FINANCIAL EXPLOITATION
OF THE ELDERLY AND
VULNERABLE ADULTS:

December 2011

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Olmsted County Adult Protective Services
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>3</td>
</tr>
<tr>
<td>What is Financial Exploitation?</td>
<td>3</td>
</tr>
<tr>
<td>Types of Exploitation</td>
<td>4</td>
</tr>
<tr>
<td>Profiles of Victims</td>
<td>4</td>
</tr>
<tr>
<td>Warning Signs of Financial Exploitation</td>
<td>5</td>
</tr>
<tr>
<td>Minnesota Statutes</td>
<td>6</td>
</tr>
<tr>
<td>How and Where to Report Elder Abuse</td>
<td>8</td>
</tr>
<tr>
<td>Definitions</td>
<td>10</td>
</tr>
<tr>
<td>Signs of Abuse, Neglect and Exploitation</td>
<td>10</td>
</tr>
<tr>
<td>Case Studies in Financial Exploitation</td>
<td>12</td>
</tr>
</tbody>
</table>
INTRODUCTION

Financial exploitation is a serious problem. The most prevalent type of abuse referred to law enforcement is financial exploitation and fraud.

A 2009 Metlife Mature Market Study estimated the national figure for money and property taken from elderly victims at $2.6 billion per year (1). Reports of abuse have increased 150% over the last decade. Unfortunately, this type of abuse is vastly under-reported. In 2011, it was found that only one in 23.5 cases of all types of abuse are reported to any agency. In regard to financial abuse, only one in 44 cases is reported to authorities (2). Vulnerable adults may become victims of all types of abuse due to isolation, physical or mental disabilities and dependence on others for assistance. Abuse often occurs when there are no witnesses. In the case of financial abuse it is highly likely that another type of abuse such as neglect or emotional abuse is occurring simultaneously. Older seniors and those very dependent on others are the most frequent victims. Elderly victims are often reluctant to report abuse because they feel ashamed, embarrassed, humiliated, afraid, may even defend the abuser, or refuse to believe that the people they trusted would do them harm. That is because perpetrators of abuse are generally family members (28%), caregivers (17%), or friends and neighbors (7%). Victims frequently rely on the abuser for some type of caregiving services at home and are afraid if the abuse is reported they will be placed in a nursing home. Some victims are actually able to convince themselves that they deserve the abuse or exploitation. One in ten financial abuse victims will need to turn to Medical Assistance to pay for care as a direct result of their money being stolen from them (3).

There is a compelling need to make all seniors aware of how to protect themselves from violence, abuse and exploitation. Family, friends, volunteers, caregivers and employees of financial institutions must learn to recognize the signs of elder abuse or exploitation, the questions to ask the victim to verify that abuse has occurred, and where to go for help from law enforcement and adult protective services.

WHAT IS FINANCIAL EXPLOITATION?

Financial exploitation is “the illegal or improper use of an incapacitated or vulnerable adult’s resources for another’s profit or advantage.”

This type of exploitation can take many forms such as forgery, misappropriation of cash or assets, abuse of joint accounts, or abuse of power of attorney. Signs of financial exploitation may include disparity between income and assets, unexplained or sudden inability to pay bills, inaccurate or no knowledge of finances, fear or anxiety when discussing finances, or unprecedented transfer of assets to others.

Financial exploitation of a vulnerable adult can occur:
1. Without the individual’s knowledge
2. By trickery, intimidation, or coercion, or
3. When the vulnerable adult is too confused to give informed consent

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(1) MetLife Mature Market Institute, Broken Trust: Elders, families and Finances, Washington, D.C., March 1, 2009
TYPES OF FINANCIAL EXPLOITATION
Financial exploitation of elders can generally be classified in two broad categories:

1) Exploitation by a person known to the victim, such as a family member, acquaintance, caregiver, person acting with power of attorney, or court appointed fiduciary. Examples include:
   - Obtaining money or property by undue influence, misrepresentation, or fraud. The perpetrator coerces the elder into signing over investments, real estate or other assets through the use of manipulation, intimidation or threats.
   - Improper or fraudulent use of the power of attorney or fiduciary authority. The perpetrator improperly or fraudulently uses the power of attorney or fiduciary authority to alter an elder’s will, to borrow money using an elder’s name, or to dispose of an elder’s assets or income.
   - Misappropriation of income or assets. The perpetrator obtains access to an elder’s social security checks, pension payments, checking or savings account, credit card, or ATM card, or withholds portions of checks cashed for an elder.
   - Charging excessive rent or fees for services. The perpetrator charges an elder an excessive rent or unreasonable fees for basic care services such as transportation, food, or medicine.

