

Protecting Older Adults Against COVID-19 Related Scams & Obtaining Relief from Financial Distress

CHAPTER SUMMARY • July 2020

Odette Williamson, National Consumer Law Center

National Consumer Law Center

The National Consumer Law Center uses its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults and people of color. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

Introduction

Older adults are often targets of individuals promoting COVID-19 related scams and fraudulent schemes. Like other consumers, older adults are subject to a dizzying array of scams offering COVID-19 vaccines, treatments, cures, and money or assistance obtaining Economic Impact Payments. Other scammers impersonate government officials or businesses in an effort to obtain consumers' personal financial information. Consumers reported losing over \$1.9 billion to fraud last year. Though older adults are not defrauded at a higher rate, they report losing more money, on average, due to scams than younger consumers. The loss of money or assets will further imperil the health and emotional well-being of older adults who do not have the resources necessary to weather the financial turmoil caused by the pandemic.

Scams are perpetrated by a wide variety of individuals and businesses, including family members and caretakers. This publication focuses on scams perpetrated by strangers and businesses rather than financial exploitation by family members, caretakers, or trusted advisors, although the scams may be the same or share similar features.

Key Lessons

1. Older adults are at risk for losing money and assets necessary to weather the economic strain caused by the pandemic and shelter safely in place.
2. Scammers contact victims by telephone, including robocalls and text messages, and trick older adults into revealing personal financial information or sending money.
3. It is important to take immediate action to stop the scam and further loss of money and assets.
4. Recovery of income and assets may be possible, but is unlikely to make the older adult financially whole.

Scams Aimed at Older Adults in the COVID-19 Era

Individuals perpetrating scams and frauds follow the headlines closely. The types of scams aimed at consumers will evolve from month to month or year to year depending on issues highlighted in the news media. When the Internal Revenue Service (IRS) distributed the Economic Impact Payments for example, scammers impersonating agency officials contacted consumers with fake offers of assistance. Other scammers impersonated IRS officials to demand payment and threaten arrest.

Most scams are perpetuated over the telephone, including through texts and robocalls to cell phones. The scammer will request personal or financial information, or money once they gain the trust of the older adult. The information is used to access the consumer's bank account, open credit card accounts, or create other fake accounts in the consumer's name. Scams are also promoted heavily through email phishing scams and online and direct mail.¹ Older adults with special types of assets (e.g., homes, pension plans) may be targeted for particular types of scams. The following paragraphs cover common types of scams.

Fake COVID-19 Treatments and Vaccines

Consumers report companies offering fake vaccines and products to cure, treat, or prevent COVID-19 to regulators who often take swift action to stop these false claims or shut down the companies. However, given the volume of scam products and treatments and diversity of companies, consumers lose money to these companies before the scams are stopped. These products may also put consumers' health at risk if they delay real treatment based on companies' fraudulent claims and promises. Other scammers pretend to be contact tracers affiliated with state departments of public health and send text messages with embedded links that allow them to access personal and financial information on the consumer's device if the consumer clicks on the link.

Imposter Scams

An imposter scam involves an individual pretending to be someone else to get money or financial information from a consumer. Aside from the IRS, government imposters trick older adults into disclosing financial information by offering assistance in obtaining medicine or equipment through Medicaid or Medicare. Others extract personal information through a fake verification process, by pretending to investigate fraudulent activity on Social Security accounts. Imposters also pose as employees of well-known businesses, or even family members. Popular scams include offers of technical support to fix non-existent computer problems by individuals claiming affiliation with well-known technology companies. Other imposters pose as family members, such as grandchildren, in need of emergency financial assistance.

Identity Theft

Identity theft is the unauthorized access and use of an elder's financial or personal information. Consumers unwittingly disclose personally identifiable information (e.g., date of birth, social security number). Identity theft may lead to credit card fraud, tax fraud, and other financial scams. With tax-related identity theft, for example, scammers file fraudulent tax returns using stolen Social Security numbers to claim victims' Economic Impact Payment and unemployment benefits. A person's identity can be stolen as a result of a phishing or other online scams; a lost or stolen wallet or purse; a data breach at a financial institution, retailer or other business; high tech skimming of credit card information with a tool during a legitimate business transaction; or a dishonest employee appropriating a customer's information.

