

Elder Fraud Presentation



DISABILITY LAW CENTER OF ALASKA



Alaska Legal Services Corporation
& Disability Law
Oct. 1, 2024

What is Alaska Legal Services?



- Offers **FREE** civil legal services to low income Alaskans to protect their safety, health, and promote family stability.
- **Help clients with CIVIL legal matters**
 - Housing
 - Divorce, custody
 - Domestic violence protective orders
 - Debt, bankruptcy / consumer issues
 - Access to health care and public benefits
 - Wills, life planning documents, probate
- **Eligibility:**
 - 125% - 200% Federal Poverty Income Guidelines for Alaska
 - No conflict of interest
 - Civil legal issue



What is Disability Law Center?

- **Offers FREE legal services to people experiencing disabilities**
- **Help clients with CIVIL legal matters**
 - Disability discrimination
 - Health services (Medicaid, Medicare)
 - Special education
 - Applying for SSI (Juneau) or SSDI (statewide)



DISABILITY LAW CENTER OF ALASKA

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Disclaimers

- Goal to provide guidance / steps on how to think about and assist elders
- Not Adult Protective Services
- Providing general legal information, not individual advice
- May want to ask individual questions to a specialist attorney

Elder Clients and Capacity

- What is capacity?
- What is incapacity?
 - “Incapacity” means inability of an individual to manage property or business affairs because
 - the individual has an impairment in the ability to
 - receive and evaluate information or
 - make or communicate decisions even with the use of technological assistance
 - (AS 13.26.680, AS 13.26.695(3))

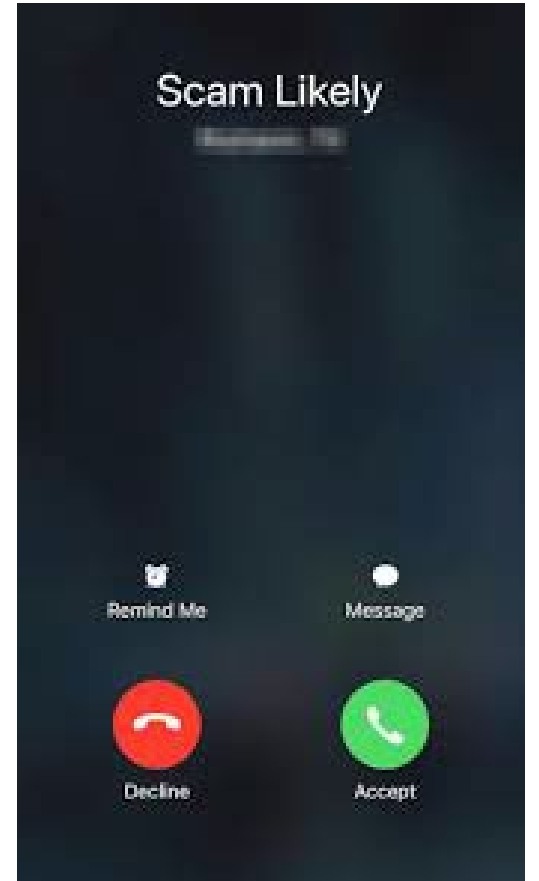
Common types of fraud or financial exploitation

- Scams
- Other debt issues
- From family members
- Elder abuse



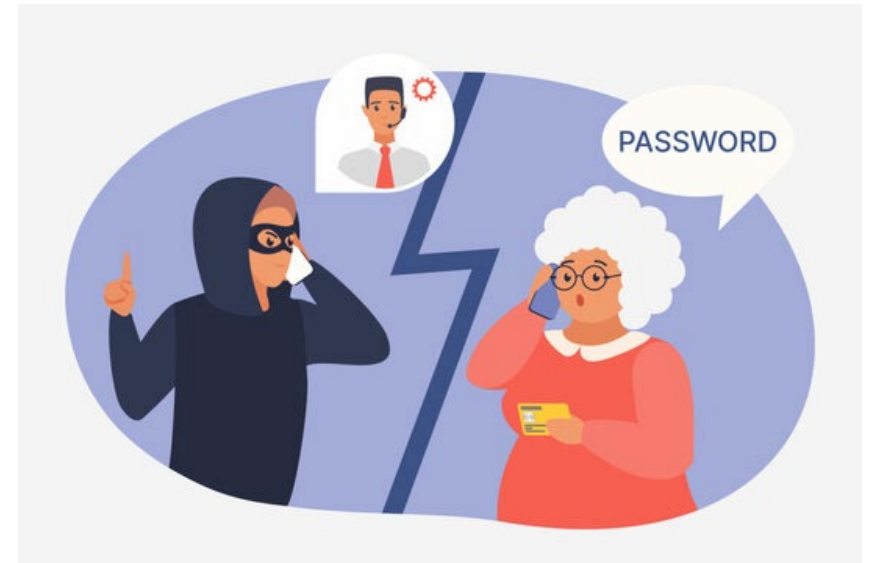
Scams

- IRS
 - Someone impersonating a government official may call, email, or show up at your door requesting that you wire them money to pay taxes or fees
- Grandparent scam
 - Elder receives a phone call from someone claiming to be your grandchild. They say there is an emergency, or they are in trouble- stranded in a foreign country, and need you to wire them money immediately.
- Charity fraud
 - Someone contacts you seeking a donation for charity, often with a sad story. They request you send money immediately.



