

Skills-Based Training: Legal Issue Spotting, Intake & Referrals

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Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

About ABA COLA

The ABA Commission on Law and Aging is a collaborative and interdisciplinary leader of the Association's work to strengthen and secure the legal rights, dignity, autonomy, quality of life, and quality of care of aging persons.

The Commission accomplishes its work through research, policy development, advocacy, education, training, and through assistance to lawyers, bar associations, and other groups working on issues of aging.

Key Lessons

- *Intake* is the frontline for detecting legal issues, determining urgency, and connecting older adults to the appropriate services.
- *Legal issue spotting* helps develop a holistic approach to legal services for older adults by detecting hidden issues, causes, and systemic problems, some of which are unique to older adults.
- A robust *referral network* helps ensure that all needs are being met and maximizes the resources that are available to help your clients.

Decision Guides

- As part of your materials for this training, you will be provided with sample Decision Guides
 - Concept developed by Legal Assistance Foundation of Metropolitan Chicago
 - These are samples meant to be customized for your office
- We will refer to each guide, but more information and audio versions will be available on the [NCLER website](#), or email us at ConsultNCLER@acl.hhs.gov

Poll: Audience

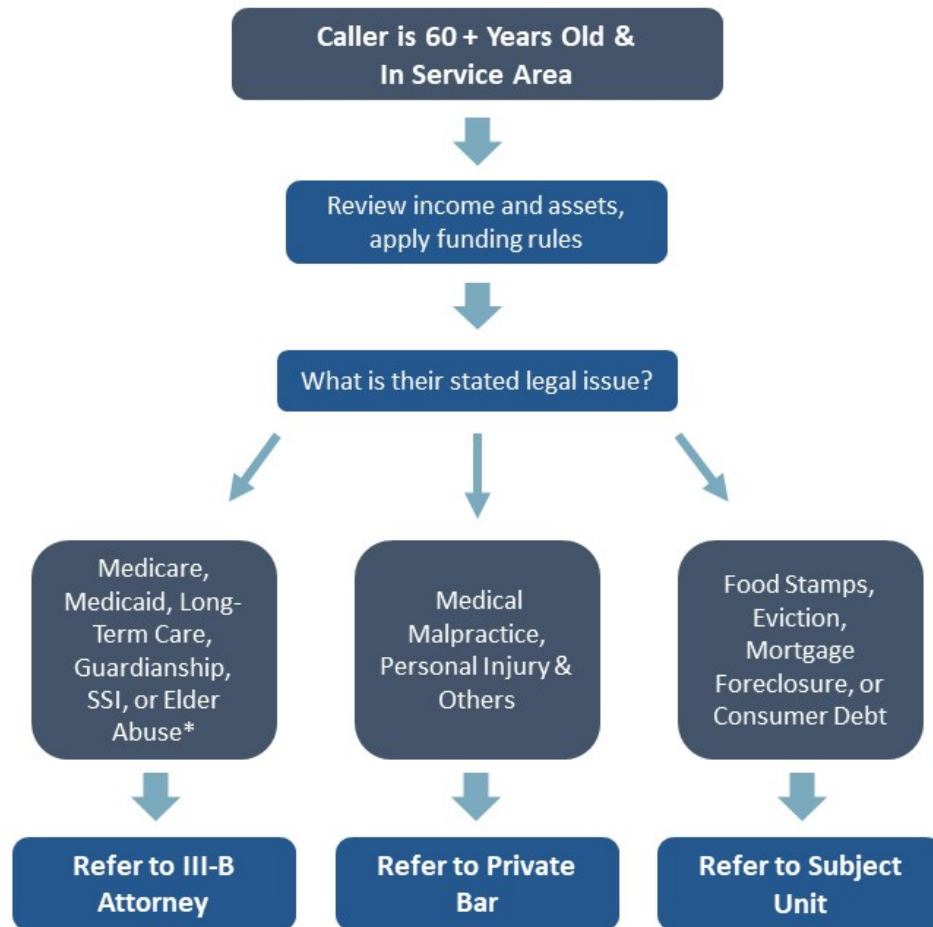
- Who is in the audience today?
 - Attorneys?
 - Law Students?
 - Non-attorney staff in legal aid or law offices?
 - Area Agency on Aging, State Office on Aging or Adult Protective Services staff?
 - Other Aging Services Providers?

