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### **CEJC News**

#### **CEJC Joins California Collaborative**

The California Collaborative for Long Term Services and Supports, which includes more than 30 statewide organizations that serve or represent older adults or persons with disabilities, is convened by AARP California with support from the SCAN foundation. It is California's version of the "Friday Morning Group Collaborative," a national group of advocates and opinion leaders that is also supported by the SCAN Foundation and convened by the National Council on Aging.

The Cal Commission's mission is to advocate for the "dignity, health and independence of Californians regardless of age who experience disabilities, functional limitations or chronic conditions and who use long-term services and supports. In joining, CEJC endorses the Collaborative's 10 Principles:

1. Dignity: Services are grounded in respect for the person who uses them and driven by the preferences of that person.
2. Choice: Access to all types of services is provided on an equal footing.
3. Flexibility: Services are comprehensive and flexible enough to meet changing needs and incorporate new modes of service and supports.
4. Quality: Public funding and oversight that values and rewards high-quality care.
5. Legality: Services are consistent with the legal rights of individuals who use them.
6. Cultural Competence: Services are appropriate and responsive to the needs of unserved and underserved populations.
7. Accessibility: Services and information about them are easy to locate and use and are physically and programmatically accessible.
8. Affordability: Services are cost-effective for the person and the system.
9. Inclusive: The system recognizes and supports the crucial role of high-quality paid and unpaid caregivers, including family caregivers, and emphasizes the importance of workforce development and training.
10. Independence: Services support maximum independence, full social integration and quality of life.

### **Local/Regional Coalitions Reach Out to Managed Care Providers**

CEJC currently participates in the SCAN Foundation's Local and Regional Coalition program. At a recent meeting, member coalitions reported on activities to get to know managed care programs in their communities that are participating in the Dual Eligible Demonstration (the state's plan to move persons who are eligible for both Medicare and MediCal into managed care). Currently, four communities are participating in the program, and the governor has proposed expanding the program to include six additional demonstration sites. It is anticipated that eventually the program will be implemented statewide. Coalitions' get-acquainted events included inviting managed care providers to stakeholders meetings and providing tours of programs.

CEJC encourages elder justice advocates to attend Dual Eligible stakeholder meetings in their communities or invite managed care providers to meetings of MDTs, forensics centers, FASTs, or other groups to keep members apprised of the Demonstration and acquaint plan personnel with the elder justice networks, abuse reporting laws, and concerns about consumer's safety and security. Health plans participating in the Demonstration pilot counties are:

- Los Angeles: L.A. Care Health Plan and Health Net of California
- Orange: CalOptima
- San Diego: Care 1st, Community Health Group, Health Net of California, and Molina Healthcare of California
- San Mateo: Health Plan of San Mateo

Both California Collaborative and Local Regional/Regional Coalitions members raised concerns during recent meetings about a recently released report by The National Senior Citizens Law Center, which assesses the participating plans' performance.

- For more on the Dual Eligible Demonstration, see *Update on Dual Eligibles* below.
- For more on the NSCLC report, see *NSCLC Raises Concerns about Managed Care Plans for Dual Eligibles* below.

### **CEJC's Leg Tracking Committee Faces Deluge of Bills**

A wide range of bills directly or indirectly related to elder abuse are making their way through the state legislature. Among those of special interest to the newly formed Legislative Tracking Group, a collaboration between CEJC and the Center of Excellence on Elder Abuse, is SB 345. Originally intended to move the Ombudsman Office out of the California Department on Aging (CDA) to better enable the Office to meet its federal mandate to advocate, the controversial bill was supported by some elder advocates and opposed by others (as well as CDA). Stakeholders reached a compromise that was announced to the Assembly Committee on Aging and Long-Term Care during a recent hearing. The bill now aligns state and federal law regarding the Ombudsman Office and highlights the Ombudsman's ability to advocate on behalf of long-term care recipients, something the bill's sponsors say has been politically challenging when the Ombudsman is a state employee. The new guidelines, both sides say, would give the Ombudsman more autonomy to take stands on such issues as cuts to funding. The bill also calls for an annual report and re-establishment of an advisory council.

