Introductions

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What is elder abuse?

When an older adult experiences:
- Physical abuse
- Sexual abuse
- Emotional abuse
- Neglect
- Financial exploitation

(Any of the above may co-occur with each)

What is Financial Exploitation?

- Illegal or improper use of an older adult’s funds, property or assets.
- Because not all older adults use the banking system, consider cash, gold, jewelry, antiques, and homes as assets.

Methods of Financial Exploitation

- Scams
- Identity theft
- Theft
- Coercion and extortion
- Fraud and deception
- Abuse of legal authority (i.e., Power of Attorney)
- Manipulation
Criminal Misuse of Power of Attorney and Guardianship

• Power of Attorney
  - An instrument which delegates to another person authority to make health care and/or financial decisions to another

• Guardianship
  - A court order granting certain powers to a family member, other individual, governmental agency, or institution to control the affairs of another person

Criminal Misuse of Power of Attorney and Guardianship

• Determine if guardian or person with the POA spent victim’s money on themselves rather than to benefit victim.
• Get copy of POA/guardianship documents.
  – Check POA for gifting provision.
• Check for prior complaints or investigations involving either the victim or suspect.
• Work with local experts – probate court and APS.

Financial Institutions

Annette McKeough
Financial Institutions Responsibilities

Financial Institutions play an important role to help detect, prevent, and report financial exploitation of elders and vulnerable adults. They should have an internal program for all colleagues who investigate, document and report concerns of financial exploitation that include:

• Documenting the referral
• Reviewing account relationship: transaction history, internal bank notes, signature cards and legal documents
• Obtaining relevant video surveillance or inbound/outbound call recordings
• Conducting customer or branch colleague interviews
• Completing appropriate account maintenance: block or close account, update authorized account owners
• Reporting and follow-up to appropriate agency

Detecting elder financial abuse

Process that provides continual training on:
• Financial exploitation trends
• Red flags
• Current regulations and regulatory updates

Internal and external referrals continue to be a main detection source that help financial institutions identify financial exploitation. Internal referrals can be received from:

• Branch personnel
• Customer Care
• Back Office Operations
• Investment Services
• Loan services

External referrals can be received directly from:
• Adult Protective Services
• Law Enforcement

All referrals are investigated and reported to Adult Protective Services or Law Enforcement if there are concerns of financial exploitation.

Referrals that involve life threatening or customer safety concerns warrant immediate contact with Adult Protective Services or Law Enforcement to protect the safety of the elder or vulnerable adult.
What are the Red Flags?

Financial Institutions should also provide detailed training for all their colleagues to recognize the Red Flags of potential financial exploitation. Should a colleague within the institution identify Red Flags, a referral should be made to the appropriate department within the financial institution for further investigation (i.e., Fraud and Financial Crimes Department).

Common Red Flags displayed by the elder or vulnerable adult:

- Engages in unusual, erratic or uncharacteristic bank activity (large withdrawals, NSF activity, wires, closing CD’s)
- Lacks knowledge of their financial status or reluctant to discuss
- Acts in a secretive manner
- Suddenly acquires new acquaintances

What are the Red Flags?

Common Red Flags continued:

- Executes POA and is confused by consequences of their actions
- Makes changes to property titles of death designations
- Changes longstanding POA designations
- Indicates mail is no longer delivered to their home
- Appears afraid of the person who accompanies them to the bank
- Bank is unable to speak with the Elder directly
- A normally friendly elderly customer begins to withdraw socially, will not engage in conversation with bank employees
- Nursing Home employee or caregiver appears as a POA or POD on elder’s account

Financial Institutions Responsibilities

If financial exploitation is suspected based on the findings of the investigation, a referral must be made to the Adult Protective Services or Law Enforcement agency. The referral should include a comprehensive narrative of the investigation, date of the agency referral, as well as supporting case documentation.

In addition to the referral, the financial institution should consider placing a block or freeze on all deposit, card, online, and mobile banking accounts to preserve the victim’s assets, pursuant to their standard operating procedures.