Section 1: Intake

Intake Models

- Dedicated Intake Staff (Attorneys & Non-Attorneys)
- Rotate Paralegals
- Rotate Attorneys
- Separate Intake Line for Elder Law Unit
- Senior Legal Hotline
- Online Intake
- Outsourced third party intake and screening
- Walk in, phone, online, combination

Decision Guide 1: Basic Intake Model



* If issue is elder abuse, get a safe phone number for caller. If caller is in immediate danger, refer to Crisis Hotline/911.

Interpreting What You Hear at Intake

- “I haven’t seen my caregiver in two weeks.”
 - Possible Medicare or Medicaid home health services issue, or could be neglect
- “I need a place to live.”
 - Possible eviction, foreclosure, or nursing facility discharge issue
- “I want my daughter to have my house.”
 - Could be request for estate planning, but could also be an elder abuse issue
- “I am being harassed by debt collectors.”
 - Could be consumer debt, financial exploitation, or income issue
- All of these statements require some follow-up questions

Legal Information vs. Legal Advice

- Legal Information

- Not fact specific
- Definitions, not interpretations
- Examples of forms, but not choosing a form
- How court works, not how court will rule
- General referrals

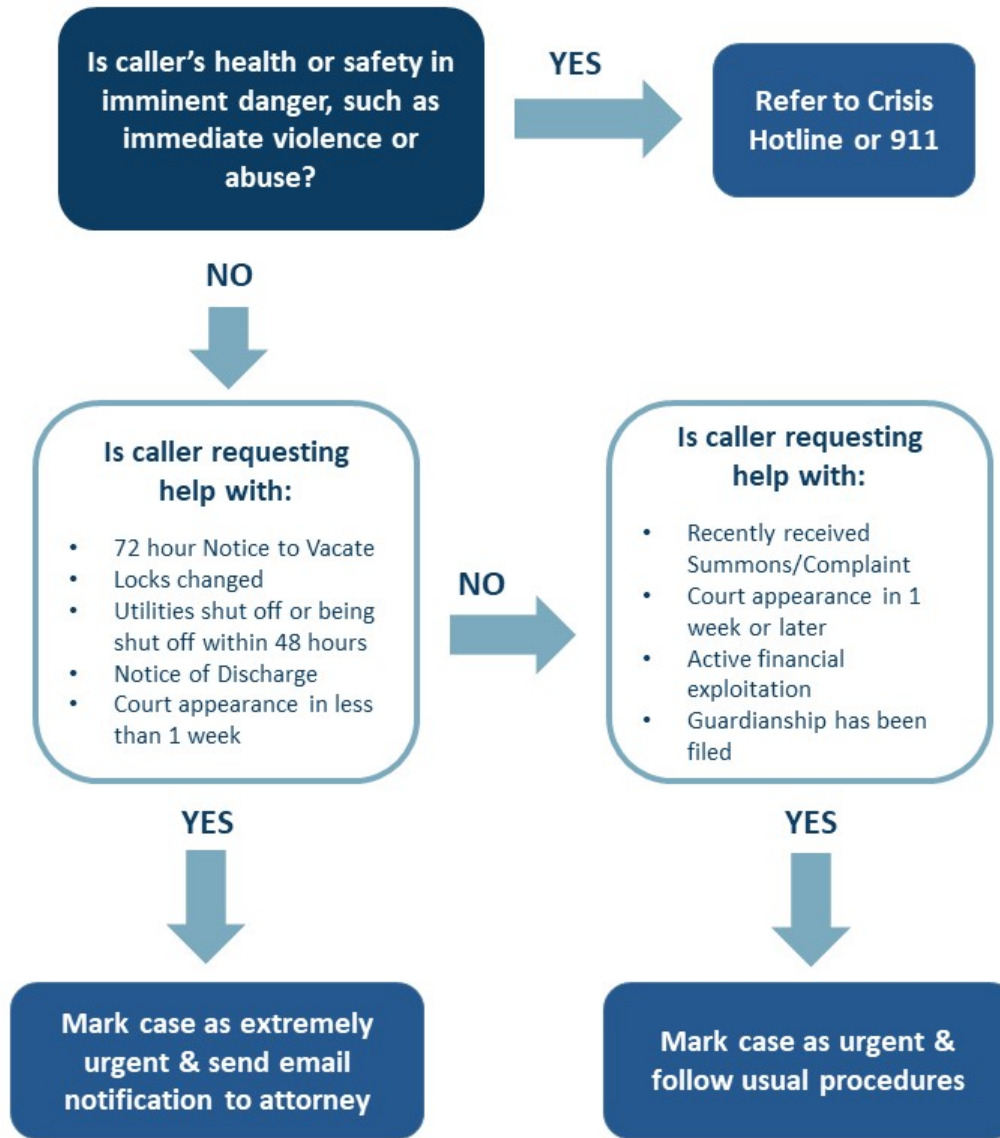
- Legal Advice

- Fact specific
- Involves judgment or interpretation
- Includes recommendations about a legal course of action
- Answers questions of “what should I do?”

Determining Urgency

- Extremely urgent situations:
 - If the caller does not get help in 24-72 hours, they will lose legal rights or options; or
 - The caller's health & safety are in imminent danger
- Urgent issues can include:
 - Elder abuse (physical, financial, neglect, etc.)
 - Notice to vacate housing or locks changed
 - Notice of discharge from nursing facility
 - Utilities being shut off/already off
 - Pending court appearance in less than 1 week
 - Client is extremely ill & needs planning documents
- Find out about deadlines

Decision Guide 2: Screening for Urgency



This Decision Guide is a sample guide only, and it is intended to be customized by individual programs to include their specific office procedures, local resources, and information before use.

Case Study: Martha

