



Andrew M. Cuomo, Governor ~ Gladys Carrión, Esq., Commissioner



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FROM THE COMMISSIONER

Gladys Carrión, Esq.
Office of Children and Family Services

Cost of Financial Exploitation Initiative Launched by OCFS and Local Districts

This past November I sent a letter to all local district commissioners inviting districts to participate in a new OCFS initiative to identify the cost of financial exploitation of vulnerable adults in New York State. While we know that the number of cases involving allegations of financial exploitation is increasing significantly, information regarding the costs associated with such financial exploitation has seldom been collected. Under this initiative we are asking districts to collect such information from their Protective Services for Adults (PSA) cases, to quantify the costs of financial exploitation, not only to the victimized PSA clients, but also to the counties, the State and the federal governments. This is an adaptation and expansion of a similar study conducted in Utah in 2011.



The information to be collected includes:

- a valuation of costs resulting from the financial exploitation, including: the item(s) stolen, the value of the items stolen, the perpetrator's relationship to the client, and the type of financial exploitation;
- the types of assistance, and the new or additional costs of such assistance necessary due to the financial exploitation, including: Public Assistance, Medicaid, Food Stamps, HEAP, Meals on Wheels, placement in residential facility or shelter, etc.;
- the cost to agencies incurred due to financial exploitation of clients: staffing and other costs to the agencies (PSA, law enforcement, district attorneys, home care, medical services, mental health services, shelter/housing, etc.) to provide services to victims of financial exploitation; and,
- additional information including: client profile and health, case characteristics, perpetrator profile, legal action and other status of the case.

Thirty-one districts have volunteered to participate in this initiative. Our Bureau of Adult Services, in conjunction with Yufan Huang, a research scientist from the OCFS Bureau of Strategic Planning, and Tana James, a graduate student from the SUNY School of Social Work, serving an internship with OCFS' Division of Child Welfare and Community Services, has developed a Financial Exploitation Survey Document that districts will complete and submit electronically to OCFS. Conference calls with the Home Office team and representatives from the participating districts to kick off the initiative were held in January. Information will be submitted on open PSA cases from the last quarter of 2012 through the third quarter of 2013.

I have also requested the assistance and cooperation of the Commissioners of Health and of the Office of Temporary and Disability Assistance, other state agencies who oversee many of the benefits and services that may be provided to victims of financial exploitation. Data collected will be analyzed. OCFS, in consultation with the participating districts, will review the findings and develop a report and recommendations as appropriate. We hope to share the results of this study with policy-makers to inform future decisions about resources and interventions to prevent and address financial exploitation. We hope that we can work together to determine whether efforts to prevent financial exploitation of vulnerable adults can also result in savings of public funds, as well as protecting the assets of our clients.

Thanks to all who are participating in this important initiative.





FROM THE DIRECTOR:

Alan J. Lawitz

Bureau of Adult Services

WELCOME...

Christine Coons, who recently joined the Bureau of Adult Services. Chris previously worked several years in the Albany Regional Office of our Child Care Division, monitoring and inspecting child care, investigating complaints of regulatory non-compliance, and reviewing applications of prospective providers. She has also worked at the Statewide Central Register (SCR) and was self-employed as a NYS-registered family day care provider, among other positions. Her experience and talents will augment the ability of our Bureau to serve vulnerable adults in the Protective Services for Adults (PSA) and the Family Type Home for Adults (FTHA) programs. Chris will be working as a Bureau representative with responsibility for PSA in the Finger Lakes region, as well as for several districts in the Eastern region. She is also reviewing FTHA applications and assisting with oversight of inspection and supervision of that program.

CONGRATULATIONS!...

to the **OCFS Bureau of Adult Services**, named by Commissioner Gladys Carrión as Outstanding Team of the month in December 2012. The Bureau was cited for its innovation, collaboration, exceptional customer service and ability to function efficiently and effectively. As Bureau Director, I see on a daily basis how resourceful, positive and dedicated to their work our staff are. I am very pleased for this well-deserved recognition for Mike Cahill, Paula Vielkind, Deb Greenfield, Lisl Maloney and Chris Coons.

THANK YOU FOR A JOB WELL DONE!

To the staff of **Orange, Rockland and Broome County DSS**, whose Adult Services units (involving both the FTHA and PSA programs) assisted OCFS in two FTHA enforcement actions which were resolved late in 2012. In both cases district staff worked together with OCFS Adult Services and Counsel's Office staff to address situations of significant neglect of residents and multiple serious violations of health and safety standards. These cases involved both administrative hearing proceedings and court action.