Financial Institutions should also follow FinCEN guidelines for SAR filing(s) regarding Elder Financial Exploitation and conduct appropriate investigation follow-up(s) to identify and report any continuing activity.
Wisconsin’s APS System

- Wisconsin is a county based system
- Each county must designate (per WI statute) both an Elder Adult at Risk Agency and an Adult at Risk Agency
- Must advertise a phone number where abuse and neglect can be reported

Wisconsin APS Statutes

- Section 46.90 (Elder Abuse Reporting System)
- Chapter 54 (Guardianship)
- Chapter 55 (Protective Service System; Adult-at-Risk Reporting System)
APS Reporting in Wisconsin

- Limited required reporters
- Voluntary reporters
- Caregiver misconduct reporting system

Who Is Considered an Adult at Risk?

- A person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

Agency Responsibilities

- Respond to and investigate reports
- Offer services
- Make referrals to law enforcement and other community-based agencies
- Initiate appropriate legal responses
APS Investigations

- APS investigations may include one or more of the following:
  - Visiting the residence
  - Observing or interviewing an individual
  - Interviewing the guardian or agent under a power of attorney
  - Reviewing treatment and patient health care records
  - Reviewing financial records

Release of Financial Records

- Financial records shall be released without informed consent under the following circumstances:
  - If contact with the agency is initiated by the financial institution
  - Under a court order
  - An investigation by Adult Protective Services or another investigative agency is initiated under Wis. Stat. 55.043(1r)(b)6.a and b.

Financial Exploitation Numbers in Wisconsin

- In 2019, there were 2003 reports of financial exploitation investigated by APS.
- This represents 20% of all reports received.
- Second largest category investigated next to self-neglect.
Who Commits Financial Exploitation?

- Strangers
- Trusted Individuals
  - Family members and friends
  - Partners
  - Caregivers
  - Strangers who become “friends” (sweetheart scams)
  - Lawyers, doctors and faith leaders and representatives
  - Interpreters who have a unique trust relationship
  - Guardians, Powers of Attorney and other legal representatives

Collaboration

- Collaboration is the key to success when investigating financial exploitation cases.
- Collaborate with:
  - Law enforcement, key banking personnel, and your local District Attorney.
  - Invite them to participate in your local I-Team.
  - Share tough and challenging situations and also success stories.

Law Enforcement

Loreen Glaman
2018

161% increase
17.5% in one year

Law Enforcement Role

• Interviews
• Collect Evidence
• Exam Records
• Analyze and Prepare Reports

Case Initiation

• Reports from Citizens
• Reports from Other Agencies
• Reports from Banks
  – Records without a Subpoena
  – SAR's
SAR’s as a Law Enforcement Tool

- US Dept. of Treasury
- Bureau: Financial Crimes Enforcement Network (FinCEN)
- Suspicious Activity Reports: SAR
  - Financial institutions file when activity is suspicious or has no legitimate purpose
  - Used for lead information only and cannot use info in report or affidavit
  - LE can request banking records without a subpoena

SARS Reports

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<th>Month</th>
<th>2016</th>
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<th>2018</th>
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<td>January</td>
<td>65,988</td>
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<td>70,460</td>
<td>75,234</td>
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<td>February</td>
<td>61,637</td>
<td>65,964</td>
<td>73,927</td>
<td>73,806</td>
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<td>March</td>
<td>64,462</td>
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<td>83,954</td>
<td>89,071</td>
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<td>73,303</td>
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<td>81,282</td>
<td>77,383</td>
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<td>May</td>
<td>75,301</td>
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<td>80,823</td>
<td>77,509</td>
<td>84,790</td>
<td>95,194</td>
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<td>June</td>
<td>71,773</td>
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<td>81,430</td>
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<td>July</td>
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<td>83,264</td>
<td>69,150</td>
<td>79,409</td>
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<td>84,726</td>
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<td>916,283</td>
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SARS Filing
Law Enforcement Responsibility

- Prove the elements of a crime: The “facts”
  - Set of facts that must be proven
  - Facts vary by statute and state

Collaboration

- Gathering evidence
- Reports
- Records

Questions for the Panel
Resources on Elder Abuse

- Wisconsin Elder Abuse Hotline
  - www.ReportElderAbuseWI.org
- Elder Rights Project
  - www.legalaction.org/services/elder-rights-project-elder-abuse-victims
- Department of Health Services
  - www.dhs.wisconsin.gov/aps
- National Center on Elder Abuse
  - https://nclea.acl.gov
- National Clearinghouse on Abuse in Later Life
  - www.ncall.us

Thank You!

Thank you to all of you who are on the front line battling the ever-increasing and complicated cases of financial exploitation.

For questions, please contact:
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