Ed and Martha were married 50 years, Ed died a year ago. Martha called for help with qualifying for utility assistance for next summer. When you asked about income and expenses Martha talked about a medical bill from 5 months ago, that she never has understood why Medicare didn't pay. Martha says that will go away soon, as they recently sent her some paperwork and it looks like it will be the end of it. Martha said it has been really difficult since Ed died, his Social Security was nearly \$2,400 a month and hers is only \$800.

Poll: Which issue should be addressed first?

- Helping Martha qualify for utility assistance
- Medicare coverage for unpaid bill
- Debt collection for the medical bill
- Social Security surviving spouse benefits
- Other?

Cultural Competency & Accessibility

- Establish trust & make services accessible to a diverse population of seniors
 - Call scripts with inclusive language
 - Blank space for gender identity
 - Language line, translators & interpreters
 - [LEP.gov](https://www.dhs.gov/lep) to locate the languages spoken in your region
 - Assisted listening devices
- Assume that there will be differences in communication, relationships, & decision-making
- Consider doing a mindful walk-through of your office or go through your intake process—are there any steps you can take to make it more accessible or inclusive?

Section 2: Issue Spotting

Case Study: Mina

Mina called complaining that her grandson took her car and won't bring it back. She called the police, and they were no help. She tells you she has been at war with her ungrateful kid for months. Her daughter Joyce dragged to see a judge about three months ago. Now Joyce seems to be trying to micromanage her life. She does not know what happened, but her ATM card won't work. Her son-in-law George has been bringing her groceries, taking her to church and the doctors. George is the only one treating her well. She wants her car back.

Poll: What question should you ask next?

- Does she have any paperwork from the trip to Court with Joyce?
- Why were the police unable to help her with the car?
- Has she received any letters from Social Security?
- Would it be possible for you to meet with her and George?
- All of the above?

Legal Issue Spotting

- Good issue spotting involves asking more questions, gathering additional information, & being observant
- When working with older adults, it is important to screen for problems involving income, benefits, & elder abuse
 - Over half of all seniors who receive SSI benefits also receive Social Security benefits based on their work history
 - Estimated 1 in 10 older adults have experienced abuse

Decision Guide 3: Follow-Up Questions

Before you close your file, consider some additional questions to determine...

