

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

Elder Financial Abuse and Medicaid Denials



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- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems with getting on to the webinar? Send an e-mail to trainings@justiceinaging.org.
- Slides and a recording are available at Justice in Aging - Advocates Resources - Trainings: justiceinaging.org/resources-for-advocates/webinars. See also the chat box for this web address.

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

Elder Financial Abuse

What is Elder Financial Abuse?

Any fraudulent, illegal, unauthorized act, that uses the resources of an older adult for monetary or personal gain, or deprives an older adult of rightful access to and use of their own benefits and resources.

Examples

- Misuse of an older adult's personal checks, credit cards, or bank accounts
- Stealing
- Forging an older adult's signature
- Identity theft
- Abuse of a financial POA
- Scams

By the Numbers

\$2.9
BILLION

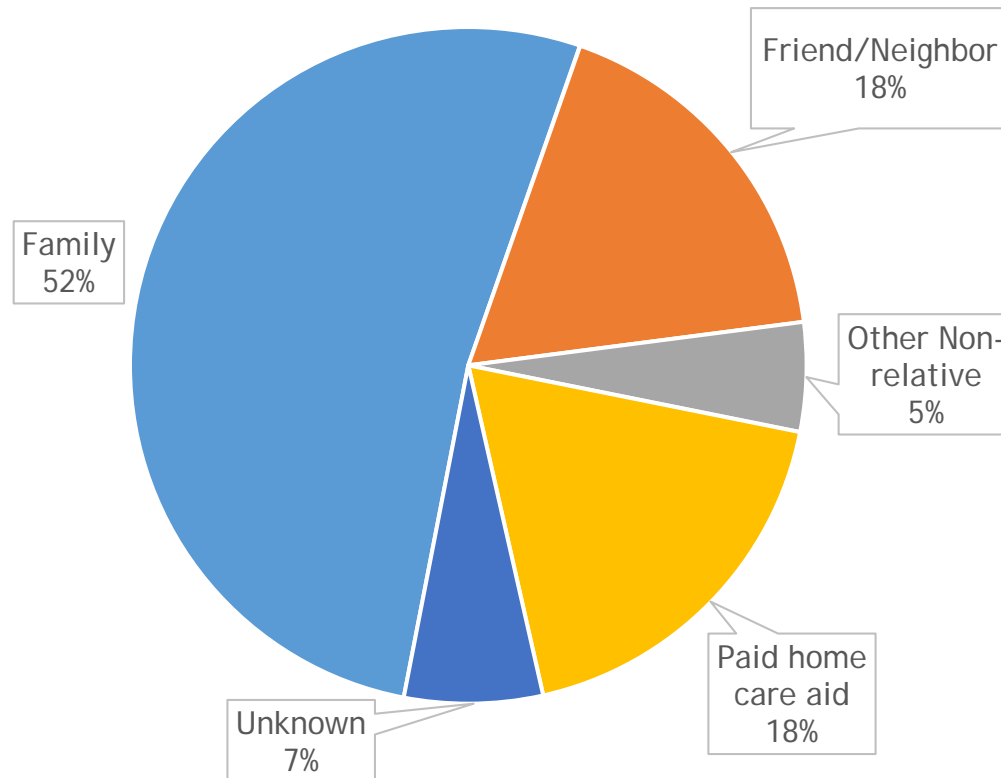
annual financial loss to
elder financial abuse.

Highest rate of any
elder mistreatment.

1 in 20

older adults will be
affected by financial
abuse after age 60

Perpetrators of Financial Elder Abuse



Identifying Elder Financial Abuse

Watch
for these
risk
factors:

- Individuals with diminished capacity, such as older adults with dementia
- Social isolation
- Family history of domestic violence

Identifying Elder Financial Abuse

Older adults with diminished capacity are at a greater risk for elder abuse.

- Particularly at risk for financial exploitation
- Danger of undue influence
- Dementia is a primary risk factor for abuse

Signs of Financial Exploitation

- Financial activity
- Unpaid bills
- Different signatures
- Disappearances of funds or valuable possessions
- New individuals taking an interest
- Sudden transfers
- Sudden changes

Financial Eligibility for Medicaid

Medicaid

Medicaid is a federal-state partnership that provides health insurance and/or long-term services and supports to over 6 million low-income older Americans each year.

Medicaid LTC

- Medicaid plays a particularly key role in the financing of long-term care.
- 6 in 10 nursing home residents rely on Medicaid funding.

Eligibility for Medicaid LTC

- Must be found financially eligible to get Medicaid
- Low income and very limited resources
- Can only keep a very small personal needs allowance

Transfers of Assets

- Can't transfer assets for less than fair market value
- If you do, penalty period will be imposed
- 60 month lookback period

Medicaid Denials from Financial Abuse

Common Medicaid Denials

1. **Being denied eligibility.** Older adults who are victims of financial exploitation may be denied Medicaid benefits.
2. **Penalty periods based on “gifts.”** When someone applies for Medicaid long term care, they may be penalized if they gave away assets.

Common Medicaid Denials

3. **Eviction or involuntary discharge from nursing homes.** Individuals may also be threatened with eviction or involuntary discharge from a nursing home because of nonpayment.
4. **Need for a hardship waiver.** In order to become eligible despite financial exploitation, people with Medicaid may need to apply for a hardship waiver.

Case Example

Mrs. K

- Mrs. K is a 94 year old Russian-speaking woman, residing in a nursing home
- Mrs. K's nursing home sent her family a bill for \$65,000
- An unknown third party had stolen Mrs. K's identity and used her social security number to open a bank account and a line of credit, thus interfering with her receipt of Medicaid benefits

Tips for Advocates

Tips to Help Older Adults Prevent Future Medicaid Problems

- Documentation
- Copies of financial records
- Revoke POA
- Include Medicaid responsibilities
- Community response

Resources

Statutes

- Older Americans Act, Section 102(a)(18)(A), 42 U.S.C. §3002(a)(18)(A)
- Deficit Reduction Act of 2005 (DRA) (Pub.L.109-171), Section 6011-6016
- 42 U.S. Code § 1396p - Liens, adjustments and recoveries, and transfers of assets

Resources

Elder Abuse Resources

- National Center on Elder Abuse, ncea.acl.gov/
- Department of Justice, Online Elder Abuse Training for Legal Services Providers, justice.gov/elderjustice/practitioner
- Money Smart for Older Adults, Federal Deposit Insurance Corporation and Consumer Financial Protection Bureau, fdic.gov/consumers/consumer/moneysmart/olderadult.html
- Federal Trade Commission, Spotting Elder Financial Abuse, consumer.ftc.gov/blog/spotting-elder-financial-abuse

Resources

Medicaid Resources

- [longtermcare.acl.gov/](https://www.longtermcare.acl.gov/)
- [kff.org/medicaid/](https://www.kff.org/medicaid/)
- [cms.gov/Regulations-and-Guidance/Legislation/DeficitReductionAct/downloads/TOAbackgroundunder.pdf](https://www.cms.gov/Regulations-and-Guidance/Legislation/DeficitReductionAct/downloads/TOAbackgroundunder.pdf)
- [justiceinaging.org/20-common-nursing-home-problems/](https://www.justiceinaging.org/20-common-nursing-home-problems/)

Getting Help

- **Case Consultation**
 - Assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at NCLER@justiceinaging.org.

Questions?

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