

ELDER LAW *Update*

NEWS AND IMPORTANT INFORMATION FOR SENIORS AND THEIR FAMILIES



SHOULD SENIORS ENROLL IN A MEDICARE ADVANTAGE PLAN OR STICK WITH TRADITIONAL MEDICARE?

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A recent article by Wendell Potter on medicareresources.org discusses the advantages and disadvantages of Medicare Advantage plans versus traditional Medicare in providing adequate care to seniors. For some people, particularly those without serious illnesses, Medicare Advantage may be the best choice. This is because some Medicare Advantage plans offer benefits not provided by original Medicare, such as dental coverage, vision coverage, hearing aids, gym memberships and more.

However, elderly Americans with serious ailments might be better off sticking with Medicare. Similarly, people who are already enrolled in a Medicare Advantage plan and develop a serious ailment might want to drop the Medicare Advantage plan and return to traditional Medicare. Why? Medicare provides what the article refers to as “unfettered access” to treatments and physicians. That is, people on Medicare have greater access to doctors and facilities of their own choosing.

Another potential problem with Medicare Advantage plans is they empower Utilization Management nurses to make decisions about the type of care received by patients. These nurses work for the Medicare Advantage plan provider. They likely have no direct contact with the patient and do not fully understand his or her specific needs. Utilization Management nurses have the authority to deny coverage for treatments desired by patients and recommended by their attending physicians.

In the article, Potter quotes Judith Stein, Executive Director of the Center for Medicare Advocacy in Connecticut. Stein summarizes the issue this way:

“Private Medicare Advantage plans work for people when they are relatively well, but fall short of traditional Medicare when they are sick or disabled. This is particularly true for our clients with long-term and chronic conditions, many of whom also have low incomes. They are often denied coverage for necessary skilled

SHOULD SENIORS ENROLL IN A MEDICARE ADVANTAGE PLAN OR STICK WITH TRADITIONAL MEDICARE? (CONT.)

care, or it is terminated before it should be, while the same coverage would be available in traditional Medicare.”

Given the high cost of medical care and the shortcomings of Medicare Advantage plans, the best approach might be

to choose traditional Medicare and supplement it with a Medigap plan. Visit <https://www.medicareresources.org/blog/2015/11/19/why-mom-went-back-to-traditional-medicare/> to read the entire article.

WHAT YOU NEED TO KNOW ABOUT FINANCIAL ELDER ABUSE

Let's start with a definition. Financial elder abuse, also known as material exploitation, is the illegal or improper use of an elderly person's funds, property, or assets. Examples of this type of abuse include, but are not limited to:

- Cashing an elderly person's checks without authorization or permission
- Forging an older person's signature
- Misuse or theft of an older person's money or possessions
- Deceiving or coercing an older person into signing any document, such as a contract, will, title, etc.
- Telemarketing scams. This can involve making exaggerated claims about investment returns, scare tactics and other fraudulent acts to get seniors to send the perpetrator money or credit card information
- The improper use of conservatorship or power of attorney



It is estimated that every year some five million seniors fall victim to financial elder abuse. The number of victims may well be considerably higher. Many seniors are unaware that the financial abuse is taking place, while others are unwilling

to report it out of embarrassment or fear for their safety.

Maybe you suspect that an elderly family member or loved one is being subjected to some form of financial abuse but are not sure. Here are a few signs to look for:

- Sudden changes in bank account balances or banking practices, particularly unexplained withdrawal of large sums of money when the older person is accompanied by another individual
- Additional names being included on bank signature cards
- Unauthorized withdrawal of the elder's funds using his or her ATM card
- Sudden changes to a will, trust, power of attorney, or other financial document
- Disappearance of funds or valuable possessions that the elder person can't explain or refuses to discuss (perhaps out of fear)
- The elder person receives substandard care or accumulates unpaid bills even though adequate financial resources are available
- Discovery of a forged signature for financial transactions or the titles of the elder person's possessions
- Sudden appearance of previously uninvolved relatives who claim to have rights to the elder person's affairs and possessions

WHAT YOU NEED TO KNOW ABOUT FINANCIAL ELDER ABUSE (CONT.)

- Sudden transfer of assets to a family member or someone outside the family that the elder person can't or won't explain
- Provision of services to an elder person that do not seem to be necessary

Sadly, financial elder abuse is often perpetrated by the senior's own family, including sons, daughters, grandchildren and spouses. Abusers also include predators, such as people professing to have fallen in love with

the elderly person or marketing themselves as personal caretakers. Unscrupulous professionals and business owners often take advantage of the elderly by charging more for services, recommending unnecessary services or taking money up front for services that are never provided.

To learn more about financial and other forms of elder abuse, visit http://www.preventelderabuse.org/elderabuse/fin_abuse.html.

ONE OF THE MOST IMPORTANT CONVERSATIONS YOU SHOULD HAVE WITH YOUR FAMILY



As an estate planning and elder law firm, we strive to provide all of our clients with the tools and strategies they need to prepare for whatever comes along, including wills, trusts, advanced directives, and more. While it is vitally important for you to have these documents, it is equally important to talk to your family about them.

It is entirely possible that your children and other loved ones would like to know, for example, how you want to be cared for in the event of incapacity or an end of life situation. But do your loved ones know that you have made your wishes clear through advanced directives and the thinking behind the choices you made? Do they know that you have created a power of attorney that allows a person of your choosing to make medical and/or financial decisions on your behalf? Even if they understand that you have done so, do they know where the documents can be found? If the documents are on your computer, do your

loved ones know what file name or password must be used to access them?

Similarly, your children may wonder about your financial situation. Is your house paid for, or are you carrying a mortgage that will need to be covered if you pass away suddenly? What about your automobile? Have you created a will or trust, and if so, do your children stand to inherit any assets? Your children may be hesitant to ask questions such as these for fear of appearing greedy or insensitive. Yet they may also need this information to do proper estate planning of their own.

We understand how difficult it is to begin a conversation of this nature, and can help you find the best ways to begin one with your loved ones. Experience tells us that families who are able to open up in this manner draw closer together and feel a sense of relief afterwards.

BENNETT WATSON

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A PERSONAL NOTE FROM JOHN & MARNIE

All we do is estate planning and elder law, and we love what we do. Focusing on this specific area of law, enables us to make a real difference in the lives of our client families and add the personal attention required to meet their goals. We take a team approach to estate planning and elder law. You teach us about you and your family, and we teach you about the law. Together, we will create a plan that works.

Each client is different and each case requires careful analysis and review to ensure we are meeting the needs of our clients. We are here to make sure that our clients receive this personalized service and attention to detail. We hold a Client

Orientation Meeting the second Tuesday of each month. This small group meeting allows you to get to know us, ask general questions and see how our process works without making any commitments. This meeting is complimentary but a reservation is required. This is the first step in our process of helping you and your family create estate plans that work and giving you peace of mind.

John & Marnie

John Bennett & Marnie Watson