Does your client have a safe living environment?

Tell me about your apartment. What is it like?

Are you comfortable having friends over to visit you?

Do you have any trouble getting in or out of your home?

Does your client have their health care needs met?

Do you pay a lot each month for your doctor visits and prescriptions?

Are there any medical bills that you are currently paying?

Have you ever gone without medical care because it was not covered or you couldn't afford it?

Does your client have adequate nutrition?

Do you feel like you have enough food to eat on most days?

Have you ever applied for food stamps?

Are you able to get what you need at the grocery store each month?

Is your client at risk of abuse or exploitation?

Has anyone recently asked you to change your POA or will?

Have you noticed anything unusual or different about your bank accounts?

Is there anyone in your life right now who makes you nervous or anxious?

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Income & Benefits Screening (1 of 2)

- Benefits Check Up
- SSI (over 65, or disabled and household income below limits)
 - Single \$750 Couple \$1,125
 - Minimal savings
- SSDI (past work history, recently became permanently and totally unable to work)
 - Has not reached full retirement age
 - Must have worked in covered employment

Income & Benefits Screening (2 of 2)

- Child Support (biological parent not living with child)
 - Minor child in home
 - Uncollected past support
- Medicare Savings Plans (income and assets)
 - QMB: \$1,032/ \$7,560 - \$1,392 / \$11,340 (O of P& B)
 - SLMB: \$1,234/ \$7,560 - \$1,666 / \$11,340 (B)
- Food Stamps (supplemental nutritional assistance Program SNAP)

**Gross Monthly Income Eligibility Standards
(130 Percent of Poverty Level)**

Household Size	48 States, DC, Guam, and US Virgin Islands	Alaska	Hawaii
1	\$1,307	\$1,632	\$1,502
2	\$1,760	\$2,199	\$2,023

Medicare Part D Extra Help

- Enrolled in Medicare and Prescription Drug coverage
- Income at or below \$18,210 / \$24,690
- Available assets not more than \$14,100 / \$28,150
- Help includes premium subsidies, and limits on out of pocket costs

Pensions & Lost Benefits

- Pensions: [Pension Help America](#)
 - Work history – past efforts to collect
 - Employers gone out of business, merged, changed names
 - Surviving spouse
- Lost benefits (SSI, SSDI, Medicaid)
 - Have benefits been terminated or reduced
 - Examine the reason why they were lost or reduced

Status of Applications: Have They Applied or Been Denied?

- Not applied:
 - Are they likely to be eligible?
 - Do they need help applying?
 - Is there an underlying issue that needs to be resolved before they can apply?
 - Barriers to applying
- Have applied:
 - What is the status?
 - Is there something missing?
 - Denied- if so why?
 - Is there a legal solution to the reason for the denial?
 - Can the facts be restructured?

Abuse & Exploitation

- Types of elder abuse include physical abuse, financial exploitation, emotional abuse, sexual abuse, & neglect
 - Financial exploitation is most common
 - Perpetrators are often family members or friends, but can also be strangers (fraud or scams)
- Signs of abuse are not always obvious—may need to ask questions
 - By asking questions, client knows that you can help in the future, even if client does not disclose now. Tell client that they can always come back for help.

Signs of Abuse

- Unusual financial activity
- Unpaid bills
- Different signatures
- Disappearances of funds or valuable possessions
- New individuals taking an interest
- Sudden transfers
- Sudden changes
- Controlling family member or friend
- Express a concern for safety

