

Testimony before the
US Senate Aging Committee

Wednesday, February 1, 2017

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Introduction

Good morning. My name is Diane Menio and I am the executive director of the Center for Advocacy for the Rights and Interests of the Elderly (CARIE). Thank you, Senator Casey, Chairwoman Collins and members of the committee for your interest in financial exploitation, fraud and scams against the elderly and for the opportunity to present testimony today. I am pleased to be accompanied here today by Charlotte Kitler from Nanticoke, PA, a volunteer in our Pennsylvania Senior Medicare Patrol (SMP) program. In my remarks, today, I'll talk about health care fraud and abuse, scams, and financial exploitation aimed at elders.

Founded in 1977, CARIE is a nonprofit organization dedicated to improving the quality of life for vulnerable older adults. CARIE's focus of concern spans the continuum from those who live at home to those who are living in facilities. Older adults with physical or psychological impairments are often a silent group and are not able to advocate for their needs. We work to protect their rights and promote awareness of their special needs and concerns. We provide a range of services to help older victims of crime, abuse, and financial exploitation including a program that helps elder victims through the court process, assists with victim impact statements and Crime Victim's Compensation. In addition, CARIE coordinates Pennsylvania's Senior Medicare Patrol (PA-SMP) program to help fight Medicare and Medicaid fraud. We have more than 75 retired Medicare beneficiaries who provide peer education about health care fraud and share information about how to prevent becoming a victim.

Elder Abuse – the Issues

Elder abuse is a major problem that causes great suffering. Elder abuse is about 40 years behind child abuse and about 20 years behind domestic violence in terms of knowledge of the problem and a cohesive national response. The World Health Organization captured the essence of the issue when it stated, "Elder abuse is a violation of human rights and a significant cause of illness, injury, loss of productivity, isolation and despair." The mistreatment of elders occurs in both private homes and institutional settings. Elder abuse takes many forms – physical, sexual, neglect, self-neglect, psychological and financial, and it cuts across all racial, ethnic, socioeconomic, and geographic boundaries, although poverty, disability, mental incapacity, increasing old age (those 85 plus) are all factors that create the greatest risk.

According to a study published in the American Journal of Public Health, 11% of seniors interviewed reported at least one form of abuse within the past year. The report went on to say that "the rate of financial exploitation is extremely high with 1 in 20 older adults indicating some form of perceived financial mistreatment occurring at least one time in the recent past." Researchers believe that elder abuse is underreported, since many victims suffer from dementia, feel shame, or fear being forced into a nursing facility, but even so, the statistics are staggering. It is estimated that 10% of those over 60 living at home are victims of abuse and this may reflect only a fraction of the problem. Even more disturbing is that almost half of people with dementia become victims of abuse, financial exploitation, and neglect.

Financial abuse is of epidemic proportions. The MetLife Mature Market Institute estimates the annual financial loss for victims at \$2.9 billion in 2010, an increase from \$2.6 billion in 2008. The economic cost of elder abuse is a major drain on Medicare, Medicaid, and private dollars. Older adults depend upon these resources to help meet their needs as they age, and some lose everything including their homes. Once gone, they often never receive adequate retribution for their loss.

Medicare loses billions of dollars each year due to fraud, errors, and abuse. In 2014 testimony before this committee, the National Health Care Anti-Fraud Association placed these losses at about \$60 billion annually, though the exact figure is impossible to measure. The most commonly cited range for all health care fraud estimates is 3 to 10 percent of annual health care expenditures. In 2012 Medicare expenditures were nearly \$600 billion and are expected to rise as the baby boomer population ages.

The joint Department of Justice and U.S. Department of Health and Human Services (HHS) are making gains in the fight against fraud through their Medicare Fraud Strike Force. In May 2014, HHS announced that, since its inception in March 2007, Strike Force operations in nine locations have charged almost 1,900 defendants who collectively have falsely billed the Medicare program for almost \$6 billion. In addition, CMS, working in conjunction with HHS-OIG, has suspended enrollments of high-risk providers in five Strike force locations and has removed more than 17,000 providers from the Medicare program since 2011

Medicare fraud, errors, and abuse can all result in higher out-of-pocket costs for beneficiaries, such as copayments for health care services that were never provided, were excessive, or were medically unnecessary. Beneficiaries may also find themselves stuck with bills for services from providers who should have billed Medicare but instead billed the beneficiary for the entire cost of that service. Finally, because Medicare numbers also contain Social Security numbers, financial fraud can be a side effect of having one's Medicare number compromised. Medicare numbers are as valuable as Social Security numbers to thieves who wish to set up credit card accounts with someone else's identity.

Unfortunately, the victimization of older adults does not end there. Various crimes, scams, schemes and frauds are routinely perpetrated on older adults often with devastating outcomes. Older adults also experience abuse and exploitation at the hands of their guardians and fiduciaries, the very people who are supposed to be responsible for their well-being.

The People who suffer

While we talk about the great toll that financial exploitation exacts on its victims, it is important to note that the problem of exploitation impacts many people whether their net worth is in the millions, the thousands or even the hundreds.