In one case, OCFS issued a suspension of the operating certificate and ordered transfer of residents based on a finding of imminent danger to residents. Residents from the licensed home were taken and left unsupervised at an unlicensed setting owned by the operator, with no heat, running water, sanitary facilities or supervision of assistance with medication. At least one resident developed hypothermia and needed to be hospitalized. A revocation hearing was scheduled. The operator plead guilty to three counts of endangering the welfare of an incompetent or physically disabled adult and was sentenced to imprisonment. An administrative decision was issued upholding the revocation.

In the second case, OCFS issued a Commissioner's Order upon a finding that the operator was engaging in activity which constituted a danger to the physical or mental health of the residents of the FTHA, and directed that all residents be immediately evaluated by physicians for physical condition and appropriateness of continued retention in that setting, and that the operators cooperate with on-going evaluations of residents by county nurses. This resulted in findings that initially two residents, and subsequently, a third resident, required a nursing home level of care. OCFS initiated a revocation proceeding, resulting in a decision by an administrative law judge upholding the revocation determination. When the operators of the home refused to comply with the hearing decision, OCFS requested that the Attorney General take action to enforce the hearing decision and terminate the operation of a now unlicensed FTHA. The AG obtained a Stipulation by the former licensed operators in which they admitted they had operated an unlicensed home, and a court decision barring the former operators from ever operating a FTHA without prior approval by OCFS, and stating that should they do so, they would be subject to a civil penalty of \$1,000 a day. Special thanks in this case are due as well to Deb Greenfield, and to Mike O'Brien and Derek Jackson of OCFS Counsel's Office, for representing OCFS in this significant and labor-intensive enforcement matter.

Fortunately most of our FTHA operators are caring providers who have a genuine regard for the health and safety of their residents. However, these cases point out the need for the districts and the State to continue to work together to monitor the quality of care provided to the dependent adults who reside in these homes, and the need to be ever-ready to take action to protect such residents in appropriate cases.

Alan



Alan Lawitz at podium, providing introductory remarks at the Financial Exploitation Summit, preceding a multi-disciplinary panel discussion with, L-R, Daniel Marson, PhD, JD; Lin Saberski, Deputy Commissioner, NYC APS; Gary Brown, Assistant Attorney General; Jean Callahan, Director, Brookdale Center for Healthy Aging; Mary Tucker, attorney for Wells Fargo Advisors; Art Mason, Director, Lifespan Elder Abuse Prevention program; Mike Coluzza, First Assistant District Attorney, Oneida County.

Focus on Collaboration at First NYS Financial Exploitation Summit

On October 2, 2012, OCFS sponsored a Financial Exploitation Summit in Albany, inviting representatives of financial institutions, law enforcement, district attorneys, PSA, Office for the Aging and others to discuss how these fields can work together to recognize and respond to financial exploitation of vulnerable adults. Over 140 professionals from these and related fields attended. The agenda for the Summit included:

- An introductory presentation by Alan Lawitz, Director of the Bureau of Adult Services, on “Nine Things You May Not Know About PSA and Its Role In Investigation of Financial Exploitation,” and on the New York Banker’s Association’s “Best Practices on Reporting of Possible Financial Exploitation of the Elderly.”
- A multidisciplinary panel discussion and Q and A about a financial exploitation case scenario;
- A presentation by Jenefer Duane, Senior Program Analyst for the federal Consumer Financial Protection Bureau, on different collaboration models and promising practices in developing multidisciplinary teams (MDTs) focusing on financial exploitation.
- Regional workgroup sessions addressing the roles of the various fields in financial exploitation cases involving vulnerable adults and discussing how social services, financial services, law enforcement, and district attorneys can work together in their region on such cases. The regional groups reported out to the larger group.

One of the primary goals for this summit was to facilitate making contacts with others within a given region and encouraging discussions which could lead to the formation of a MDT or the enhancement of an existing MDT. OCFS will be continuing to promote the use of MDTs to address adult abuse/elder abuse issues and cases.

If you would like to receive a copy of “Nine Things You May Not Know About PSA and Its Role in Investigation of Financial Exploitation” and/or the New York Banker’s Association Best Practices on Reporting of Possible Financial Exploitation of the Elderly, please e-mail Alan Lawitz at Alan.Lawitz@ocfs.ny.gov.



Jenefer Duane, Older American Senior Program Analyst, Federal Consumer Financial Protection Bureau



At the Financial Exploitation Summit



Cassandra Chandler, Bank of America, Corporate Compliance Executive



Photos From 2012 Adult Abuse Training Institute



Daniel Marson, PhD, J.D., provides AATI Keynote presentation on diminished financial capacity in older adults and related medical, legal and ethical issues. On the dais are (right to left) Alan Lawitz, OCFS Deputy Commissioner Laura Velez and Acting Director, NYS Office for the Aging Greg Olsen.