2) Exploitation by a stranger, including con artists, unscrupulous salesmen or contractors, or person representing a bogus charity. Examples include:
   - Bank Examiner Scam – perpetrator represents him/herself as a bank examiner and convinces an elder to make a large withdrawal to help catch a dishonest bank employee
   - Pigeon Drop – perpetrator claims to have found a sum of money and offers to split it with an elder provided the elder first withdraws an amount equal to his or her share as a sign of good faith.
   - Fake accident ploy – perpetrator convinces an elder that the elder’s adult child has been seriously injured or is in jail and needs money for medical treatment or bail
   - Telemarketing and mail fraud – perpetrator persuades an elder to buy a valueless or nonexistent product, donate to a bogus charity, or invest in a fictitious enterprise.
   - You’ve just won a prize! – perpetrator tells an elder that he or she has won a nonexistent prize or foreign lottery and obtains the elder’s credit card or checking account number to pay for shipping and handling charges or to verify the elder’s identity, or asks the elder to wire money to cover the custom fees or taxes on the prize.
   - Unsolicited work – perpetrator arrives unexpectedly at an elder’s residence and offers to perform work for a reasonable fee; after starting the work, the perpetrator insists that the elder pay more than originally agreed before the work will be completed.

PROFILES OF VICTIMS
Many elderly victims fail to report abuse and financial exploitation for various reasons including:
1. Shame or embarrassment
2. They have a close relationship with the perpetrator whether it is their relative or a trusted caregiver.
3. They want to protect the abuser, particularly if the abuser is their child or grandchild
4. They don’t want anyone to know they can’t manage on their own for fear of being placed in a nursing home.
5. They are unaware that they are being exploited.

Generally a victim of financial exploitation:
- Is female
- Lives alone or with a spouse or relative
- May suffer from some form of dementia or physical impairment and often suffers from multiple limitations that make him or her dependent on others for care
- Tends to be isolated
- May suffer from more than one type of abuse

**WARNING SIGNS OF FINANCIAL EXPLOITATION**

**Elder’s Behavior:**
- Noticeable change in appearance and grooming
- Disorientation; asks same question over and over
- Change in mood
- Change in eye contact with bank personnel
- Cringing or withdrawing
- Hesitancy to enter into conversation
- Nervousness or fear of the person accompanying the elder
- The elder is not allowed to speak or make decisions on their own

**Banking Activity:**
- Numerous withdrawals from accounts that is inconsistent with previous spending habits
- Is accompanied by a stranger to whom the elder looks for guidance or help in conducting business or who pressures him or her to withdraw a large sum of cash
- Appears to have signed a check or document but the signature looks forged, unusual or suspicious
- Has several “out-of-sync” check numbers
- Acquaintance/family member too interested in elder’s finances
- Is concerned or confused about missing funds from his or her account
- Applies for a credit card for the first time
- Fails to understand recently completed transactions
- Has credit card statements that are sent to an address other than the elder’s home
- Changes account beneficiaries
- Changes property titles, deeds or other documents
- Refinances a mortgage
- Makes abrupt changes in a will, trust or Power of Attorney
Subd. 21. **Vulnerable adult.**
(a) "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident or inpatient of a facility;

(2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is served in the Minnesota sex offender program on a court-hold order for commitment, or is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651, 256B.0653 to 256B.0656, and 256B.0659; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for care or services, the individual has an impaired ability to protect the individual's self from maltreatment.

(b) For purposes of this subdivision, "care or services" means care or services for the health, safety, welfare, or maintenance of an individual.

Subd. 9. **Financial exploitation.**

"Financial exploitation" means:

(a) In breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501, a person:

(1) engages in unauthorized expenditure of funds entrusted to the actor by the vulnerable adult which results or is likely to result in detriment to the vulnerable adult; or
(2) fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct or supervision for the vulnerable adult, and the failure results or is likely to result in detriment to the vulnerable adult.

(b) In the absence of legal authority a person:

(1) willfully uses,-withholds, or disposes of funds or property of a vulnerable adult;

(2) obtains for the actor or another the performance of services by a third person for the wrongful profit or advantage of the actor or another to the detriment of the vulnerable adult;

(3) acquires possession or control of, or an interest in, funds or property of a vulnerable adult through the use of undue influence, harassment, duress, deception, or fraud; or

(4) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.

(c) Nothing in this definition requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.


609.2335 Financial Exploitation of a Vulnerable Adult.


Whoever does any of the following acts commits the crime of financial exploitation:

in breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501 intentionally fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct, or supervision for the vulnerable adult; or

(2) in the absence of legal authority:

(i) acquires possession or control of an interest in funds or property of a vulnerable adult through the use of undue influence, harassment, or duress; or

(ii) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.

