

Economic Recovery Plan

Most Retiree Social Security Beneficiaries to Receive Payment

By David Godfrey, Senior Attorney
ABA Commission on Law and Aging

In an effort to help stimulate the economy, nearly all retirees will receive a one-time payment of \$250 under the American Recovery and Reinvestment Act of 2009.¹ This payment will make a difference in the lives of millions of retirees, who draw on an average of \$1,153 a month.² These special one-time payments will go to everyone who receives Social Security retirement, Social Security disability benefits, Supplemental Security Income (SSI), Veterans pension or disability benefits, or railroad retirement benefits.³ Payments will be made to all qualified individuals who received benefits in any of these programs during November or December of 2008 or January of 2009.⁴

Not every retiree will receive a payment. To receive payment the person must be a beneficiary of one of the above listed programs and have a payment mailing address in the United States or U.S. territories.⁵ Beneficiaries who are not receiving payments from the listed programs because of unpaid taxes, repayment of overpayments of certain federal benefits, and offsets for unpaid child support will not receive a payment. In addition, SSI beneficiaries who are in skilled nursing facilities with care paid for by Medicaid will not be entitled to payment. Persons who are not receiving payments from the listed programs because of "fleeing felon" status also are excluded from the program.

Disbursements will begin in May 2009 with all payments made by June 4, 2009.⁶ Payment will be made in the same manner as payment of the regular Social Security benefit.⁷ Thus, if a person normally receives payment by direct deposit or electronic benefits transfer this payment will be made by deposit to the same account. If the person normally receives payment by check, they will receive a payment by check.⁸ There is nothing that beneficiaries need to do to receive payment; the law directs that payments be made auto-

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Pro Bono Emeritus

ABA Commission Awards Funding For Pro Bono Indigent Guardianship Projects

The American Bar Association Commission on Law and Aging and the Section of Real Property, Trust and Estate Law are pleased to announce the awards for the 2009 ABA Enterprise Fund Emeritus Attorney Pro Bono Indigent Guardianship Project.

The project is awarding five mini-grants of \$5,000 each to states with emeritus attorney pro bono practice rules to develop model approaches specifically to recruit emeritus pro bono attorneys to handle indigent adult guardianship cases for low-income families and other low-income petitioners. Emeritus rules waive at least some of the licensing

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Elder Abuse Resources Online

The ABA Commission on Law and Aging is continually expanding its catalog of online resources for professionals working in fields related to elder abuse, including the latest information on:

- the Elder Justice Act;
- elder abuse fatality review teams;
- durable power of attorney abuse;
- neglect; and
- state-by-state analysis of laws related to elder abuse (including APS laws, institutional abuse laws, and long-term care ombudsman laws).

Visit the ABA Commission's elder abuse Web page at: <http://www.abanet.org/aging/elderabuse.shtml>

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Economic Stimulus Payments

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matically to everyone who qualifies.⁹ Persons who receive payments from more than one of the benefits programs will receive only one \$250 payment.¹⁰ Hence, if a person receives both Social Security and Veterans benefits they will only receive one payment. For married couples, both husband and wife will receive the \$250 payment under this program.

For beneficiaries receiving "means tested benefits" in a program that receives federal funding, such as Medicaid, federally-subsidized housing, or food stamps, the payment is not counted as income in the month received.¹¹ This means that receiving the payment will not shift a person "over income," or disqualify them from benefits, decrease the benefit they are eligible for, or result in an increase in rent or benefits co-payment or co-insurance. For these programs, the \$250 is not considered an asset or savings until nine months after payment.¹² As long as the beneficiary has spent the payment within nine months of receiving it, it will not push them over liquid asset limits for benefits.

For all beneficiaries the payment is excluded from federal taxable income.¹³

Notes

1. Pub. L. No. 111-5 2009.
2. According to the *Frequently Asked Questions for Retirees* at <http://www.SSA.gov>. It is estimated that Social Security is the sole source of income for 40 percent of beneficiaries.
3. Section 2201 (a)(B).
4. Section 2201 (a)(1).
5. Section 2201 (a)(2).
6. Letter from Cheri Arnott, associate commissioner for external affairs at Social Security, dated February 18, 2009.
7. Section 2201 (a)(5).
8. Section 2201 (a)(5).
9. Section 2201(a)(5) (this program is not tied to tax filing as some past programs were).
10. Section 2201 (a)(C)(3).
11. Section 2201 (c) (1).
12. Section 2201 (c)(1).
13. Section 2201 (c)(2).

Reading Between the Lines: Basic Financial Issue Spotting

**Webinar on Wednesday, April 15, 2009
2:00 - 3:30 p.m. EDT. See pg. 64 in this issue.**

Pro Bono Indigent Guardianship

Continued from page 55

requirements for retired and inactive attorneys who agree to represent clients without charge. Currently 29 states and the District of Columbia have adopted emeritus rules (see list at www.abanet.org/legalservices/probono/emeritus.html).

Following is a list of the organizations funded and a brief description of the projects. The projects run from March through December 2009. For more information, contact Erica Wood at ericawood@staff.abanet.org.

❑ Legal Aid Society of San Mateo County, Calif.