Home and Mortgage-Related Scams

Older homeowners in financial distress due to the COVID-19 pandemic may be targeted by scammers promising access to federal or state anti-foreclosure programs or assistance obtaining relief from the mortgage company in exchange for an up-front fee. Unfortunately, these foreclosure rescue/loan modification scammers provide little or no service, and disappear with the money, leaving the homeowner in a worse position with little time to save the home. Homeowners also lose money to home improvement scams and scams related to utilities and energy-efficiency upgrades. Information on homeownership and homes in foreclosures is easily obtainable from publically-available databases, making it easy for scammers to tailor their solicitation to appeal to older consumers.

¹ Phishing commonly involves the use of scam emails to trick consumers into revealing financial information, including account numbers and passwords.

COVID-19 Related Protections

Federal and state governments and businesses are putting consumer protections in place to alleviate the financial stress caused by the COVID-19 pandemic. Consumers who have lost money or face economic distress due to COVID-19 related scams or other types of fraud may seek these protections to stay housed, keep the utilities connected, and seek relief from aggressive debt collection practices. Note that many of these protections are time limited, but may be extended or changed in the future. Consumers must keep track of future developments.

These protections include suspensions of some foreclosures and evictions, forbearance on mortgage payments for some loans, shut-off protections for utility and telecommunication services, forbearance and elimination of additional interest accrual on some student loan payments, narrow limits on debt collection, and expanded unemployment benefits. For an up-to-date list of protections, see National Consumer Law Center's publication: [*Major Consumer Protections Announced in Response to COVID-19*](#).

Other Consumer Protections for Victims of Financial Scams

Many types of practical or legal intervention may be necessary to protect the income and assets of older adults, or prevent re-victimization. Some victims may seek civil legal assistance to address the scam and assist in the return of the money or property taken by the scammer. Financial relief may be difficult or impossible if the money or assets have been transferred. However, federal and state laws can provide protections up front, especially if steps are taken early, or aid in recovery of assets. Here are examples:

Unauthorized credit card use

Federal law protects consumers against the unauthorized use of a credit card.² Unauthorized use most commonly occurs with identity theft when someone steals, borrows, or otherwise uses the older adult's credit card without permission. The consumer's responsibility for unauthorized use of a credit card is limited to \$50. Consumers may challenge an unauthorized charge or any other error (e.g., billed for incorrect amount), which appears on a monthly statement.³ Information regarding how to raise the dispute appears on the back of the credit card statement. Consumers are not responsible for new accounts opened with stolen personal information. It is important to report the unauthorized use to law enforcement authorities and the credit card company.

Unauthorized debit card use

Federal law also protects consumers against unauthorized, fraudulent, or illegal debits against bank accounts, such as those made with debit cards.⁴ The extent of the consumer's responsibility for the unauthorized transfer of funds is determined by their promptness in notifying the financial institution. Generally, a consumer is not responsible for a timely reported unauthorized transfer of money. If a report is not timely made, the consumer may be responsible for \$50, \$500, or an unlimited amount, depending on when the unauthorized transfer occurred, whether the access device was lost or stolen, when a statement was sent, and when the consumer reported the loss or theft of the access device or the unauthorized charge. To dispute an unauthorized transfer or other error appearing on a bank statement, for example, the consumer must notify the bank within 60 days.⁵ Consumers can notify the financial institution by telephone, in writing, or in person.

² Truth in Lending Act, 15 U.S.C. § 1643.

³ The Fair Credit Billing Act, part of the Truth in Lending Act, 15 U.S.C. § 1666.

⁴ The Electronic Funds Transfer Act (EFTA), 15 U.S.C. §§ 1693–1693r.

⁵ 15 U.S.C. § 1693f(a).

Abusive Robocalls

The vast majority of scams are promoted over the telephone—often autodialed calls with prerecorded messages (robocalls). With government imposter scams, the scammer will manipulate the caller ID to mimic a call coming from the government. Federal law generally prohibits abusive methods of contacting consumers, including robocalls and text messages to cell phones without prior consent.⁶ Older adults inundated with telemarketing calls can register their telephone number with the [National Do-Not Call Registry](#), maintained by the FTC. Calls by or on behalf of tax-exempt nonprofit organizations are generally excluded from the law's coverage.