Scams

- Home Improvement
 - Someone claiming to be a contactor and attempting to coerce you into making a large pre-payment for home repairs. The work is either poorly done or never finished.
- Health Care/SSA scam
 - Someone impersonating a government official may call, email, or write regarding medical expenses, access to Medicare, or Social Security benefits



Indicators something may be a scam

- Social Security or Medicare won't call out of the blue – you will get a notice ahead of time
- Social Security won't
 - Threaten you with arrest or legal action
 - Suspend your Social Security number
 - Pressure you to take immediate action
 - Ask you to pay with gift cards, debit cards, wire transfers, or by mailing cash
- Signs of a scam
 - Notices with typos or incorrect information
 - Demanding immediate action
 - Websites or links that don't go anywhere/ don't work

How to avoid scams

How to Avoid a Scam

Protect yourself, friends, and family — If you receive a suspicious call, text, email, social media message, or letter from someone claiming to be from Social Security:

1. **Remain calm.** If you receive a communication that causes a strong emotional response, take a deep breath. Talk to someone you trust.
 2. **Hang up or ignore the message.** Do not click on links or attachments.
 3. **Protect your money.** Scammers will insist that you pay with a gift card, prepaid debit card, cryptocurrency, wire transfer, money transfer, or by mailing cash. Scammers use these forms of payment because they are hard to trace.
 4. **Protect your personal information.** Be cautious of any contact claiming to be from a government agency or law enforcement telling you about a problem you don't recognize, even if the caller has some of your personal information.
 5. **Spread the word** to protect your community from scammers.
 6. **Report the scam** to the Office of the Inspector General at oig.ssa.gov/report.
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Source: Social Security page, <https://www.ssa.gov/scam/>

Other tips to protect against scams



Do not share sensitive information via phone, email, text, or social media.



Do not transfer or send money to unknown locations.



Consider designating a “safe word” for your family that is only shared with family members and close contacts.



Do not provide any personal or sensitive information to an online chatbot.



Report potential scams to the authorities and the companies involved.

What to do if victim to scam?

- If scam or fraud–
 - Immediately stop sending money
 - Let bank or credit card company know
 - If sent a gift card, contact the company that issued the gift card
 - If sent wire transfer, contact the wire transfer company and ask to reverse the transfer/give you your money back
 - Change passwords
 - Check credit report
- Make reports
 - Local police department
 - Consumer Protection Unit
 - Federal Trade Commission

Other debt issues

- Debt consolidation
- Bankruptcy
- Medical expenses
 - Separate presentation on Medicaid eligibility
 - Some medical providers have hardship exception



Debt consolidation scams

- If someone offers to consolidate your debts and negotiate with your creditors, WATCH OUT.
- Make sure to get, and read, copies of the agreements.
- Confirm with each creditor that the service is making payments.

Cashing a cashier's check for somebody else

- The Internet solicitation or phone call says, “I need someone to cash a cashier's check for me, if you'll do it, you can keep, say, \$500.”
- Problem is, the cashier's check is a forgery, and once you've gotten the money, the bank may think you're a forger.

Recurring donations

- If you want to make a recurring donation, know how to cancel the arrangements.
- Don't set up a recurring donation by accident – if you don't want to do that, uncheck whatever box on the form says that the donation's recurring every month.
- If you didn't know that you were setting up a recurring donation, ask for your money back, and complain to the regulator.

Messages from a distant relative asking for money

- Check with a closer relative.
- Do not send money to anyone you don't know.
- Do not fill out any papers authorizing withdrawals from your bank account.

Protecting your Social Security

- Social Security is exempt from being attached or garnished.
- Have one bank account that has only your Social Security in it – no other income, no money belonging to anyone else.
- Do not transfer your Social Security to anyone.
- If Social Security says that you've been paid too much, you can file a form asking Social Security to waive the overpayment.

Financial exploitation from family or known individuals

- Hard to talk about
- Can be relatively common
- Exploitation: “unjust or improper use of another person or another person’s resources for one’s own profit or advantage” (AS 47.24.900)

Signs of financial exploitation

- Expensive gifts
- Checks made to cash
- Unusual activity in bank account
- Documents signed when incapacitated
- Worried on losing housing, unable to pay bills



Signs of financial exploitation

- Fear or anxiety when discussing finances
- Unusual transfer of assets
- Family member's unusual interest in assets
- Elder with no concept of what's going on
- Unexplained disappearance of possessions or funds



What to do if suspect financial abuse?