The Legal Aid Society of San Mateo County has a caregivers network that, in turn, has an existing conservatorship project in which caregivers are matched with pro bono attorneys who specialize in probate matters. The current project will expand the conservatorship project by recruiting transitioning and retired attorneys from the probate sections of the San Mateo and Santa Clara county bar associations and the California State Bar Pro Bono Estate Program.

❑ Oregon State Bar

The Oregon State Bar pro bono coordinator will work with the Central Oregon Senior Guardianship and Assistance Program to establish a model emeritus attorney recruitment plan for indigent adult guardianship cases for low-income petitioners.

❑ Legal Aid of West Virginia

Legal Aid of West Virginia and the West Virginia State Bar jointly operate a pro bono referral program serving clients statewide. The current project will add emeritus attorneys who will work on guardianship cases referred by Circuit judges and clerks.

❑ Utah Legal Services

Utah Legal Services will recruit emeritus pro bono attorneys by working directly with the pro bono coordinator of the Utah State Bar and its Senior Lawyers Section, Estate Planning Section, Committee on Law and Aging, and the Utah Commission on Aging to recruit volunteer attorneys to handle indigent adult guardianship cases for low-income petitioners.

❑ Texas Lawyers Care

Texas Lawyers Care, the pro bono department of the Texas State Bar, will work with the Houston Volunteer Lawyers program and the Houston Bar Association to recruit two sets of lawyers—emeritus attorneys and supervising attorneys with knowledge of guardianship. The project will pair lawyers from each set to handle a pro bono guardianship case, and track the progress of the case.

State Pro Bono Emeritus Rules

North Dakota Adopts Emeritus Practice Rule

Emeritus rules waive some or all of the normal licensing requirements for qualified attorneys who volunteer to provide pro bono representation. These rules encourage retired and inactive attorneys to provide valuable community service and help meet the need for legal assistance. North Dakota is the 30th jurisdiction to adopt an emeritus practice rule.

The North Dakota Supreme Court adopted an amended rule on the authorization to practice law for attorneys volunteering with approved legal services organizations as Rule 3.1 of the North Dakota Admission to Practice Rules, effective 3-15-09 (see online at: www.ndcourts.gov/Court/Notices/0090003/order.htm).

For a complete list of states and jurisdictions that have enacted emeritus pro bono rules, the year the rules were applied, and contact information, go to www.abanet.org/legalservices/probonoemeritus.html.

For more information on state emeritus pro bono attorney rules, contact David Godfrey at Godfreyd@staff.abanet.org.

Of Interest

Barriers to End-of-Life Care for Terminally Ill Patients

In a recent editorial published in the *Journal of Palliative Medicine*, Kathryn L. Tucker, J.D., director of legal affairs at Compassion & Choices, discusses the “double barrier” at end-of-life care. Tucker cites research that shows that 70 percent of terminally ill cancer patients are not told of their prognosis, which creates a barrier to understanding options for end-of-life care. The editorial also discusses the limited scope of information regarding the full spectrum of treatment options, including effective palliative care, and makes recommendations regarding the development of Physicians Orders for Life Sustaining Care. The text of the editorial can be viewed at <http://www.liebertonline.com/doi/abs/10.1089/jpm.2009.9675>. For more information contact Kathryn Tucker at ktucker@compassionandchoices.org. Information on Compassion & Choices can be found at <http://compassionandchoices.org/>.

CLE Podcasts from 2008 National Aging and Law Conference Available Online

Download podcasts at <http://www.abanet.org/aging/cle/home.shtml>

If you didn't have the opportunity to attend the 2008 National Aging and Law Conference held December 4-6, in Arlington, Virginia, you now have the chance to listen to podcasts of some of the expert workshops presented.

Each podcast is delivered in a single zip file, consisting of 1) the MP3 audio file, 2) written course materials in PDF, and 3) self-study CLE certificates for the program.

Listed below are the titles of available podcasts.

Help Is On the Way—Interstate Guardianship Jurisdiction

Presenters: Sally Hurme, Terry Hammond, Erica Wood, and Eric Fish

Run Time: 01:16:25

Representing Victims of Abusive Debt Collection

Presenters: Lynn Drysdale, Michelle Weinberg, and Deborah Zuckerman

Run Time: 01:23:13

Coverage for Assisted Living Facility Care in Medicaid HCBS Waivers

Presenters: Eric Carlson and Gene Coffey

Run Time: 01:26:25

Florida's Model Approach to Statewide Legal Services: A Partnership That Works for Florida's Seniors

Presenters: Valerie Soroka, Maureen Kelly, Mary Haberland, Sarah Halsell, and Carol Moody

Run Time: 01:30:02

Issues for Low-Income Medicare Beneficiaries Who Also Receive Medicaid

Presenters: Patricia Nemore and Hilary Dalin

Run Time: 01:13:24

Power of Attorney Abuse: Strategies for Legislative Reform

Presenters: Lori Stiegel, Naomi Karp, Laura Watts, and Linda Whitton

Run Time: 01:17:50

Are Your Clients Missing Out? VA Benefits: An Untapped Funding Source for Veterans and Survivors

Presenters: Mary Ellen McCarthy

Run Time: 01:30:25

To play an audio download in MP3 format, you will need a media player such as iTunes, Windows Media Player, Real Player, or Quicktime. For instructions on loading MP3 files to a portable media device, please refer to your device's instruction manual.