### **State and Local News (California)**

#### **Bleak State Budget Revision Sparks Responses**

On May 14, Governor Brown released his "May Revise" of the 2012-2013 State Budget, which makes even deeper cuts in state spending in response to disappointing first quarter tax returns. The new proposal includes a \$1.2 billion cut to Medi-Cal, a 7% across-the board reduction in IHSS workers' hours, and \$544 million in cuts to courts. The administration is further proposing to tap \$410 million from the state's mortgage relief settlement fund to put into the general fund. For more on the cuts and advocates' reactions to them, see:

- **PP**ress release from Governor. To access, click [here](#).
- Summary fact sheet on the impact of the cuts on older adults and people with disabilities produced by the SCAN Foundation. To access, click [here](#).
- The California Collaborative has posted reactions from state advocates for seniors and persons with disabilities across the state on Facebook. Groups that are represented include Aging Services of California, Disability Rights California, California Hospital Association and United Domestic Workers (representing In-Home-Supportive-Service providers). To access, click [here](#).

#### **Cuts to ADHC Portend Increased Loneliness**

For the roughly 20% of California seniors who were not allowed to continue in the scaled down version of the Adult Day Health Care program, the result may be more time at home alone. In a two-part series called "The Health Perils of Aging: Lonely and Sick" that appears on HealthyCal.org, author Matt Perry cites research on the impact of loneliness on health and quotes Laura Carstensen, Director of the Stanford Center on Longevity, who suggests that isolation is as

large a risk factor for mortality as cigarette smoking. The article further describes programs across the state that foster social interaction, including a program in Oakland that held almost 70 classes via telephone classrooms for 667 seniors last year. Another program uses volunteers to call 550 older adults in a three county area to socialize, check on their health, and remind them to eat, drink, and take their medicines. To see the article click [here](#).

### **Update on Dual Eligibles**

California's plan to change the way critical health services are provided to low income older adults and people with disabilities has raised widespread concerns ranging from lack of information and understanding about the program, to concerns about plans' performance, to the special challenges faced by rural communities in implementing pilot programs:

- A newly released data brief from the SCAN foundation shows that 13% of dual Eligibles have dementias. To view DataBrief No. 29: Prevalence of Alzheimer's Disease and Other Dementias, click [here](#).
- New Website on Duals. The Department of Health Care Services has a new website that will serve as a clearinghouse to inform the public about the Dual Eligible Pilot Program. It will further provide ways for the public to give feedback and beneficiaries a place to tell their stories. To view, click [here](#).

### **NSCLC Raises Concerns about Managed Care Plans for Dual Eligibles**

On May 2, the National Senior Citizens Law Center (NSCLC) released "Assessing the Quality of California Dual Eligible Demonstration Health Plans," which raises concerns about the eight health plans selected to handle the care of low income older adults and people with disabilities in Los Angeles, Orange, San Diego and San Mateo Counties. The plans will be responsible for providing enrolled dual eligibles with all their needed medical care, long-term services and supports, and behavioral health care beginning January 2013. There are approximately 535,000 dual eligibles living in the four selected counties.

The NSCLC report synthesizes data from the Department of Health Care Services (DHCS) and the Centers for Medicare and Medicaid Services (CMS) on plan quality. The DHCS data reflects how well each plan has performed in the Medi-Cal Managed Care program, and the CMS data reflects plan performance in the Medicare Advantage program.

In the Medi-Cal Managed Care Program, seven of the approved plans received a global health plan rating of only one out of five stars, where one is the lowest rating and five is the highest. In most categories, the plans received no better than a two-star rating in getting needed care, getting care quickly, and shared decision-making. In the vast majority of ratings, all received no better than a one-star rating. Only one plan received a five-star rating (Health Plan of San Mateo) in the shared decision making category.

In the Medicare Advantage program, which evaluates plans using a comparable five-star rating system, all eight proposed demonstration plans were found to be low-performing on at least one composite Medicare quality measure. Two of the plans have been given notice that they are out of compliance with the federal Medicare program. One has been found to be out of compliance for three consecutive years and is at risk for termination of its Medicare contract. Another plan was recently sanctioned by CMS for beneficiary access and performance problems and is currently prohibited from auto-enrolling dual eligibles and other low-income Medicare beneficiaries into its prescription drug plans.