- Funeral Director Janet Powell-Dailey took advantage of three separate grieving families in their 60's, accepting money for the cremation and burial of their deceased family members. Instead, she left the three bodies in an unrefrigerated garage, where the bodies were left to decay. It was only when the odors from the rotting corpses started to seep

out of the garage that curious neighbors called the authorities and the crime was uncovered. The victims and family members who attended the preliminary hearings sat through graphic descriptions of the various state of decay of their loved ones. The defendant pleaded no contest to theft by deception and receiving stolen property. She was given a sentence of 3-23 months' house arrest, to be followed by 5 years of probation and 300 hours of community service. She will be allowed to seek employment but not in the mortuary field. She was also ordered to pay \$3,482 in restitution.

- On an encouraging note, Mrs. Smith, a homebound beneficiary in central PA called us to thank us and to let us know that she received our ScamWire alert in the morning, which was included in her home delivered meal package. That same afternoon, she received a phone call from a scammer and wanted us to know that she knew not to give out any personal information because of the alert.
- We were contacted by a beneficiary who was a retired medical office worker about a company that was going around in a van, getting personal information from residents (Medicare numbers, birth dates) and dropping off scooters. When the company came to her home, she told them that she would not divulge any information, and demanded that the van driver and his counterpart leave her property immediately. After two days of harassment, she threatened to call the police and they left her alone. The company ultimately did have some information about her, and managed to bill her Medicare number for a \$5,000 scooter that she never received. Several company employees and others who were involved in supplying Medicare numbers were found guilty and sentenced to prison as a result of this scam.
- A podiatrist from King of Prussia, PA billed for hundreds of services for beneficiaries she had never seen, and for people whom she had not seen in years. Some of these consumers approached our SMP staff at a presentation at a senior center attended primarily by Asian elders. They submitted Medicare Summary statements to the SMP, which were forwarded to authorities and contributed to an existing investigation by several law enforcement agencies. We later learned that she submitted fraudulent claims to Medicare totaling more than \$2 million and she received at least \$1.2 million in payments. Included were at least 20 claims that she had treated beneficiaries while she in fact traveling in Paris, France.
- Mary, 71, a Philadelphia resident was contacted by an individual representing himself as a spokesman for Publishers Clearing House. Mary was informed that she had won several hundred thousand dollars but had to pay the taxes on the prize. She initially sent them \$200. She was contacted a second time and told that she misunderstood and needed to send an additional \$2,850 in cash via USPS. Mary finally thought better of what she did and filed a police report. She initially admitted to the first mailing but at the urging of our victim advocate later attempted to make an amended report for the entire loss. (shame kept her from stating the entire loss on the first report). The police were unable to apprehend anyone at the address or telephone number that Mary provided. Nor could she get reimbursement for the money lost through Crime Victim Assistance. We have to be able to offer these victims more security.

- Sheila, 63, a Philadelphia resident was involved in an auto accident. A scammer, passing himself off as a member of the Fire Department's Special Accident Processing Unit, arrived on the scene, won her confidence and eventually scammed her out of \$9,000. The case ended in a guilty plea, probation and \$7,500 in restitution
- Arlene, an 80-year-old widow and resident of a continuing care community in Montgomery County, PA was overjoyed to learn that she had won \$1 million, second prize, in an international lottery. The "scammers" called her on her cell phone and befriended her. They directed her how to wire moneys using Western Union and Money Gram. After almost \$100,000 was wired, she then was told that the winner backed out and she was now the winner of the first-place prize, \$5 million. She would need to wire larger amounts. They called her every day. They knew about her children and her grandchildren. She set up a new bank account transferring funds from a combined brokerage/bank account. In all she wired more than \$800,000. She finally realized she was a victim after her new bank called the Pennsylvania Department of Aging and a protective services worker visited her. She had not told her family about this. The scammers told her to keep it a secret and it would be a wonderful surprise for her family. Her family eventually contacted an attorney who made complaints to the postal service, the US Attorney, the PA Attorney General without success. Arlene now has no assets beyond her monthly retirement income, she cleared out the savings that she and her husband had saved a lifetime.
- Harriet, 77, a resident of Beaver County, PA reported that she was out \$2,500 after she received a call from someone posing as her "grandson" who had been arrested in Nebraska and needed the \$2,500 for his release. Harriet was told to go to Walmart and send a Money Gram. Soon after the money was sent, Harriet realized she had fallen for a scam. She filed a police and an FBI report. Unfortunately, Harriet was unable to recover her funds.
- Gloria, 88 from Delaware county, PA was called by a person who claimed to be her "grandson." When she questioned why he didn't sound like himself he said that he was in an accident and the airbag hit his face. Hearing that he was in trouble, she asked how she could help him. The "grandson" said he needed money which could be delivered via iTunes gift cards. Gloria said she had never heard of iTunes gift cards. Wanting to be helpful she purchased \$7,000 worth of iTunes gift cards. The "grandson" called her back and she read the numbers on the back of the cards. Thinking she was helping a loved one through a difficult time, she learned that the "grandson" she was speaking to was actually a con artist. She may have been eligible for Crime Victim's Compensation but by the time we learned of her loss, the 2-year period for recovery had expired.
- In 2012, Ray, an 89-year-old WWII veteran was befriended by a man claiming to share an interest in antique cars. Thus, began a one year deception scheme which resulted in Ray losing all of his antique cars, his home and all of his personal belongings – when we learned of his loss he was living in the only car he had left. The perpetrator carefully groomed Ray; making the him feel unsafe, threatened, and isolated. The perpetrator was arrested, tried and sentenced to 7-14 years in prison. Additionally, our colleagues at SeniorLAW Center assembled a legal team which successfully recovered his antique cars,