For technical help with the downloads, you may contact the ABA Center for CLE at: CenterforCLEWeb@staff.abanet.org

These podcasts are made possible through the generous support provided by the Administration on Aging, U.S. Department of Health and Human Services. The opinions expressed therein are those of the authors and presenters and do not necessarily reflect the views of the American Bar Association or the Administration on Aging, U.S. Department of Health and Human Services.

Free! Spanish Health and Financial Decisions Brochure

The ABA Commission is providing free bulk copies of the Spanish-language brochure **Health and Financial Decisions: Legal Tools for Preserving Your Personal Autonomy**. The brochure explains the range of legal tools—such as powers of attorney, trusts, health care advance directives, and living wills—that seniors can use to ensure that their personal, health care, and financial wishes are honored in the event they become sick, disabled, or incapacitated. It's a valuable resource for seniors, as well as for lawyers who work with seniors, caregivers, and family members. E-mail the ABA Commission today at abaaging@abanet.org to request your supply.

Financial Fraud Likely to Increase in 2009

By David Godfrey, Senior Attorney
ABA Commission on Law and Aging

Tough financial times increase the risk of becoming a victim of financial fraud, according to experts who spoke at the Federal Trade Commission's Fraud Forum, held in February 2009 in Washington, D.C.

Fraud is "all about the money," according to Lynne Vieraitis, a professor at the University of Texas at Dallas, who spoke at the conference. Her conclusions were based on interviews with 59 prison inmates convicted of fraud.¹

People become victims of fraud because they are driven by "need or greed" echoed speaker Jim Vitale, a one-time convicted con man-turned-consumer advocate. Vitale said that he is concerned that consumers who have seen their net worth drop rapidly in the past year will be easy prey for con men.

Also at increased risk are seniors who need extra income to help their children and grandchildren through tough times.

Vitale explained that con men first identify the need or greed of their potential victim and then focus the pitch of the scam on solving the victims' needs or dreams. Con men play to the emotional needs of the victim, said Vitale, and the current financial downturn is creating a lot of emotional needs.

Recovery of money taken in a fraud crime is almost always impossible. Thus, prevention is the most effective way to stop financial crimes.

Research by Doug Shadel, Washington state director for AARP, reveals that the profiles of victims of financial crime vary according to the type of fraud being committed. At the FTC Fraud Forum, Shadel described his research on fraudulent investments and foreign lottery scams. That research indicated that the most likely victim of an investment fraud is a man, 55 to 61 years of age, who is financially literate, college educated, with a higher than average income, and an optimistic outlook.² The most likely victim of a foreign lottery scam is a woman, over age 70, with less education, an income of less than \$30K a year, limited financial literacy, who has suffered negative life events, and is suffering some cognitive impairment.

Knowing the profile of the most likely victim allows for more targeted outreach for prevention education and pro-

gramming. Shadel's research found that persons who have been given information about fraud and scams were less likely to respond favorably when called with a fraudulent offering as compared to those who had not been given information on fraud.

To avoid becoming a victim of a business opportunity scam or a fraudulent investment scheme, speakers at the FTC Fraud Forum recommended that consumers ask lots of questions. Doug Shadel said that asking a list of 10 questions before responding to the typical phone scam was enough to discourage many perpetrators. Jim Vitale advised asking questions about licensing and registration, and independently verifying the information. Vitale cautioned that many fraudulent businesses will buy a corporation that has been in existence for many years, so that they can answer a question about how long the company has been around. He also revealed that some con men will manipulate Internet search results by hiring people to create favorable Web sites and post positive comments so that the first two or three pages of search results only show good things about the product or business.

The panelists at the FTC Fraud Forum agreed that the con men are busy developing schemes to exploit the need and greed of consumers in these challenging financial times. Knowledge and a healthy dose of skepticism are the best tools to prevent becoming a victim of a financial scam.

Notes

1. See generally, Heith Copes and Lynne M. Vieraitis, *Bounded Rationality of Identity Thieves: Using Offender-Based Research to Inform Policy*, Criminology & Pub. Pol. (forthcoming); Heith Copes and Lynne M. Vieraitis, *Understanding Identity Theft: Offenders' Accounts of Their Lives and Crimes*, Crim. Just. Rev. (forthcoming, advanced access online: doi:10.1177/0734016808330589); Heith Copes and Lynne M. Vieraitis, *The Risks, Rewards, and Strategies of Stealing Identities*, in *Perspectives on Identity Theft. Crime Prevention Studies* vol. 23 (Megan M. McNally and Graeme R. Newman eds., Crim. Just. Press, Monsey, NY, 2008); Heith Copes, Lynne M. Vieraitis, and Jennifer Jochum, *Bridging the Gap Between Research and Practice: How Neutralization Theory Can Inform Reid Interrogations of Identity Thieves*, 18 J. Crim. Just. Edu. 444-459 (2007).
2. For more information see AARP's *Invest Wise* booklet and the DVD *Stolen Futures*. Both can be ordered from the AARP Fraud Fighter Call Center, toll-free at 1-800-646-2283.

Elder Abuse Prevention

Help Is on the Way: Senior Legal Hotlines Respond to Elder Abuse

By Eleanor Crosby Lanier

Most people who work in the area of elder abuse prevention and response understand the importance of creative partnerships in addressing problems related to the mistreatment of vulnerable adults. To that end, statewide senior legal hotlines, sometimes called helplines, can be an important resource for professionals in the field of elder abuse.

