than their home and is called an **“Affidavit in Lieu of Probate.”** For slightly larger estates, some spouses can also use a simpler probate process to take all of a deceased spouse’s property (and also their debts) in a short amount of time. This is called **“Summary Administration of Estates where Surviving Spouse is the Sole Beneficiary.”**

Should I get a Living Trust?

Living trusts are not for everybody. **There are many estate planning and “living trust” scams!** You should be wary of sellers who insist that living trusts are the only way to protect your property or avoid a will contest. Beware of high-pressure sales people, “free” seminars, telemarketers, and grand claims that living trusts are necessary to avoid estate taxes. If you feel pressured to “act immediately,” consult another attorney.

▶ **Complications can arise and laws and tax regulations change frequently. It’s best to contact an attorney with questions about probate, wills, and estates.**

Grandparents Raising Grandchildren

Many seniors must step in to raise a grandchild or another child who is not their own. Sometimes they have difficulty proving they have authority to make decisions for the child. If you are taking care of a child, even for a short time, you should get **written permission, signed by one of the parents** in the form of a **Parental Power of Attorney**. You can show this document to schools, hospitals and others to prove you are authorized to make decisions for the child. These forms are usually available for free at your county's **Court Assistance Office** and also available for free at www.idaholegalaid.org.

You may petition to become legal guardian of a child.

If a parent has abused, neglected or abandoned a child (often due to drug use or incarceration), a grandparent or other person who has been the primary caregiver may seek to become guardian.

- You will have to show the judge that the guardianship is in the **child's best interests**. You may have to show that the child's parents have abused the child, can't provide a stable home environment, or failed to keep a normal parental relationship without a good excuse.
- You will have to send **notices** to the child's parents that you are petitioning to be guardian. The court may appoint an attorney (a "guardian ad litem") to speak for the child during the process.
- As a guardian, you will have to file an **Annual Report** with the court explaining how the child is doing and describing any changes that occurred in the previous year.
- Your county's **Court Assistance Office** has legal forms if you have to petition by yourself. **Idaho Legal Aid Services** may be able to help you with the guardianship process if you qualify for our services.

Financial help for families:

Grandparents raising grandchildren may qualify for **Temporary Assistance to Families in Idaho (TAFI)** and receive up to \$300 per month. TAFI helps eligible low income families pay for food, shelter, health care, and other essentials for up to two years. You can apply at your local **Idaho Department of Health and Welfare** office.

🟡 Find many more resources for relatives raising another's child at **Idaho's KinCare** website: <http://www.idahocareline.org/kincare/Kincare.html> or by calling **Idaho's CareLine** at 211.

Guardianships & Conservatorships for Adults

If a person loses the ability to take care of his or her own health and safety, a concerned friend or family member may petition the Court to appoint either a **Guardian** (someone to make personal decisions about **health** and **housing**), or a **Conservator** (who makes decisions about **money**), or both. The person who has lost capacity to protect him or herself is called the “**ward.**”

If there’s an **urgent risk** that a person will be greatly harmed (by him- or herself or others), a **temporary guardian** can be appointed. These emergency guardianships typically last 90 days, and may be followed by a more permanent guardianship or conservatorship or both.

The Court seeks the ward’s best interests.

The Court takes precautions to make sure that the ward actually needs someone to make decisions for him or her, and if so, what kinds of powers that person should have. The Court will appoint three people to report back to it with written recommendations:

- A **Court Visitor** will interview the proposed ward, the proposed guardian, and other close friends and family members. The Court Visitor will also visit any place the ward might live.
- A **Physician** will examine the proposed ward.
- An **Attorney** (a “guardian ad litem”) will represent the ward’s interests in the legal process.

The Court will order the **least restrictive** type of protections necessary for the ward’s best interests and the Court will often put limits on the powers of the Guardian or Conservator.

Guardians and Conservators must report to the Court annually.

▶ Guardians must submit written **Annual Reports** about the ward’s health and housing. These forms are available for free at www.idaholegalaid.org.

▶ Conservators must submit **Annual Accountings** about the ward’s income and expenses. These forms are available for free at www.courtsselfhelp.idaho.gov.

Getting help with your petition:

You may obtain a referral to a private attorney through the **Idaho State Bar Lawyer Referral Service** at (208) 334-4500 or <http://isb.idaho.gov>.

Idaho Legal Aid Services may also be able to help you with the guardianship and conservatorship petition process if you qualify for our services.

Elder Abuse within the Family

“My brother lives with my mom and mooches off her Social Security. I’ve seen him yell at her and force her to stay at home. She can’t fend for herself.”

Sadly, much elder abuse is committed by family members. Familial abuse may look like:

- Emotional and verbal abuse
- Financial exploitation and theft
- Physical abuse, restraint, or neglect
- Forced isolation from other friends or family

If you suspect elder abuse, call the **police** in an emergency. Then call **Adult Protection Services**. Check page 7 for the phone numbers of your local Adult Protection Services.

Some seniors are beaten or abused by a partner or spouse.

If you are abused by a spouse, partner, ex, or household member, call **Idaho Legal Aid Services’ Domestic Violence Legal Advice Line** at **1-877-500-2980**. You can also get free legal forms you can use to file for a **protection order** at www.idaholegalaid.org.

Facts about Filing for Divorce

No Consent or Fault Needed. In Idaho, you do not need your spouse’s consent to file for divorce. You can do it on your own. You do not need to prove that your spouse is at fault.

You just need to prove that there are irreconcilable differences between you and your spouse.

Residency Required. You must live in Idaho for **six full weeks** before filing for divorce.

Name Change Allowed. When you file for divorce, you can ask to have your name changed if you want and you do not need your spouse’s permission.