Abbie Totten, Director of State Programs for the California Association of Health Plans, a trade association, urges caution in interpreting the study, attributing the low scores to the methods used by the evaluators. According to Totten, “I think the best indicator of quality is National Committee on Quality Assurance (NCQA) certification, which uses a wide range of health plan quality indicators. It is an intensive process that includes onsite monitoring and quality review.

- To see the NCSLC Report, [click here](#).
- For more on the NCQA, [click here](#).

### **Bay Area Ethnic Elders Especially Vulnerable to Budget Cuts**

On March 22, New America Media (NAM) hosted “Ethnic Elders on the Edge,” a media briefing in San Francisco addressing the impact of the recession and budget cuts on the Bay Area’s 330,000 low-income ethnic elders whose difficulties are compounded by lack of access to available services because of language barriers. According to the presenters, ethnic elders, particularly immigrant seniors with limited English proficiency, are especially vulnerable to budget cuts. Speakers from the San Francisco Family Services Agency, Family Bridges, and the National Senior Citizens Law Center explained older adults’ struggles and what agencies are doing to soften the recession’s impact on food, housing, jobs and health care. The event was sponsored by the San Francisco Foundation.

In a follow up to the forum, Paul Kleyman, director of the NAM’s Ethnic Elders Newsbeat, wrote “‘Silent Crime’ -- Defrauding Elders Grows in Ethnic Communities,” which focuses on ethnic elders’ vulnerability to financial abuse. The article features Sean Do, Victim Witness Investigator with the Consumer Fraud Unit of the San Francisco DA’s office. Among the cases he handles are affinity crimes by scammers who share the same culture and language as their victims. To see the article, [click here](#)

NAM is a non-profit news service working with nearly 3,000 ethnic media outlets in the U.S. that reach an estimated 60 million adults in languages ranging from Polish, to Somali, to Chinese, to Spanish. It provides ethnic audiences with reports that do not appear in the mainstream media with perspectives they feel they can trust. NAM generates original articles, aggregates articles from the ethnic media, and works with ethnic media to translate articles into multiple languages. It also provides professional training for ethnic media journalists through media briefings, journalism fellowships, and conferences on emerging issues. In 2009, NAM launched its Ethnic Elders Newsbeat under the direction of Paul Kleyman, former “Aging Today” editor at the American Society on Aging and founder of the Journalists Network on Generations. The NAM website has generated more than 300 articles that are available at no charge to the aging network. To access NAM’s website, click [here](#).

### **State AARP Joins Antipsychotic-Drug Lawsuit Against Ventura Nursing Home**

AARP has joined what lawyers call an unprecedented class-action lawsuit accusing a Ventura nursing home of using powerful drugs without the informed consent of residents or family members. For more, click [here](#).

### **New Study Finds California's Medi-Cal Caregivers Vulnerable**

According to a new study from the UCLA Center for Health Policy Research, 57% of paid Medi-Cal caregivers and almost half of all paid caregivers in the state have incomes that leave them in or near poverty. According to Geoffrey Hoffman, the study's lead author, the already precarious situation for caregivers could worsen as a result of recent state budget cuts, the transitioning of Adult Day Health Care (ADHC) program participants into a different program, and if further cuts are made to In-Home Supportive Services. To see the report, click [here](#).

### **Lawyers Ponder Capacity to Sign Trusts**

A California appellate case involving the "capacity" needed to sign trust documents is raising new questions among California attorneys. John E. O'Grady, Chair of the Estate Planning, Trust & Probate Law Section of the Bar Association of San Francisco sums up the case and the concerns:

In *Andersen v. Hunt* (2011) 196 Cal.App.4th 722 the Court of Appeal emphasized the long standing rule that the threshold for testamentary capacity to sign a will is fairly low – lower than that for contractual capacity. The Court went on to say that when determining whether a trustor had capacity to execute a trust amendment that, in its content and complexity, closely resembles a will or codicil, we believe it is appropriate to look to standard of capacity for signing wills to determine when a person's mental deficits are sufficient to allow a court to conclude that the person lacks the ability "to understand and appreciate the consequences of his or her actions with regard to the type of act or decision in question." The Court also appeared to limit its ruling due to its conclusion that the trust amendment was not complex. We don't know how to determine what makes a trust or trust amendment complex. For example, is a trust amendment naming a new trustee deemed to be "complex"? This total confusion in the capacity standard for trusts will hopefully be clarified by the legislature or the California Supreme Court in the years ahead.