The senior legal hotline (SLH) model was developed more than 20 years ago in response to the increasing need for legal advice and assistance among the older population. Today, hotlines exist in more than half the states, D.C., and Puerto Rico, providing confidential legal advice, brief services, self-help information, legal research, and analysis by telephone at no cost to callers. By making efficient use of technology, SLHs can respond rapidly and efficiently to urgent client situations. Staffed by paid and volunteer attorneys and other elder advocates, hotlines routinely provide accessible assistance and direction on a wide range of legal issues and concerns.

While there is no “typical” call for a senior legal hotline, statistics indicate that a hotline caller is likely to be female, low-income, and living alone on a fixed income. In 2007, SLHs reported fielding in aggregate more than 100,000 calls for assistance and handling more than 65,000 cases. This recent productivity report indicated that approximately one-fifth of calls for assistance received came from a non-client caregiver.¹ Approximately two-thirds of hotline calls came from low-income callers (eligible for legal aid), and two-thirds of all callers were older women.²

So why should an elder abuse professional care about SLHs? Because in many jurisdictions, SLHs successfully partner with Adult Protective Services offices, law enforcement, victim services, and other agencies to serve clients with complex legal situations or whose rights are at stake. Front-line workers responding to crisis situations need helpful referrals for clients with legal needs or concerns. Legal hotlines are an important resource because they provide direct,

rapid, and effective assistance in areas related to civil laws and legal issues. Hotline advocates specialize in understanding, communicating, and accessing relevant options and resources.

Most SLHs track calls based on a legal problem code, as opposed to specifically flagging cases that involve allegations of elder abuse, so it is unclear how many calls involve issues related to potential or actual abuse. However, consumer law issues made up the highest percentage of problem types reported, and state studies of unmet legal needs name consumer cases as the largest area.³ The broad category of consumer law includes areas of exploitation, such as home repair scams and telemarketing fraud. In our current economic climate, it can be expected that the need for legal help in this area will grow. Furthermore, SLHs are often called upon to answer questions or discuss issues related to self-neglect, financial exploitation, adult guardianship, advance directives, housing, medical care, and public benefits.

Legal hotline staff can provide training on the differences between legal advice, which can be dispensed only by or under the direct supervision of a lawyer, and legal information that can be shared with clients and families without running afoul of laws regarding the unauthorized practice of law.

In addition to serving as a helpful referral, there are a number of other ways SLHs can effectively partner with elder abuse professionals to prevent and address elder abuse: Hotline staff can serve as experts on multi-disciplinary teams, provide legal information on a wide range of laws to front-line staff, develop and present preventive materials for wide distribution, and respond rapidly to client crises. Senior legal hotlines often play a role in making a case to APS or law enforcement that elder abuse has occurred. Abuse victims and other seniors who call a SLHs connect with advocates who will listen, investigate, coach callers on their rights and legal options, and facilitate and follow-up on referrals, where appropriate.

An example of the many ways SLHs can help is found in the following tale from California. An 88-year-old homeowner, who phoned a senior legal hotline, was at risk of becoming homeless because of the criminal actions of an unlicensed contractor. The caller and his wife were grandparents raising three of their grandchildren in their home. The

Eleanor Crosby Lanier is the managing attorney of the media-tion practicum at the University of Georgia School of Law.

hotline advocate's persistent action eventually led to involvement of APS, state government, and local law enforcement, which ultimately led to the arrest of the perpetrator and the restoration of their home. But that is not all the hotline was able to do for this family. By taking a holistic approach to their legal needs and situation, the hotline advocate was able to help the family rework the terms of their mortgage and avoid foreclosure, increase their income by filing for federal stimulus funds, address issues related to their Medicare and health insurance, and assist with an unresolved personal injury case, among other things.

This couple's story is only one example of the benefits of the hotline approach to address the legal problems faced by too many older Americans, but it provides an example of what is possible when needy and distressed seniors are able to access much needed legal advocacy.

Beyond advice and representation in individual cases, SLHs can participate in creative cross-training with elder abuse service networks.

One example of this approach is cross-training on both legal issue spotting and the bounds of legal information. Since front-line staff are often called upon to provide basic legal information about rights and laws in their jurisdictions, legal hotline staff can provide training on the differences between legal advice, which can be dispensed only by or under the direct supervision of a lawyer, and legal information that can be shared with clients and families without running afoul of laws regarding the unauthorized practice of law.

A clear understanding of this distinction helps non-lawyer elder abuse personnel confidently provide needed legal information that can help prevent legal problems.

Recently, several veteran SLH experts developed a free "Train the Trainer" module titled *Legal Issue Spotting for Non-lawyers*. This training module can be easily used to train front-line workers on how to read between the lines to identify systemic causes of problems and discover underlying legal issues, leading to appropriate referrals for assistance. Identifying and remedying underlying legal issues reduces the recurrence of problems and reduces the syndrome of treating the symptom without curing the underlying cause.

This training program can be downloaded at no cost by visiting the Training Center on Law and Aging Web site (<http://kymil.com/default.aspx>) and selecting the "Issue Spotting" tab.