Community Property and Debt. In Idaho, a court will assume that both spouses contributed equally to the marriage, even if only one spouse worked. The property earned by either spouse will be called community property and usually will be split equally at divorce. You and your spouse’s community debt will also usually be split equally. However, you can ask for a different share if your unique situation makes that more fair.

Filing on your own. You can file for a divorce by yourself, without an attorney. All of the forms that you will need are available at at your county courthouse’s **Court Assistance Office**.

You can also get the forms for free at www.courtselfhelp.idaho.org or www.idaholegalaid.org.

Practice Legal “Self-Defense”

You can take steps to defend your rights with or without an attorney. You may prevent or solve problems if you practice “legal self-defense” and remember these lawyers’ “tricks of the trade”:

- **Get it in writing.** Make copies. Keep records.
- **Don’t sign if you don’t fully understand.** Ask for a copy. Read it carefully. Ask questions.
- **Take along a witness.** Take photos or video. Write down dates, names, and what happens.
- **Look up the laws.** Ask what the other person knows about the law.
- **Write reasonable demand letters.** If you have a disagreement with someone, writing a letter stating your rights and the law may have a powerful effect. Send the letter **certified mail**, and request a return receipt, or hand deliver it with a witness to prove the other person received it. Even if the person doesn’t respond, a copy of the letter may help your case if you have to sue. You can follow the example below when writing your letter:

Dear Sir/Madam:

[today’s date]

First, state the facts: what happened when, and what’s the problem. For example:

“I purchased a defective product at your store on [date]” or “You sent me an incorrect bill on [date].” or “You did not perform the promise that you made on [date]. Enclosed are copies of my records.” Send copies (not originals) of receipts, notes, or checks that prove your claim.

Next, ask for a specific action that will remedy the situation. For example:

“I now ask you to repair the damage / give me a refund / pay me back / stop trespassing / etc.”

In the last paragraph, state a reasonable time you will wait for a response. Then state what legal actions you will take next. Give your contact information. For example:

“I will wait 10 days from today before seeking help from the Better Business Bureau / Attorney General’s Consumer Protection Division / or filing suit in Small Claims Court. I look forward to your prompt attention to this matter. You can contact me at [address] or [phone number].”

Sincerely, _____

Court System Basics

What if you have to sue someone?

● **Small Claims Court is for disputes involving amounts less than \$5,000.**

Neither side can have an attorney in Small Claims Court, so you will be suing “pro se” (by yourself). But just like an attorney, you can prove your case to the judge with witnesses, photographs, documents, and other evidence.

There is a **fee** to file in Small Claims Court, but you can apply for a **waiver** if you can’t afford it.

The **Court Assistance Office** at each county courthouse has forms you may use to file your Small Claims suit, and also information on how to collect your money if you win. These free legal forms are also available at www.idaholegalaid.org or www.courtselfhelp.idaho.gov.

● The Small Claims Court Judge may ask if you want to attend **mediation** with the other party. A neutral mediator will ask both parties to spell out their side of the case and will try to help both parties come to an agreement without a public trial. Mediation can take less time, be less hostile than a lawsuit and may lead to a satisfying resolution to the dispute.

● **Magistrate Court is for cases worth between \$5,000 and \$10,000 and family law cases.**

You may need a lawyer to successfully bring a suit in Magistrate Court. You may obtain a referral to a private attorney through the **Idaho State Bar Lawyer Referral Service at (208) 334-4500** or <http://isb.idaho.gov>. **Idaho Legal Aid Services** may also be able to help you in certain kinds of cases if you qualify for our services.

What if someone is suing you?

● If you receive a **Complaint** and **Summons**, the **Court Assistance Office** at the county courthouse has forms available so you can file an **Answer** as a **defendant** in a lawsuit. In many cases, you must file your Answer within 20 days of receiving it. Carefully read the plaintiff’s claims in the Complaint against you. In your Answer, you will have to admit or deny the plaintiff’s claims and state any **defenses** that you have. You then have to sign the Answer, have it notarized, properly serve it on the person filing the complaint, and properly file it with the court. Carefully follow the instructions that come with the Answer form, and talk to an attorney if you have questions.

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Get a Quick Legal “Check-Up”

Avoid legal problems later by “checking up” on your legal documents today.

You may check some boxes yourself but **talk to an attorney** if you have any questions.



Check your Living Will and Durable Power of Attorney for Health Care.

- Have you stated which artificial life-support measures your doctors should take?
- Have you named someone you trust (an agent) to make **medical decisions** if you can't?
- Did you name a substitute agent in case your first choice can't be reached?
- Check to make sure your “Power of Attorney” document states that it is **“durable.”**
- Do the people you chose know your wishes about health decisions?
- Do your doctors, agents, and trusted friends and family have copies of your documents?

Check your Durable Power of Attorney for Financial Affairs.

- Have you named someone you trust to make **financial decisions** for you if you can't?
- Do you know what kinds of powers that person (your agent) has or will have?
- Do you know if your agent has powers now, or only later if you can't decide for yourself?
- Check to make sure your “Power of Attorney” document states that it is **“durable.”**

Check your Will.

- Do you have a **valid, updated** will? Check to see if it accurately spells out who should get your property after you die.
- Is it kept in a **safe place**? Does a trusted person know where it is and will she or he be able to access it after you die?

Check your Options for Long-Term Care and other Health Costs.

- Have you talked to an options counselor or an attorney about how to pay for health care (especially long-term care) in the future?
- Do you know if you qualify for Medicaid?
- Do you know if you qualify for any other financial assistance?

For Renters: Check your Lease.

- Do you have a copy of your lease?
- Do you understand your rights and responsibilities under the lease?
- Do you know when the lease ends?
- Do you know all of your other housing options?

Look inside this Guidebook for more information on these and other legal issues.