Corina Naughton, Lecturer, University College, Dublin, School of Nursing, Midwives and Health Systems, presenting at workshop on "Global Perspectives of Elder Abuse"



Presenting on Voluntary vs. Involuntary Interventions are, L-R, Raven Ryan-Solon, Agency Attorney, NYC HRA Office of Legal Affairs; Ternesia Calhoun, Deputy Director, Queens APS, NYC HRA



Presenting workshop on collaboration between financial advisors and PSA caseworkers to identify and prevent financial exploitation are (standing) Alfie Schloss, Reverse Mortgage Loan Originator, Association Mortgage Banks, Inc. and (seated, L-R) Marjorie Windheim, Adult Services Supervisor, and Lori Gifford, PSA Caseworker, both of Rockland County DSS

Successful Monroe County Collaboration: Why Tracey (EAPP) and Danielle (APS) are the Best!!

By David H. Mawhiney, *Casework Supervisor*,
Adult Protective Services East, Monroe Co. DSS

This past summer, an adult son named David* called Eldersource (a coalition between Lifespan and Catholic Family Center to provide guidance and services to the aging population) to report concerns about his 79 year old mother, Jane, and her finances. According to David, his brother Nick had become Power of Attorney (POA) for Jane about one year ago. David had acquired a copy of Jane's bank statement that showed her account had been depleted by roughly \$33,000 in less than one month. Due to the nature of the concerns Eldersource referred the case to Lifespan's Elder Abuse Prevention Program (EAPP).

Tracey, the assigned EAPP worker, interviewed David and learned that Jane was living in an assisted living facility and was believed to be suffering from dementia. The cost of care at the facility was approximately \$3000 per month.

Tracey also learned that Jane had sold her house in December 2011 for about \$140,000, the proceeds from which were deposited in Jane's primary account. David believed that by the time he reported the case, the account only held about \$19,000.

Tracey conducted a face to face interview with Jane. During the interview Jane required repeated reminders as to who the EAPP worker was and why she was there.

At this point Tracey determined that the extreme nature of the case and the level of Jane's confusion put it beyond the normal scope of the EAPP program. A referral to Adult Protective Services was made on July 31, 2012.

Danielle was assigned as the APS worker. After consulting with Tracey, a joint visit was made to Jane. At that visit, it was learned that the principal account was now down to about \$3200 dollars. Jane had given Nick a credit card for repairs to his car and he still had the card. There was a savings account in another bank that contained roughly \$18,000.

Subsequently, Danielle and Tracey decided to split the responsibilities presented by the case. Tracey would communicate with the banks involved, accumulate whatever financial records were available and enlist the services of a forensic accountant. Dependent on the findings of the accountant, Tracey would also contact law enforcement to determine if there was a prosecutable criminal case.

Danielle would address the issues around the POA. With Jane's consent, Danielle would have a free credit report completed. She would also investigate the background of the suspected perpetrator. Additionally, Danielle would make contact with Jane's primary care physician.

Both workers maintained contact with Jane, her family and with each other. The family consisted of David (the referral source), Joan (a sister who lives locally), a daughter who lives in a southern state and Nick.

The forensic accountant (who was available through Lifespan under a grant) was able to determine that there was in excess of \$125,000 that was unaccounted for. Tracey took this information to local law enforcement but issues arose around jurisdiction. The questionable transactions had taken place in several locations in Monroe County and adjacent counties. The New York State Police were then contacted.

Once it was determined that the State Police would have jurisdiction, both Tracey and Danielle met with the investigator to lay out what they had uncovered. The fraud units of the banks were also alerted to the situation.

The credit report revealed that there was an additional \$9000 spent from various credit cards that had been taken out in Jane's name. There were also Veteran's benefits that had been allowed to lapse during the timeframe in question.

Danielle also found that Jane's dementia and difficulty taking care of her needs had started long before the POA had been established. Jane had been evaluated at a memory clinic in March 2011 which further documented the cognitive impairment. Jane's primary care physician provided a letter stating that Nick had been made aware of his mother's deficits prior to obtaining POA.

Danielle assisted with the revocation of the POA. (It should be noted that as an Agent Nick was not entitled to any compensation, nor had a statutory gift rider been signed in the original document). She later arranged for Joan to become representative payee and POA for Jane. While Jane has dementia and would sometimes be confused, she was still able to make decisions about who she wanted her agent to be to act on her behalf. This included notifications to Nick and the various financial institutions involved. (During this time Nick had been in jail and prior to that leading a very transient life otherwise.) Danielle also consolidated Jane's finances to simplify them for Jane and her new POA.