The program is designed to be a flexible and evolving platform for cross-training involving a wide range of potential partners, including, but not limited to, adult protective services, aging and disability resource centers, area agencies on aging, information and assistance staff, and others working with vulnerable or low-income seniors.

The materials include a Power Point presentation, trainer's notes and script, evaluation forms, and pre- and post-tests. The Training Center's site also houses additional free training materials on elder abuse and adult guardianship that have been customized for a number of states' jurisdictions.

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Membership in the American Bar Association Comes with Professional and Personal Rewards

The American Bar Association represents the best interest of lawyers on a national level—in the courts, in legislatures, in the media, and even in the classroom. Our goal is to serve each and every lawyer, each and every day, by protecting attorney-client privilege, lobbying for protection of legal services funding, educating potential clients on the benefits of legal advocacy, working for more work/life balance, and more.

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State Bar Round-up

Washington State Bar's Elder Law Section Calls for Increase in Medicaid Income-Eligibility Level

The executive committee of the **Washington State Bar Elder Law Section** adopted a resolution in 2007 calling for an increase in the Medicaid income-eligibility level (both the categorically and the medically needy income levels) to the federal poverty level. The resolution relates to Medicaid eligibility for non-institutional care for adults who are 65 or older or disabled.



The income-eligibility levels that currently apply are less than 75 percent of the federal poverty level. For 2009, they are \$674/month for one person. The federal poverty level for one person is \$903.

A related bill, sponsored by state senators Brandland and Hargrove and supported by the elder law section, was adopted by the Washington Legislature and signed by the governor in 2008. That bill, SSB 6583, provided for an increase in the categorically needy income level to 80 percent of the federal poverty level, July 2009, but only if funds for the purpose were appropriated in the next biennial budget. When SSB 6583 was adopted, the revenue shortfalls facing the 2009 Legislature were not anticipated. For more information about the section's efforts, contact section secretary Peter Greenfield at peter.greenfield@columbialegal.org.

New York Elder Law Section Joins National Healthcare Decisions Day

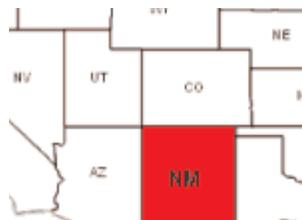
For the past 15 years, the **Elder Law Section of the New York State Bar Association** has sponsored and promoted its "Mitchell Rabbino Decision Making Day" to inform the public about advance directives. This year, the section has decided to join the National Healthcare Decisions Day on April 16, 2009. It is hoped that joining with the national campaign and hosting the Mitchell Rabbino Decision Making Day on April 16 will increase the number of programs and educate even more New Yorkers. Through this public service project, volunteer lawyers across the state give free presentations explaining legal procedures and documents to help make better, more informed healthcare and



financial decisions. Programs are offered in several languages, including English, Spanish, and Chinese. For more information, contact Kathy Plog at kplog@nysba.org.

New Mexico's Elder Law Section Offers Scholarship for Out-of-State Seminars

The **Elder Law Section of the New Mexico State Bar** is offering a scholarship of up to \$800 to its section members to defray the costs of attending an out-of-state seminar or conference. Whether the seminar is about current developments in fields governed by federal law or state law under uniform acts, or training in practical solutions to problems encountered in representing the elderly, the section is willing to help defray the costs of attending for section attorneys. In return, scholarship recipients should be willing to serve as a conduit for fellow section members. Scholarship recipients will have to prepare a 7-10 page report, due within 60 days. For more information, contact Lynn McKeever at lynn@lynnmckeeper.com.



Senior Legal Hotlines

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In times of reduced and endangered funding, it is important that legal services and elder rights advocates work together to help solve the serious problems elderly clients face. Senior legal hotlines play an important role in enabling those with legal problems access timely help.

The ideas for collaboration between SLHs and other elder abuse professionals are bound only by your imagination, time, and resources.

For more information about senior legal hotlines, contact David Mandel, vice-chair of the National Association of Senior Legal Hotlines, at dmandel@lsnc.org, or David Godfrey, senior attorney, ABA Commission on Law and Aging, at Godfreyd@staff.abanet.org.

Notes

1. http://www.legalhotlines.org/standards/files/07_stats_final.pdf (page 2).
2. http://www.legalhotlines.org/standards/files/07_stats_final.pdf (page 3).
3. http://www.legalhotlines.org/standards/files/07_stats_final.pdf (page 4).

Calendar of Events

April 25, 2009, “The National Guardianship Association Colloquium on Guardianship: The Ethics of Our Decisions: Avoiding the Danger Zones.” Charlotte, N.C. For more information and online registration, go to www.guardianship.org/09Colloquium.

May 14-16, 2009, “2009 Equal Justice Conference.” Doubletree Hotel at the Entrance to Universal Studios, Orlando, Fla. Sponsored by the American Bar Association and National Legal Aid & Defender Association.

Plan now to attend the 2009 Equal Justice Conference, the nation’s premier conference for lawyers and advocates involved in the delivery of civil legal aid to the low-income community.

The Equal Justice Conference brings together all components of the legal community to discuss equal justice issues as they relate to the delivery of legal services to the poor and low-income individuals in need of legal assistance. The emphasis of this conference is on strengthening partnerships among the key players in the civil justice system. Through plenary sessions, workshops, networking opportunities and special programming, the conference provides a wide range of learning and sharing experiences for all attendees.