- If family situation-
 - Ask elder questions when away from family
 - Give elder access to safe resources
 - Revoke POA
 - Develop a safety plan
 - May consider APS report
 - May consider financial protective order, eviction, or civil action

Defining Elder Abuse and Neglect

- ▶ Abuse: “Willful, intentional, or reckless non accidental, and nontherapeutic infliction of physical pain, injury, or mental distress, or sexual assault
- ▶ Neglect: “the intentional failure by a *caregiver* to provide essential care or services necessary to maintain the physical and mental health of the *vulnerable adult*
- ▶ Caregiver: “a person who is providing care to a *vulnerable adult* as a result of family relationship, or who has assumed responsibility for the care
- ▶ Vulnerable Adult: “anyone 18 or older who because of physical or mental impairment is unable to meet the person’s own needs to to seek help without assistance”

* AS 47.24.900

Signs of Elder Abuse or Neglect

▶ Behavioral Signs:

- ▶ Fear, anxiety, agitation, anger, withdrawal, depression
- ▶ Non-responsiveness, resignation, ambivalence
- ▶ Contradictory statements
- ▶ Implausible stories
- ▶ Hesitation to talk openly
- ▶ Confused or disoriented

Signs of Caregiver Abuse or Neglect of an Elder

- ▶ Prevents vulnerable adult from speaking to or seeing others
- ▶ Anger or indifference toward vulnerable adult
- ▶ History of substance abuse, criminal behavior, or family violence
- ▶ Conflicting accounts of incidents
- ▶ Talks about vulnerable adult as a burden

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Challenges to remedies

- Exploiter may have isolated the older adult, so seeking assistance is hard
- Ending exploitation v. avoiding getting the exploiter in trouble
- Fear of losing contact with family
- Exploiter may need substance use or mental health services
- Older adult may need other services to replace help from exploiter

Source: NCLER Presentation, Financial Exploitation and Family Dynamics (April 25, 2024)

Remedy considerations

- Focus on actual problem
- Should be client centered and directed
- Options may involve litigation
- Possible options
 - Cut off access
 - Revoke POA
 - Protective orders
 - Eviction
 - Civil litigation

Source: NCLER Presentation, Financial Exploitation and Family Dynamics (April 25, 2024)

Adult Protective Services (APS)

- ▶ APS helps prevent or stop harm from occurring to vulnerable adults.
- ▶ Vulnerable adults have a physical or mental impairment or condition that prevents them from protecting themselves or from seeking help from someone else.
- ▶ Alaska Law defines vulnerable adults to include adults 18 years or age or older, not just the elderly.
- ▶ APS Investigates: Abandonments, Abuse (physical, mental, or sexual), Exploitation (Financial), Neglect, and Self-Neglect.

Report Elder Abuse, Neglect, and Financial Exploitation

- ▶ Emergency: Call 9-1-1
- ▶ Police Department
- ▶ Adult Protective Services (800) 478-9996
- ▶ Office of Elder Fraud and Assistance (907) 334-5989
- ▶ Department of Justice- Elder Justice Initiative Website
 - ▶ <https://www.justice.gov/elderjustice>
- ▶ For Financial Exploitation:
- ▶ Federal Trade Commission: 1-877-382-4357
 - ▶ ftccomplaintassistance.gov/#&panel1-1
- ▶ Consumer Financial Protection Bureau
 - ▶ [Consumerfraudreporting.org/reporting.php](https://consumerfraudreporting.org/reporting.php)
- ▶ Put your name on the “Do Not Call” Registry: 1-888-382-1222

Civil Legal Protections

- ▶ Protective Order AS 18.66.100
- ▶ Financial Protective Order AS 13.26.450
- ▶ Power of Attorney
- ▶ Guardianship AS 13.26.005
- ▶ Conservatorship AS 13.26.005

Prevention tools

- POAs and advanced care directives
- Know your rights and resources
- Know warning signs and where to seek help

Resources

Justice in Aging

<http://www.justiceinaging.org/>

Alaska State Association for Guardianship & Advocacy (ASAGA)

(907) 444-4015

1-844-944-4015

<http://asaga.info/>

National Center on Elder Abuse

<https://ncea.acl.gov/>

Resources

- ▶ National Consumer Law Center
- ▶ <https://www.nclc.org/>

- ▶ National Housing Law Project
- ▶ <https://www.nhlp.org/>

- ▶ Alaska Law Help
- ▶ <http://alaskalawhelp.org/>

Thank you for your time!

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