his belongings and reached a confidential settlement in a civil legal suit. In Ray's Own words: "I speak today for the many thousands of elderly victims as myself; in many cases the realization that you've been victimized comes too late, and the scammer has your property, and money..."

Addressing the problems

The need to prevent financial exploitation is imperative. One of the solutions is for older adults and their families to talk about and plan for possible incapacity. For those showing early signs of dementia, this is particularly important, as they may eventually lose all capacity to make decisions including whom they would prefer to act on their behalf. Financial capacity is often the first type of decision-making to deteriorate with the onset of dementia or cognitive impairment, and this decline makes older adults vulnerable to abuse. Since residents of long term care facilities such as nursing homes, assisted living, personal care homes, and continuing care retirement communities may also be victimized, interventions to stop or prevent financial exploitation should also be targeted to consumers in residential settings. Based on CARIE's experience, below are the top five areas for consideration.

1. **Improving education and awareness of and intervention in financial exploitation:** More needs to be done to stress the importance of financial planning through educational campaigns targeting the general public, health care professionals, Certified Public Accountants (CPAs), and others who provide services to elders.
2. **Using fraud detection technologies:** Financial institutions should ensure that their fraud detection systems spot suspicious account activity and products associated with elder fraud risk. This includes using predictive analytics to review account holders' patterns and explore additional risk factors that may be associated with elder financial exploitation. Some signs of elder fraud risk may not match conventionally accepted patterns of suspicious activity, but nevertheless may be unusual given a particular account holder's regular behavior.
3. **Offer age-friendly services:** Banks and credit unions should enhance protections for seniors, such as encouraging them to plan for incapacity. They can offer age-friendly account features such as opt-in limits on cash withdrawals or geographic transactions, alerts for specific account activity, and offer view-only access for authorized third parties. And they can enable older consumers to provide advance consent to share account information with a trusted relative or friend when the consumer appears to be at risk.
4. **Report suspicious activity to authorities:** Financial institutions should promptly report suspected exploitation to relevant federal, state, and local authorities, regardless of whether reporting is mandatory or voluntary under state or federal law. Banks and credit unions can work closely with local Adult Protective Services and law enforcement to enhance prevention and response efforts, including expediting document requests and providing them at no charge. The Senior Safe Act Senators Casey and Collins have introduced will help advance this goal.
5. **Improve support for services, including Protective and Legal Services:** We need more workers and different types of expertise, i.e. forensic accountants to assist staff in responding to cases of financial exploitation more effectively. Every state, including Pennsylvania, has an adult protective services (APS) system authorized under state law to receive and respond to reports of abuse of elders. With more attention to elder abuse especially financial abuse many state and

local APS programs are receiving increasing numbers of reports to investigate. Unfortunately, in many jurisdictions they are being swamped as their funding has remained static and cut in many states. According to the latest data available from 2014, 34 states, use Social Services Block Grant funds to support APS, including \$6.38 million in PA. This is the funding available for APS in our communities. Yet, SSBG is under major threat of elimination in the Congress. If SSBG funds were lost, states and localities would be very hard pressed to find other funding to investigate the growing numbers of abuse allegations

Other steps include encouraging law enforcement to investigate financial abuse and better publicizing victim's assistance resources.

Conclusion

Elder abuse is a problem most people would rather overlook. While we cannot alleviate all the suffering, we can do better. Fighting elder abuse requires a multidisciplinary approach but unfortunately, systems are not adequate to address all the needs. Informing the public about how to prevent elder abuse in their lives and families is a good first step. We must not let our loved ones live in isolation and we must encourage older adults and their families to talk and plan for incapacity. Older adults should be taught how to be good consumers and to reach out for help when needed. Whenever possible, we must try to better incorporate elder abuse issues into the aging, law enforcement, legal rights, mental health, and disability rights networks. We all must work to balance autonomy, privacy, and safety of older adults when confronting elder abuse.

We are pleased to see the bipartisan attention to elder fraud that the committee continues to prioritize, and that is evident in Senior Safe Act Senators Casey and Collins have introduced. We would be pleased to work along with you to help advance a positive agenda to ensure the dignity and safety of older adults. Thank you again for the opportunity to comment and for sponsoring today's hearing.