Subd. 2. Defenses.
Nothing in this section requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

**Subd. 3. Criminal penalties.** A person who violates subdivision 1, clause (1) or (2), item (i), may be sentenced as provided in section 609.52, subdivision 3. A person who violates subdivision 1, clause (2), item (ii), may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.


Subd. 20. **Cause of action for financial exploitation; damages.**

(a) A vulnerable adult who is a victim of financial exploitation as defined in section 626.5572, subdivision 9, has a cause of action against a person who committed the financial exploitation. In an action under this subdivision, the vulnerable adult is entitled to recover damages equal to three times the amount of compensatory damages or $10,000, whichever is greater.

(b) In addition to damages under paragraph (a), the vulnerable adult is entitled to recover reasonable attorney fees and costs, including reasonable fees for the services of a guardian or conservator or guardian ad litem incurred in connection with a claim under this subdivision.

(c) An action may be brought under this subdivision regardless of whether there has been a report or final disposition under this section or a criminal complaint or conviction related to the financial exploitation.

**HOW AND WHERE TO REPORT ELDER ABUSE**

If you suspect one of your elderly or disabled customers is being exploited financially call either law enforcement or Adult Protective Services. Call law enforcement if you think your customer is in immediate danger.

**Law Enforcement**

Emergency 9-1-1
Non-Emergency 507 328-6800

**Adult Protective Services (APS) exists to receive and investigate incidents of abuse, neglect, or exploitation of incapacitated or vulnerable adults, and to offer appropriate services in accordance with individual need and acceptance.**

**Olmsted County Adult Protection:** 507 328-6400
**After regular business hours:** 507 281-6248
WHEN YOU REPORT, BE PREPARED TO SUPPLY AS MUCH OF THE FOLLOWING INFORMATION AS POSSIBLE:

Victim:
1. Name
2. Address
3. Date of Birth
4. Social Security Number
5. Telephone Number
6. Description of the problem, including the victim's physical/mental limitations

Perpetrator:
1. Name
2. Address
3. Phone Number
4. Relationship to victim

Other:
1. Significant other information
2. Physician's name

For further APS information, contact:
Olmsted County Adult Protection Intake at: 507 328-6400

If the client is in a long term care facility The Long Term Care Ombudsman can be contacted at 507-285-7384. The primary purpose of the Long Term Care Ombudsman Program is to identify, investigate, and resolve complaints made by, or on behalf of residents of long term care facilities.

Other agencies that can assist your elder customers include:

Southeastern Minnesota Area Agency on Aging 507 288-6944

Senior Linkage Line 1-800-333-2433

Minnesota Attorney General
Lori Swanson
445 Minnesota Street, Suite 1400
St. Paul, MN  55101
www.ag.state.mn.us
DEFINITIONS:
The following information gives definitions to assist in determining signs of abuse, neglect and exploitation. These factors should be considered when evaluating a facility and how & to whom to report these cases.

Abuse
1. Intentional infliction of physical harm
2. Injury caused by negligent acts of omission
3. Unreasonable confinement
4. Sexual abuse or sexual assault

Neglect
A pattern of conduct without the person's informed consent resulting in deprivation of food, water, medicine, medical services, shelter, cooling, heating or other services necessary to maintain minimum physical or mental health.

Exploitation
The illegal or improper use of an incapacitated or vulnerable adult of his/her resources for another's profit or advantage.

Vulnerable Adult
An individual who is 18 years or older who is unable to protect him/herself from abuse, neglect or exploitation by others, because of a physical or mental impairment.

Incapacity
An impairment by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication or other cause to the extent that a person lacks sufficient understanding or capacity to make or communicate informed decisions concerning his/her person.

Emotional Abuse
A pattern of ridiculing or demeaning the vulnerable adult who is a patient or resident in any setting, in which health care, health related services or assistance with one or more of the activities of daily living is provided, making derogatory remarks to the vulnerable adult, verbally harassing the vulnerable adult or threatening to inflict physical or emotional harm on the vulnerable adult.