Protections for Home and Off-Site Sales

The FTC's Cooling-Off Rule provides consumers with a three day right to cancel a sale made in the home or other off-site location such as hotels, restaurants, or the seller's temporary location.⁷ The door-to-door sales person must provide notice of the right to cancel as well as two copies of the cancellation form. Consumers do not have to provide a reason for cancelling the transaction.

Unfair and Deceptive Acts and Practices

Each state (and the District of Columbia) has enacted an unfair and deceptive acts and practices (UDAP) law aimed at preventing deceptive, fraudulent, and abusive practices in the marketplace. Many states allow for enhanced penalties where the victim is elderly or disabled.⁸ Other state common laws, including fraud, unconscionability, breach of fiduciary duty, and contract law may prove helpful in challenging scams.

Practice Tip: Quick Action Necessary to Save Elders Remaining Money & Assets

With any type of financial scam, the resources and assets that are depleted or stolen are difficult to recover. Quick action is necessary to preserve elders' remaining assets, including reporting the scam to a law enforcement agency and obtaining legal assistance. Once the scam is discovered, steps should be taken immediately to secure bank accounts and examine credit card and other financial accounts for unauthorized charges. Advocates should also contact the IRS and Social Security Administration to report the disclosure of sensitive financial information. If an older adult is hospitalized or otherwise incapacitated, family members can obtain permission to submit complaints on the person's behalf. Complaints can be submitted to federal agencies, such as the [Federal Trade Commission](#) (FTC) and [Consumer Financial Protection Bureau](#) (CFPB), and state attorneys general consumer complaint hotlines. Fraud is also a crime and local law enforcement may be willing to intervene. Victims with impairments due to physical or mental disabilities may need the assistance of Adult Protective Services.

⁶ Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227.

⁷ FTC Cooling Off Rule, 16 C.F.R. § 429.

⁸ See, e.g., Arkansas, Ark. Code Ann. §§ 4-88-201–4-88-207; California, Cal. Bus. & Prof. Code § 17206.1; Delaware, Del. Code Ann. tit. 6, § 2581; Florida, Fla. Stat. § 501.2077; Georgia, Ga. Code Ann. § 10-1-851; Hawaii, Haw. Rev. Stat. § 480-13.5; Illinois, 815 Ill. Comp. Stat. § 505/7; Iowa, Iowa Code § 714.16A; Louisiana, La. Rev. Stat. Ann. § 51:1407(D); Minnesota, Minn. Stat. § 325F.71; Nevada, Nev. Rev. Stat. §§ 598.0933, 598.0973; New York, N.Y. Gen. Bus. Law § 349-c; Pennsylvania, 73 Pa. Stat. Ann. § 201-8(b); Tennessee, Tenn. Code Ann. § 47-18-125; Texas, Tex. Bus. & Com. Code Ann. § 17.47(c)(2); Wisconsin, Wis. Stat. § 100.264; Wyo. Stat. Ann. § 40-12-111.

Conclusion

Consumers are being financially pressed by the COVID-19 pandemic. Money lost to financial scams and frauds depletes the resources older adults need to shelter in place. Early intervention and assistance is the key to preventing further loss of resources and helping older adults to recover from the scam.

Additional Resources

- [Federal Trade Commission](#)
 - » [National Do Not Call Registry](#)
 - » [Identity Theft](#)
 - » [File a Complaint with the FTC](#)
- [Consumer Financial Protection Bureau](#)
 - » [Office of Older Americans](#)
 - » File a complaint with the [CFPB](#)
- State attorneys general or local law enforcement
 - » [National Association for Attorneys General](#)
- Legal Assistance
 - » [National Association of Consumer Advocates](#)
 - » Legal Services Corporation: Find [Legal Aid](#)
 - » American Bar Association: [Volunteer Lawyers](#)
 - » [Eldercare Locator](#)
- National Consumer Law Center
 - » For an up-to-date list of consumer protections available under the federal Coronavirus Aid, Relief and Economic Security Act (CARES Act), see [Major Consumer Protections Announced in Response to COVID-19](#).
 - » Publication: National Consumer Law Center, [Guide to Surviving Debt](#)

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

This Chapter Summary was supported by a contract with the National Center on Law and Elder Rights, contract number HHSP233201650076A, from the U.S. Administration on Community Living, Department of Health and Human Services, Washington, D.C. 20201.