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A Call to Action from the Committee Chair  
*From Chair Ashley R. Iverson*

Dear Elder Law Committee Member:

In 2013, over 4.2 million people age 65 and over (9.5%) were below the poverty level. Another 2.5 million or 5.6% of older adults were classified as "near-poor" (income between the poverty level and 125% of this level). Just over 7.4% of older Whites (living alone) were poor, compared to 17.6% of older African-Americans, 13.6% of older Asians, and 19.8% of older Hispanics. Older persons living alone were much more likely to be poor (16.7%) than were older persons living with families (6.2%). Older women had a higher poverty rate (11.6%) than older men (6.8%). The highest poverty rates were experienced among older Hispanic women (45.4%) who lived alone. Higher than average poverty rates were found for older persons who lived inside principal cities (12.9%) and in the South (11%). *See Administration on Aging, U.S. Dep’t of Health and Human Services, A Profile of Older Americans: 2015.*

These startling statistics shed light on a very real problem in our country. We, as Elder Law attorneys, can be at the forefront of helping those in need. I write this to challenge you to take up this crisis personally to end poverty, promote justice, and help those in need.

Please share your thoughts, ideas, and activities on these issues!

Respectfully,
Ashley R. Iverson  
Elder Law Committee Chair
ARTICLES >>

Elder Abuse
By Ashley R. Iverson

Last month, my grandmother fell victim to a jury duty fraud scheme that has been spreading across the county. Here is how it went down: she received a call on her cell phone from someone claiming to be a sheriff’s deputy. The person stated that my grandmother had failed to appear for jury duty and that there was a warrant out for her arrest. She would spend 30 days in jail or need to pay a bond of $2,000.00 while on the phone. What is even scarier is this individual knew my grandmother was recently widowed. My grandmother pleaded with them to let her call her daughter (my mother) but they indicated that she would be immediately arrested if she hung up. They then instructed her to get prepaid debit cards from the local grocery store and to read the numbers to them – thereby making the transaction untraceable.

It was only after this occurred that my mother called me to inform me as to what happened. While it may seem obvious it was a scam in hindsight, my grandmother, an 86 year-old recently widowed woman, was an easy target. And while she won’t see the $2,000.00 again, she learned that the world we live in is a very different place than the world she grew up in. I implored her to please call me if she is ever in a situation like that again and never to answer the phone from an unknown number. I reported the incident to the state attorney general and found that this scam is spreading across the county.

I share this story to shed light on the fact that elder abuse can occur anytime, anywhere, and to anyone. While this was financial abuse from a third party, it is also common for abuse to occur at the hands of an elderly person’s caretaker and supposed loved ones.

While one sign does not necessarily indicate abuse, the following are some tell-tale signs that there could be a problem:

- Bruises, pressure marks, broken bones, abrasions, and burns may be an indication of physical abuse, neglect, or mistreatment.
- Unexplained withdrawal from normal activities, a sudden change in alertness, and unusual depression may be indicators of emotional abuse.
- Bruises around the breasts or genital area can occur from sexual abuse.
- Sudden changes in financial situations may be the result of exploitation.
- Bedsores, unattended medical needs, poor hygiene, and unusual weight loss are indicators of possible neglect.
- Behavior such as belittling, threats, and other uses of power and control by spouses are indicators of verbal or emotional abuse.
- Strained or tense relationships, frequent arguments between the caregiver and elderly person are also signs.

Most importantly, be alert. The suffering is often in silence. If you notice changes in a senior’s personality or behavior, you should start to question what is going on.
If you suspect someone is being abused, contact your local law enforcement agency or http://ncea.aoa.gov/Stop_Abuse/Get_Help/State/index.aspx.

About the Author: Ashley R. Iverson is an attorney in the Legal Services Bureau of the Kansas Department of Revenue.

Special Needs Trusts
By Ashley R. Iverson

Many Americans find themselves in a precarious position with regard to their finances, but seniors and persons with disabilities are perhaps two of the most vulnerable populations. People with special needs face high rates of unemployment, and many rely on public long-term care supports that requires personal impoverishment to qualify. Sadly, nearly 29 percent of persons with disabilities live in poverty, the highest of any group, and twice the rate of those without disabilities. See U.S. Census Bureau, American Community Survey, 2015 1-Year Estimates (2015).

Thanks to programs like Social Security and Medicare, senior poverty has been reduced. However, it continues to be a real issue for many, particularly among women and minority populations. Most seniors and future retirees cannot afford cuts to social insurance programs, particularly as retirement security remains in crisis, in part due to stagnant wages during their working years and stock market downturns like the recent financial crisis.

The Special Needs Trust Fairness Act allows individuals with disabilities, who have the capacity, to create their own special needs trusts. A Special Needs Trust allows persons with disabilities to supplement daily living expenses (Supplemental Security Income) when government benefits (Medicaid) alone are insufficient, and it protects them against the risk of impoverishment. A Special Needs Trust under 42 U.S.C. § 1396p(d)(4)(A) and (C), is defined as a trust “containing the assets of an individual under age 65 who is disabled ... and which is established for the benefit of such individual by ... a court.”

A recent federal court of appeals’s decision in Decambre v. Brookline Housing Authority determined that the district’s court’s finding that Special-Needs-Trust distributions could be counted as income in determining Section 8 eligibility was incorrect and a misinterpretation of the law. See Decambre v. Brookline Hous. Auth., Nos.15-1458, 15-1515, 2016 U.S. App. LEXIS 10738 (1st Cir. June 14, 2016). This is another victory for Special Needs Trusts and I encourage you to take another look at this option in your Elder Law practice.

About the Author: Ashley R. Iverson is an attorney in the Legal Services Bureau of the Kansas Department of Revenue.
NEWS AND ANNOUNCEMENTS >>

Call for Submissions

The Elder Law Committee is seeking articles for publication in upcoming newsletters. Articles need only be 200-300 words and may cover any topic relevant to elder law or elder-law practitioners. If you are interested in submitting an article for consideration, please contact the Elder Law Committee Chair Ashley Iverson at ash.r.iverson@gmail.com.

Please submit articles by September 30, 2016 for them to be considered for the upcoming Fall Newsletter.

ABA Annual Meeting in San Francisco

Join us at the ABA Annual Meeting from August 4 to August 6 in San Francisco! Here is a tentative schedule of events.

Register here.

For more information, check out the website for the annual meeting.