SIGNS OF ABUSE, NEGLECT AND EXPLOITATION
Signs of Abuse (include but are not limited to):
- Unexplained bruises, welts, sores, cuts or abrasions in places they would normally not be expected
- Bruising and other injuries may be in different stages of healing
- Bruising or other markings reflect the shape of the objects used to inflict the injuries (e.g., electrical cord or belt buckles, etc.)
• Bilateral bruising on upper arms from shaking
• Fractures in different stages of healing
• Cigar and cigarette burns
• Submersion burns (e.g., sock like, glove like, doughnut like shaped on buttocks) burns can also be patterned like objects used (i.e., electric burner).
• Rope burns on arms/wrists, legs/ankles from improperly tying or bandaging the client

Signs of Neglect (include but are not limited to):
• Bedsores (pressure sores)
• Unkempt, dirty, body odor, feces on body
• Clothing is insufficient or inappropriate for the weather
• Fleas & lice on individual
• Malnourished & dehydrated
• Little or no food available
• Soiled or urine soaked bedding

Signs of Financial Exploitation (include but are not limited to):
• Accompanied by a stranger to the bank who encourages them to withdraw large amounts of cash
• Accompanied by a family member or other person who seems to coerce them into making transactions
• Client not allowed to speak for themselves or make decisions
• Implausible explanation about what they are doing with their money
• Concerned or confused about "missing" funds in their accounts
• Neglected or receiving insufficient care given their needs of financial status
• Isolated from others, even family members
• Unable to remember financial transactions or signing paperwork
CASE STUDIES IN FINANCIAL EXPLOITATION

Case Study Number One:
Mrs. B., age 72, has mild dementia, although she can still appear to function fairly well, especially in brief, superficial interactions. She is very small, fragile, and somewhat unkempt. One day, Mrs. B. went to her small town bank to have her daughter’s name taken off her account. With some hesitation, she told the bank teller that her daughter was “stealing her money.” Mrs. B. was crying when she said this.
A short time after, Mrs. B. and her daughter came back to the bank. Mrs. B. wanted her daughter’s name back on the account. The deeply suspicious bank teller did not want to honor the request and asked Mrs. B. if everything were OK. Mrs. B. said, “Yes, everything has been straightened out,” as her daughter stood by her side.
The teller notified bank officials about her suspicions, but no one called the Adult Protective Services Intake Unit to report possible financial exploitation. The bank thought it would violate a customer’s confidentiality by making the call.
Later, Mrs. B.’s relative called Adult Protection Intake to relay her suspicions, which prompted an Adult Protective Services (APS) investigation. The bank cooperated after it learned APS is mandated to investigate reports of abuse, neglect, or exploitation, and that the law authorizes the gathering and exchange of information from different sources and agencies. APS got assistance for Mrs. B and referred Mrs. B’s matter to law enforcement.

Case Study Number Two:
Mr. P. is a disabled veteran in his 70’s. Troubled by alcoholism and mild dementia, he still appears to function well in superficial exchanges. He is easily manipulated, especially when he has been drinking.
Two sisters befriended Mr. P. Over a fairly short period of time, each took a turn as his fiancée. An employee at the financial institution noticed these women drove Mr. P. through the drive-up window to make frequent cash withdrawals – sometimes several times a day. When questioned by the teller, Mr. P. said he couldn’t remember how often he made withdrawals.
The financial institution’s manager, the one designated to review suspected exploitation cases, was informed of the situation and agreed the teller should call Adult Protective Services Intake. The teller gave the women’s names, explained the situation and said Mr. P. couldn’t remember details of his account or that he sometimes made several withdrawals daily.
Adult Protective Services (APS) interviewed the key individuals in this case and gathered records. Even when presented with these records, Mr. P. could not remember making most of the withdrawals from his account or how much money he had. Mr. P. did know that his “girlfriend” gave him a ride to the bank at the first of each month when he got his check.
After gathering as much evidence as possible, this case was turned over to law enforcement for possible prosecution. In an effort to enable Mr. P. to live as independently as possible, Adult Protective Services is now helping Mr. P. to obtain a conservator so that his money can be managed appropriately.
Case Study Number Three
E. and F., the adult daughters of Mr. and Mrs. S., squabbled about their parents’ finances. As beneficiaries, they feared their parents’ recent expenditures would reduce their inheritance. Mr. and Mrs. S. had an account at a small town bank. Mrs. S. suffered from mild dementia and didn’t always function well. It was easy to get her to say or do whatever someone wanted. Mr. S. always took care of their banking.

One day, E. took her mother out for a day trip without telling anyone, and persuaded her mother to withdraw $6,000 from her and Mr. S.’s joint account. Though the bank employee knew that Mr. S. always did the banking, she honored the request from Mrs. S. However, the employee suspected things were not right. She talked to the manager designated to review cases involving possible financial exploitation. Together, they called Adult Protective Services Intake, which prompted an Adult Protective Services (APS) investigation.

Mr. S. was indignant at E.’s actions. He filed a police report and said he wanted to press charges against his daughter, E. While it wasn’t clear if any charges would ever be filed, APS talked with Mr. and Mrs. S. and their two daughters. Mr. S. and daughter F. both wanted the money returned. In exchange for a promise of no prosecution, E. made restitution to her family by returning the $6,000.