Pro bono and legal services program staff, judges, corporate counsel, court administrators, private lawyers, paralegals and many others attend this event.

View the latest information about the conference online at the Equal Justice Conference Web site at www.equaljusticeconference.org.

May 18, 2009, “Providing Persons with Disabilities and the Elderly with Equal Access to Justice.” Gulfport, Fla., William R. Eleazer Courtroom, Stetson Univ. College of Law. Don’t miss your chance to attend this special one-day program that will address the unexplored and underdeveloped topic of making the litigation process more accessible for the elderly and persons with disabilities.

Taking place at the William R. Eleazer Courtroom at Stetson University College of Law, a one-of-a-kind model courtroom showcasing how design and technology can address accessibility issues for individuals with disabilities and the elderly, this program will focus on courtroom design, the use of service animals, jury selection and access for jurors, parties, attorneys and judges. The program will feature a myriad of top-notch speakers who are leaders and experts in the field.

This program is co-sponsored by the ABA Tort Trial & Insurance Practice Section (TIPS); general committees of health and disability insurance law, law practice manage-

ment, and government law, ABA Judicial Division; ABA Government and Public Sector Lawyers Division; ABA Commission on Mental and Physical Disability Law; ABA Criminal Justice Section; **ABA Commission on Law and Aging**; ABA Senior Lawyers Division; ABA Section of Real Property, Trusts and Estates; and The National Academy of Elder Law Attorneys.

On May 18, 2009, there will be a live webcast of the program. For more information, see the TIPS Web page at <http://www.abanet.org/tips/about/home.html>.

November 5-8, 2009, “NAELA 2009 Doubleheader: Covering the Bases of Elder and Special Needs Law.” Hyatt Regency Jersey City, N.J. Introduction to Special Needs and Elder Law Program & Public Benefits Institute Reservations: (800) 233-1234 (reference NAELA). Rate: \$179 per night. Reservations are on a first-come, first-served basis and cannot be guaranteed after October 9, 2009. **For more information, visit www.NAELA.org.**

May Is Older Americans Month

Each year the Administration on Aging (AoA) issues a theme for Older Americans Month to assist our national aging services network of state, tribal, area agencies on aging, and community services providers plan for activities that might take place in May or throughout the year.

This year’s theme is “Living Today for a Better Tomorrow,” which reflects AoA’s continued focus on prevention efforts and programs throughout the country that are helping older adults have better health as they age and avoid the risks of chronic disease, disability, and injury.

For more information about the 2009 Older American’s Month, including downloadable graphics and a sample press article, go to: <http://www.aoa.gov/PRESS/Observances/oam/oam.aspx>



Webinar

Reading Between the Lines: Basic Financial Issue Spotting

Wednesday, April 15, 2009
2:00 - 3:30 p.m. EDT

This workshop will provide basic training in spotting the most common financial issues for legal service clients. Participants will learn the essentials of spotting eligibility for income and public benefits, as well as learning about financial issues relating to assets and detecting financial exploitation. Financial issues often cause the problems that clients are seeking help with. A holistic approach that solves the underlying financial issue treats the cause, not just the symptoms, of our clients' problems. This workshop is ideal for legal first responders, intake and referral staff, and front-line advocates who need to know how to spot eligibility for income and benefits programs, and to detect exploitation without becoming experts in all of these programs.

This webinar is being taught by **David Godfrey, senior attorney at the ABA Commission on Law and Aging**. Sponsorship is provided by the ABA Commission on Law and Aging, National Consumer Law Center, and a grant from the Administration on Aging.

System requirements for PC-based attendees, required: Windows® 2000, XP Home, XP Pro, 2003 Server, Vista.

For Macintosh®-based attendees, required: Mac OS® X 10.4 (Tiger®) or newer

Space is limited! Reserve your webinar seat now at:
<https://www1.gotomeeting.com/register/508569712>

Guardianship Resources

The ABA Commission on Law and Aging maintains several valuable resources on its **Guardianship Jurisdiction Web page**. These resources include:

- (1) A one-hour, archived Webcast titled "Why States Should Enact the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act" (originally presented on February 5, 2009). Topics covered in the Webcast include an introduction to guardianship and the need for a uniform law; three key problems of interstate guardianship and how the Act addresses them; how the Act could help reduce elder abuse; and advocating for state enactment.
- (2) The article "Nine Ways to Reduce Elder Abuse Through Enactment of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act";
- (3) Three charts on "Reported Cases on Multi-state Guardianship Jurisdiction Issues Supporting Need for the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act"; and
- (4) Three charts on "Multi-State Guardianship Jurisdiction Stories Supporting Need for the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act."

For these, and additional resources, go to: www.abanet.org/aging/guardianshipjurisdiction/home.html.

—Lori A. Stiegel, Senior Attorney
ABA Commission on Law and Aging

Subscribe for Free to *Bifocal*, Journal of the ABA Commission on Law & Aging

Every other month, you will receive timely and valuable legal information pertaining to older persons, generated through the joint efforts of public and private bar groups and the national aging network.