### **State News (other states)**

#### **New Hampshire becomes First Managed Care State**

On May 9, 2012, the Executive Council of the state of New Hampshire voted to make the state a "Medicaid managed care state" by one vote.

According to Medicaid expert Allan Bergman, who lives in New Hampshire, the action taken by elected officials at the urging of the leadership of the state's Department of Health and Human Services, makes New Hampshire "the first (state) in the country to give complete and statewide financial control of long term supports and services for the developmentally disabled to out-of-state entities who are also for-profit corporations."

#### **Florida Boasts High Return of Losses to Scam Victims**

Florida's Seniors v Crime Project has been highly successful in resolving consumer-related complaints lodged by Florida senior citizens, according to program personnel who claim to

return approximately \$1,000,000 a year to those who have been cheated. The program invites older adults who feel that they've been taken advantage of in civil matters to submit online complaint forms, which are followed up on by "Senior Sleuths" who offer assistance. For more on the program, click [here](#).

Florida has taken other aggressive measures to clamp down on fraud. "The White Collar Crime Victim Protection Act" (F.S. 775.0844) law protects victims, particularly elderly victims, who are deceived and cheated by criminals who commit nonviolent frauds and swindles through the use of the Internet and other electronic technology. It enhances criminal sanctions for the commission of, or a conspiracy to commit, any felony offenses involving fraud or theft.

"Aggravated white collar crime" offenses provide for even greater enhanced penalties, including a first-degree felony designation and a fine of \$500,000 or double the value of the pecuniary gain or loss, whichever is greater. A person convicted of an "aggravated" offense is also liable for all court costs and must pay restitution to every victim of the offense, regardless of whether the victim was named in the information or indictment. The "aggravated white collar crimes" apply to cases in which the victims include either 10 or more elderly persons, a total of 20 or more persons, or the State of Florida, any of its political subdivisions, or any agency of the state or political subdivision. Certain theft or fraudulent practices in which communication is made by or made available through the Internet, are considered to have been made in every county within the state. For more, click [here](#).

### **Oklahoma AARP Takes Stand on In-Depth Background Checks**

Marjorie Lyons, the state president of AARP Oklahoma, recently wrote an Op-Ed in the *Tulsa World* advocating for the passage of HB 2582, which would strengthen how background checks are performed in the state. Lyons explains that currently, a direct care worker could be charged with harmful acts in another state and then move to Oklahoma, where home-care providers are not required to check the Sex Offender and Violent Offender Registries. She suggests that for about a \$4 tax, Oklahoma could require home-care providers to also check these registries. For more, click [here](#).

### **Maricopa County (AZ) Honored for Raising Restitution Recovery Rates**

On April 20, 2012, during the 2012 annual victims' service awards ceremony, Attorney General Eric Holder awarded the Crime Victims Financial Restoration Award to the Maricopa County Adult Probation Department for its Financial Compliance (FINCOM) Program. The program was created to increase restitution recovery by teaching trial officers how to help probationers make compensation to their victims by assessing their remuneration aptitude and building remuneration plans. In 2011, FINCOM composed more than \$10.86 million in restitution, a major increase from the \$4.78 million during the program's initial year. The Crime Victims Financial Restoration Award recognizes individuals, programs, organizations or teams that have developed innovative ways of funding services for crime victims or have instituted innovative approaches for securing financial restoration for crime victims.