Both workers advocated for the client with the assisted living facility. Jane had become at risk for eviction from the facility due to non-payment. While good faith payments have been made, the Veteran's benefits have not begun to flow. Additionally, there was a delay in the banks acceptance of Joan as the new POA, which essentially stopped the cash flow for a time.

Epilogue

The case remains open and ongoing. Nick was arrested by State Police while trying to access Jane's account at an ATM in Ontario County. Nick is currently in jail awaiting trial on Grand Larceny in the 2nd degree charges. He could face up to 15 years in prison if convicted. In the process of doing the background check on Nick, it was found that he had applied for benefits in two counties other than Monroe. Fraud charges are being evaluated in those counties.

The Veterans Administration has just released the benefits that had lapsed. These funds should allow Jane to pay off her arrears at the assisted living facility and remove her risk of eviction. The banks have also accepted Joan as POA for Jane. This has occurred in the last three days and will allow business to resume as normal. APS and EAPP are nearing the end of the trail...until the next time.

Danielle and Tracey worked this case in tandem. They were in constant contact and readily filled in for one another as needed. This is not only a good example of outstanding case work but also of what multidisciplinary teams can accomplish.

**(Please note that, except for Tracey and Danielle, the actual names of the persons involved are not used.)*



PSA DATA 2012

YEAR	PSA Referrals (All Ages) Statewide	NYC only	NYC Referrals Age 60 or older	Rest of State	Rest of State Age 60 or older	Local Commissioner or Commissioner's designee serving as adult guardian			Financial Exploita- tion Risks Reported	Financial Exploitation as a per- centage of total Perpe- trator- Involved (16A)
						NYC*	Rest of State*	Total*		
2012	39,613	21,509*	60%	1804*	104*	1307	847	2154	2302	36.8%
2011	38,131								1866	32.5%
2010	36,681									
2009	35,623									

*(The referral totals for both NYC and the Rest of State have increased each year from 2009-2012.)

The 2012 PSA Referral number is an increase of over 59% since 1997 (25,000) and of over 30% since 2005 (30,502).

When open and ongoing cases are added to the referrals it's estimated that there are over 53,000 PSA clients statewide

Hudson Valley PSA Supervisors



From L-R: Charles Cerillo (Orange); Monique Brennan (Dutchess); Joycalyn Jordan (Sullivan); John Fella (Rockland); Michael Profera (Greene); Colleen Bartle (Columbia); Kathy Kiernan (Ulster); Digna Manan (Rockland) and Jo Ann Hajek (Ulster) – Standing Tall as the Leaves Fall, at a September meeting

Finger Lakes PSA Supervisors



From L-R: Patti Schwegler (Livingston); Yvonne Plain (Monroe); Audrey Rapp (Livingston); Sarah Matthews (Schuyler); Donna Jensen (Yates); Dave Mawhiney (Monroe); Sue Bacon (Wayne); Martha Hart (Ontario); Kris vonHagn (Steuben)

Adult Protective Workers are “Very Dedicated People Who Work very Hard,” Says Retiring Dutchess County DSS Adult Services Director

By Maryanne Maruschak

After 35 years, I am retiring from Dutchess County. Looking back, the time goes very quickly. I have been fortunate to have been in several divisions in the department. I have worked in the Temporary Assistance Unit, the Special Investigations Unit and for the last nine almost 10 years I have been the Director of Adult Protective Services. Moving to the “services” side was a big decision for me. It was not something I had ever thought about doing. However, it has proven to be a very rewarding experience. Adult Protective workers and supervisors are very dedicated people who work very hard, every day, to ensure that those who are able to, remain in their homes, with some services in place. Unfortunately, that is not always possible, and workers work even harder to find a safe situation for those who can’t or shouldn’t remain at home.

The current climate of budget cuts makes everyone’s job more difficult. Do more with less staff. Mental health issues and substance abuse problems are prevalent with the people we deal with, no increase in mental health services. Sometimes I think APS workers feel that they are unfairly expected to be miracle workers. Many times, I feel that the wonderful solutions they come up with are close to miracles. You all deserve congratulations on the good work you do.

I have enjoyed the Regional Meetings. They are a great opportunity to meet others who have similar problems and see how other counties deal with their problems. If you haven’t attended one, make the effort. The people who attend are great and always willing to help problem solve. Of course, it’s always good to meet with our State people. Thank you all.

Keep up the good work! I wish you all well.

Fondly,
Maryanne

Editor’s Note: *Maryanne retired at the end of 2012. Maryanne, thanks so much for this note.*

Paula Vielkind spoke for all of us at OCFS when she responded to Marianne:

“Thank YOU for the hard work, clear vision, collaboration, understanding and cooperation that extended to your colleagues and those of us at the Bureau of Adult Services who have benefitted from dealing with and learning from you. You will be missed, but ENJOY your well-earned retirement!”