The ABA Commission distributes *Bifocal* online six times a year to elder bar section and committee officers and members, legal services providers, elder law and other private practitioners, judges, court staff, elder advocates, policymakers, law schools, elder law clinics, law libraries, area agencies on aging staff, long-term care ombudsman, senior health insurance benefits program staff, service providers and other professionals in the law and aging networks.

Each issue of *Bifocal* features news on the delivery of legal services to seniors through publicly-funded programs, the private bar, pro bono activities, community legal education programs, activities of state and local bar groups, innovative projects, resource reviews, and substantive law articles.

To read the most recent issue, as well as to search back issues, go to <http://www.abanet.org/aging>

To contact the editor with news about your bar section's or committee's activities, or to submit an article for consideration, e-mail Jamie Philpotts at philpotj@staff.abanet.org. To subscribe, e-mail your name and professional affiliation to Bullockt@staff.abanet.org. Include the word "SUBSCRIBE" in the subject heading.

Get Connected, Stay Connected On Elderbar

Join **Elderbar**, the listserv that brings together public and private sector legal advocates and the aging network. **Elderbar** is for you if you are an:

- Elder law attorney
- Title IIIB legal services provider
- Legal services developer
- Senior hotline attorney or staff
- Long-term care ombudsman
- Senior Health Insurance Benefits Program staff
- Area agency on aging staff
- State unit on aging staff
- OAA-funded elder rights advocate
- LSC, IOLTA-funded, or other non-profit or public sector legal services organization
- Law school elder law or clinical staff
- State or local bar association elder law section or committee leader
- Service provider in the aging network
- National law and aging advocate

Elderbar gives you the opportunity to communicate across the boundaries of the law and aging networks and the public and private legal sectors. Share ideas and information about programs, bar section and committee activities, and learn how others are responding to the increasing demand and finite funding for legal services for seniors.

Elderbar is a project of the ABA Commission's National Legal Assistance Support Center as part of its role in the National Legal Resource Center, funded by the Administration on Aging. It is a closed list; messages can only be posted and read by members.

To get connected to **Elderbar** send your name, e-mail address, and professional affiliation to David Godfrey at Godfreyd@staff.abanet.org.

Call for Nominations

National Family Caregiving Awards

The **National Alliance for Caregiving** and **MetLife Foundation** are pleased to announce that applications are being accepted for the 2009 National Family Caregiving Awards Program. Now in its fourth year, this program is intended to improve the quality of life of family caregivers by recognizing and supporting the important work of community agencies and other organizations that support family caregivers as a significant part of their mission.

Three awards will be given in each of the following two categories:

Caregiver Education Awards will go to groups that have developed exemplary training programs to educate caregivers on topics such as: assisting with activities of daily living, financial planning, time management, and others.

Caregiver Support Awards will go to organizations that provide family caregiver support programs such as respite, counseling, or corporate eldercare in a truly innovative way.

One award in each category will go to an organization working in a community with a population of 100,000 or less.

Two awards in each category will go to an organization working in a community with a population of 100,000 or greater.

Each award will carry a cash value of \$25,000 that will be designated for use in the awardee's caregiver program.

In addition, an **Alzheimer's Recognition Award** will be given to one of the above award recipients that innovatively support family caregivers of those with Alzheimer's disease—and meets the other criteria in the category in which they apply.

A **Cultural Diversity Recognition Award** will be given to one of the above award recipients that innovatively support family caregivers of diverse older adults and meets the other criteria in the category in which the applicant applies.

An **Award for Older Caregivers Caring for Adult Children with Disabilities** will provide one \$25,000 award to a non-profit organization that has established an innovative and effective program to meet the needs of older persons caring for their adult children with disabilities. Potential programs could include counseling to plan for the future needs after the parent dies or innovative support programs to address the immediate needs of the older caregiver.

The Request for Applications and the on-line application are available at http://web.raffa.com/nac/caregiver_awards. **The deadline for applications is April 24, 2009.** For more information, contact Kathleen Cameron at kathleen56@caregiving.org.

In the News

A bill being considered by a Nevada senate panel would approve a power-of-attorney measure aimed at protecting Nevada seniors from abuses by caregivers and, in some cases, their own children. Sponsored by Sen. Bernice Mathews, D-Reno, and endorsed by Barry Gold of AARP Nevada, SB314 would erase the state's limited power-of-attorney laws and replace them with a much broader act proposed by the National Conference of Commissioners on Uniform State Laws. Advocates of the bill say that existing Nevada laws make it hard for seniors to deal with banks and other authorities when they become victims of exploitation.

In December 2008, AARP and the American Bar Association released a study comparing states' power of attorney laws with the new Uniform Power of Attorney Act. The report, titled *Power of Attorney Abuse: What Can States Do About It*, was written by **Lori A. Stiegel**, senior attorney, and **Ellen VanCleave Klem**, staff attorney, of the ABA Commission on Law and Aging. It features background on why the uniform law was developed and highlights key provisions, includes information about each state's power of attorney laws, and provides a detailed chart comparing each state's law with relevant provisions of the new model act. Includes advocacy tips for enacting provisions of the Act. **Link to the 88-page report from the ABA Commission's Elder Abuse Web Page at:** <http://www.abanet.org/aging/elderabuse.shtml>

The FY 2009 Administration on Aging budget signed into law on March 11, 2009, by President Barak Obama, includes \$78 million more than last year's level to support home- and community-based services for older Americans. The total AoA budget of \$1,491,343,000, features a \$23.6 million increase for congregate nutrition programs, a \$20.6 million increase for home-delivered meals programs, and an increase of \$10 million for home- and community-based services. Other increases are included for Native American programs, programs that support family caregivers, long-term care ombudsman programs, senior legal hotlines, and pension counseling projects, among others. See the entire FY 2009 AoA budget, go to: http://www.aoa.gov/about/legbudg/current_budg/legbudg_current_budg.aspx.