### **State Ombudsman Programs in the News**

California isn't the only state in which the Long Term Ombudsman Program has come under scrutiny as demonstrated by recent media coverage in three other states:



- On Apr 11, 2012, the *Des Moines Register* reported that Governor Terry Branstad's recent executive order moving the state's Ombudsman back to the Iowa Department of Aging caught advocates by surprise. In 2010, the U.S. Administration on Aging ordered the director of the aging department to change a policy instructing the Ombudsman to refrain from voicing opinions on federal and state legislation.
- An April 11 *Associated Press* article reported that a circuit judge denied motions by the state and two trade organizations representing nursing homes and assisted living facilities to dismiss a lawsuit brought by the state's former Ombudsman, Brian Lee, who was fired by Florida Governor Rick Scott. After his ouster, Lee established the non-profit, Families for Better Care.
- On April 19, the *Kansas City Star* reported that Governor Sam Brownback's recent appointment of Barbara Hickert, a former nursing home administrator, as the state's Ombudsman was raising concerns by long-term care advocates. The article further quoted Mark Miller, vice president of the National Association of State Long-Term Care Ombudsman Programs as saying "it was rare for a person from the nursing home industry to be appointed to this position." The association is supporting proposed changes to the Older Americans Act that would require a two-year "cooling off" period before someone employed by a long-term care facility or a related organization can be appointed as an ombudsman.

## **National News**

### **New Federal Agency Merges Aging And Disability**

HHS Secretary Kathleen Sebelius has announced that the new Administration for Community Living (ACL) will combine the Administration on Aging, the Office on Disability, and the Administration on Developmental Disabilities into a single administration. The announcement cites as its goal "allowing all Americans, including people with disabilities and seniors, to live at home with the supports they need." Kathy Greenlee will serve a dual role as the Administrator of the ACL and as Assistant Secretary for Aging. ACL will support both cross-cutting initiatives and efforts focused on the unique needs of individual groups, such as seniors with dementia. The new agency will work on increasing access to community supports and achieving full community participation. For more information, visit ACL's website by clicking [here](#).

### **National Survey on Abuse of People with Disabilities**

On May 1, 2012, the Disability and Abuse Project launched a survey to "seek input from the public, especially from persons with disabilities or those who interact with them, such as family members, caregivers, service providers, and advocates." The survey, which solicits input about incidents and awareness of, and systems' responses to, abuse of adults and children with disabilities, will be used for research, education, and advocacy. It solicits. Within weeks, 2800 people had responded. To take the survey, [click here](#).

### **GAO Launches New Financial Abuse Study**

Two U.S. Senate Committees have commissioned the U.S. Government Accountability Office (GAO) to conduct a national study of elder financial exploitation. GAO officials attended the Elder Financial Protection Network's May 2 annual Call to Action event in San Francisco to



learn firsthand about the challenges faced by financial institutions, law enforcement authorities, and other professionals and elder advocates as they combat elder financial exploitation in San Francisco and elsewhere.

### **Analysis Shows How Eliminating Social Services Block Grant Would Impact Services**

The House Ways and Means Committee voted in April to eliminate the Social Services Block Grant (SSBG). A new analysis from the Center on Budget and Policy Priorities examines how this would impact the roughly 23 million people who receive services funded by the SSBG, which was created in 1981 as a cost-saving measure that consolidated several funding streams. According to the analysis, states use the money in a number of ways: SSBG funds account for 72% of total funding for adult day care services, 40% of funding for adult foster care, and 39% for adult protective services. According to AARP's Public Policy Institute, nearly half of state aging agencies receive funding from SSBG. For more, click [here](#).

### **Federal Victims Rights Amendment**

Although the U.S. Constitution protects the rights of those who are suspected or convicted of crimes, it offers no comparable protections to victims. House Joint Resolution 106, which is sponsored by Representatives Franks and Costa, seeks to change that through a Constitutional amendment that would assure victims the following rights:

- Reasonable notice about (and not be excluded from) public proceedings relating to the offense
- To be heard at any release, plea, sentencing, or other such proceeding involving any right established by this Article
- Proceedings free from unreasonable delay
- Reasonable notice of the release or escape of the accused
- Due consideration for their safety
- Restitution

The amendment would further assure that crime victims or their representatives have standing to assert these rights in any court. For more on H.J. Res. 106, click [here](#).

### **EJA's Reporting Requirements Take Effect**

Although most provisions of the EJA will not take effect until there is an appropriation, the Act instituted the first Federal mandatory reporting requirements, which have already gone into effect. These requirements pertain to abuse in nursing homes by staff members, owners, contracted providers, and the facility as an entity. They apply to facilities that receive at least \$10,000 in Federal funds through Medicare or Medicaid programs, a threshold that is met by the majority of nursing homes and residential care facilities.

### **Obama's Support Of Same Sex Marriage Benefits Older Adults**

The National Senior Citizens Law Center issued a statement lauding President Obama for his position in support of same sex marriage, pointing out that many of the rights enjoyed by heterosexual couples prevent the impoverishment of a spouse when death or illness strikes. For example, if a spouse is living in a nursing home and the bill is being paid by Medicaid, there are laws protecting the other spouse from impoverishment or from losing a home.

### **National College of Probate Judges Honors Brook Astor's Guardians**

At its spring 2011 meeting, the National College of Probate Judges awarded the first Judge Isabella Horton Grant Guardianship Award to Philip Marshall and Annette de la Renta. Philip Marshall, grandson of socialite and philanthropist Brook Astor and son of Anthony Marshall, who was later convicted for grand larceny, petitioned the court to have his grandmother's long-time friend Annette de la Renta appointed as guardian. Marshall was given the award for his courage in bringing the situation to light despite the fallout it generated, and to de la Renta for being an exemplary guardian.

The award was established by the National College of Probate Judges in Spring 2011 to honor the memory and accomplishments of San Francisco Judge Isabella Grant, who is known to many in the Bay Area for her pioneering work in reforming guardianship. The award recognizes and encourages individual achievements in the field of guardianship. It was presented by Judge Grant's friend and colleague Mary Joy Quinn, who recently retired as Director of Probate for the San Francisco Superior Court and is the immediate past president of the National College of Probate Judges.

## **International**

### **The Scary Scoop on Jamaican Scams**

Scamming Americans has become a huge racket in Jamaica, devastating its victims and tainting Jamaica's image overseas. FBI Victim Advocate Debbie Deem suggests that showing vulnerable older adults who've been targeted articles like the ones below, published in the *Jamaica Observer*, may have a deterrent effect.

- **Lotto Scammers Living Large.** Lottery scammers are living high on the hog, earning millions of Jamaican dollars a week and using Champagne to wash their cars in a boastful lifestyle reflecting the ease with which they come by their ill-gotten gains, police from the Organised Crime Investigation Division (OCID) have reported. For more, click [here](#).
- **Lottery Scammers Target Elderly, Mentally Ill, Say Cop.** The story of one heartbroken elderly victim who committed suicide. For more, click [here](#).
- **Cops Need Technology to Fight High-Tech Lottery Scam.** With criminals involved in the multi-billion dollar lottery scam resorting to highly sophisticated tactics, the Organised Crime Investigation Division (OCID) says it needs additional resources to sustain the crackdown on those behind the racket. For more, click [here](#).

## **Research**

### **P2P Report on Computerized Decision Support System**

The National Adult Protective Services Resource Center, in conjunction with the National Committee for the Prevention of Elder Abuse, has released a new Research to Practice (R2P) Brief on the Elder Abuse Decision Support System, which uses standardized measures and short screening forms to assess elder mistreatment and exploitation. The R2P series links cutting-edge research with everyday practice in adult protective services. To access the report, click [here](#).

### **Etiology of Neglect and Self-Neglect Study Available**

From time to time, publisher Taylor and Francis allows free access to articles in journals it publishes. Self-Neglect and Neglect of Vulnerable Older Adults: Reexamination of Etiology, which was authored by Namkee G. Choi, Jinseok Kim and Joan Asseff, and published in the Jan 20, 2009 issue of the *Journal of Gerontological Social Work* (Volume 52, Issue 2, pages 171-187) is now available. Using assessment and investigation data from reported APS cases in

Texas, the study examines the association between self-neglect and neglect with individual economic resources as well as health care and social service programs for the poor. The findings show that elder self-neglect/neglect is, in large part, attributable to frail older adults' and their families' lack of resources to pay for essential goods and services and the inadequate healthcare and other formal support programs for the older adults and their caregivers. This inadequate public policy coverage, rather than individual and intrafamily risk factors per se, needs to be considered as a significant cause of elder self neglect. Click [here](#) for access.

## Resources

### **Updated Profiles of Older Americans in California and US**

The SCAN Foundation recently released the following:

- Demographic & Economic Characteristics of Aging Americans (Updated). To access, click [here](#).
- Demographic & Economic Characteristics of Aging Californians (Updated). To access, click [here](#).

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