Vice President Biden Announced on March 18, 2009, that the Department of Health and Human Services will award \$100 million in Recovery Act funding to provide meals to tens of thousands of low-income older Americans in need. The funding, expected to provide nearly 14 million meals nationwide, will be awarded to 56 states and territories and 246 tribes and Native Hawaiian organizations. States will award the funds to organizations that provide nutrition services in their communities. The Recovery Act funding comes as budget constraints have forced states and tribes to limit community-based services and critical Older Americans Act-related services, including home-delivered meals. For more information about senior nutrition programs and to see a state-by-state breakdown of funding for senior nutrition programs, visit www.hhs.gov.

Join the National Healthcare Decisions Day Initiative!

All adults can benefit from thinking about what their healthcare choices would be if they are unable to speak for themselves. These decisions can be written in an advance directive so that others know what they are. Advance directives come in two main forms:

A “**healthcare power of attorney**” (or “**proxy**” or “**agent**” or “**surrogate**”) documents the person you select to be your voice for your healthcare decisions if you cannot speak for yourself.

A “**living will**” documents what kinds of medical treatments you would or would not want at the end of life.

National Healthcare Decisions Day is an initiative to encourage patients to express their wishes regarding healthcare through conversations and the completion of advance directives. The NHDD initiative also is working with providers and facilities to ensure that individual wishes are respected, whatever they may be. Organizations and individuals interested in participating in National Healthcare Decisions Day should visit the NHDD Web site at: www.nationalhealthcare-decisionsday.org.

The ABA Commission on Law and Aging offers the following free resources to help make, discuss, and document future healthcare wishes and decisions:

Tool Kit for Health Care Advance Planning (www.abanet.org/aging/pdfs/consumer_tool_kit_bk.pdf)

10 Legal Myths about Advance Medical Directives (www.abanet.org/aging/pdfs/myths_and_fact_about_HC_AD.pdf)

Additional resources on advance planning and end-of-life legal issues can be found at ABA Law Info: Your Gateway to Information on Legal Topics that Affect Your Life (www.abalawinfo.org/fam1.html).

Funding Opportunity

Borchard Foundation Center on Law & Aging Invites Applications for 2009-10 Borchard Fellowships

The Borchard Fellowship in Law & Aging affords the opportunity to pursue research and professional interests for one year for two law school graduates interested in, or perhaps already in the early stages of pursuing, an academic or professional career in law and aging.

During the fellowship period, the center's executive director and assistant director stand ready to assist each fellow with the further development of his or her knowledge, skills, and contacts.

A legal services or other non-profit organization involved in law and aging must supervise a fellow's activities and projects.

In addition to the fellow's planned activities and project (unless the fellow's project includes the provision of legal services), the fellow must also provide some pro bono direct legal services to older persons under appropriate supervision.

A fellow is expected to provide the center with monthly activities reports.

The fellowship is \$40,000 and is intended as a full-time position only. The fellow's sponsoring agency is responsible for providing employee benefits, workspace, administrative support, computer, telephone, e-mail access, and employer's FICA payment.

Fellows may live and work where they choose in the United States; fellows must be either U.S. citizens or legal residents.

The fellowship period runs from July 1 to June 30 each year, or for the calendar year beginning the month after the fellow's completion of a state bar examination.

Examples of activities and projects by recent Borchard fellows include:

- Writing and publication of law review articles on law and aging issues;
- Writing and publication of state-specific, consumer-oriented handbooks on legal issues affecting older persons;
- Teaching elder law and related courses at law schools where fellows reside;
- Development of a non-profit senior law resource center providing direct legal services and public education;
- Development of an interdisciplinary elder law clinical program at a major public university law school;
- Development of a mediation component for a legal services program elder law hotline;
- Development of an interdisciplinary project for graduate students in law, medicine, and health advocacy to foster understanding and collaboration between professions;
- Development of training materials and statewide trainings for lawyers, judges and other court personnel, and social service providers on new comprehensive state guardianship laws;
- Organizing and/or attending national conferences on law and aging issues;
- Providing supervised pro bono legal representation of older clients;
- Analysis of Medicare policies;
- Development of legal services programs for older clients in consumer law and small claims matters.

Application Process

Applicants must submit a completed application form, an explanation of the applicant's planned activities and projects, a current curriculum vitae, a law school transcript, a letter of support from the proposed supervisor, and two other letters of support.

Fellowship application information and form are available at www.borchardcenter.org. Completed applications should be sent to:

The Borchard Foundation Center on Law & Aging
Mary Jane Ciccarello, Assistant Director
335 4th Avenue
Salt Lake City, Utah 84103

**Applications must be postmarked by April 15, 2009.
Selections are made by June 1, 2009.**

For further information, please contact: Mary Jane Ciccarello, 801-598-5810, mjcr@xmission.com.