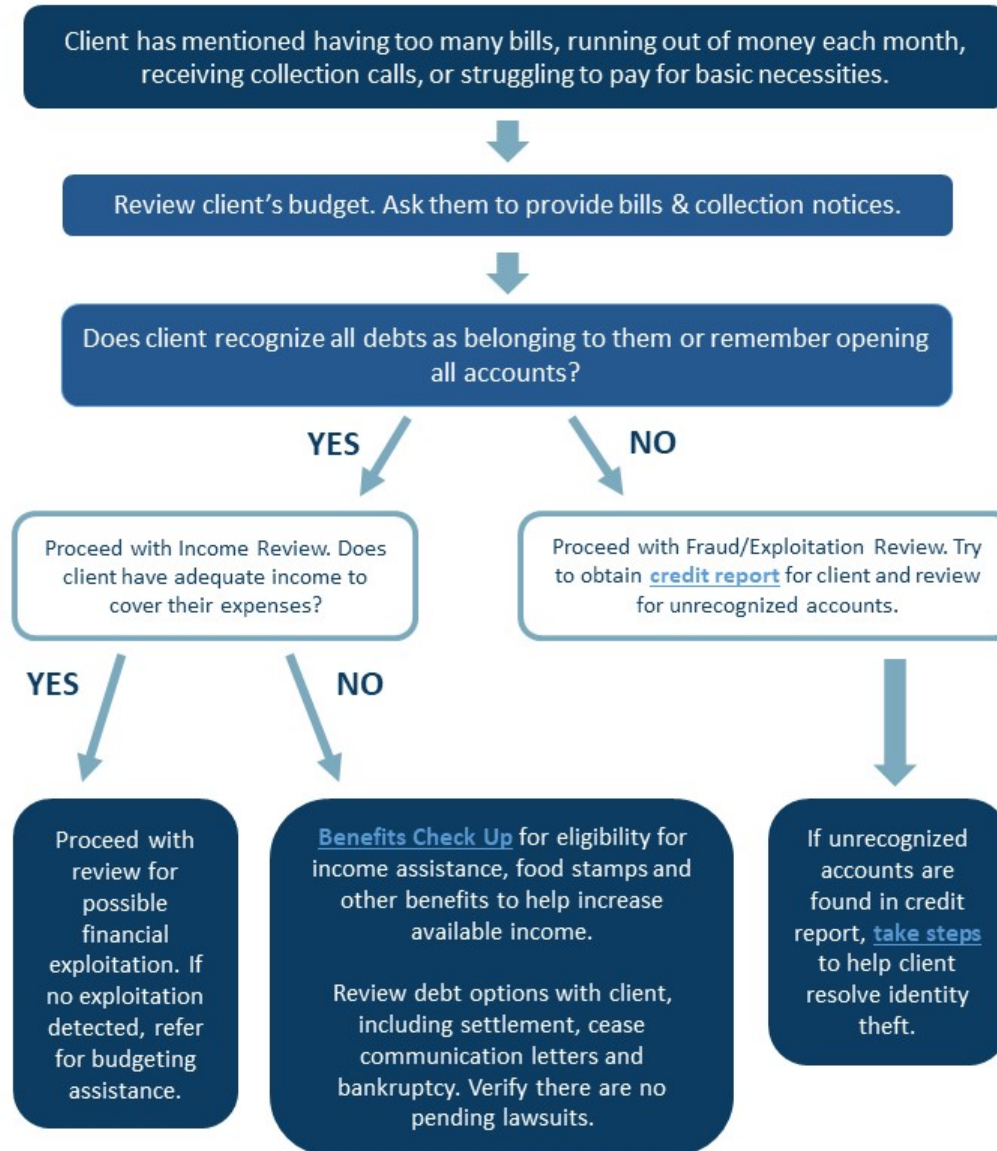
Case Study: Lillian

Lillian called seeking help with past due electric bill. She tells you her income is \$2,500 a month from Social Security and a pension. You ask about expenses, and she tells you she owns her home and is debt free. She says that she has a hard time getting out of the house with the broken arm. You ask about the broken arm, and she changes the subject. You offer to schedule a house call, and she abruptly says, that is okay, I was hoping you would be able to help and hangs up. Lillian calls back the next day and asks if she can evict her 30 year old son.

Poll: What are the Red Flags of abuse?

- Unable to pay expenses, despite seemingly sufficient income to meet basic needs
- Unexplained injuries
- Social isolation
- The last call
- All of the above

Decision Guide 4: Screening for Consumer & Income Issues



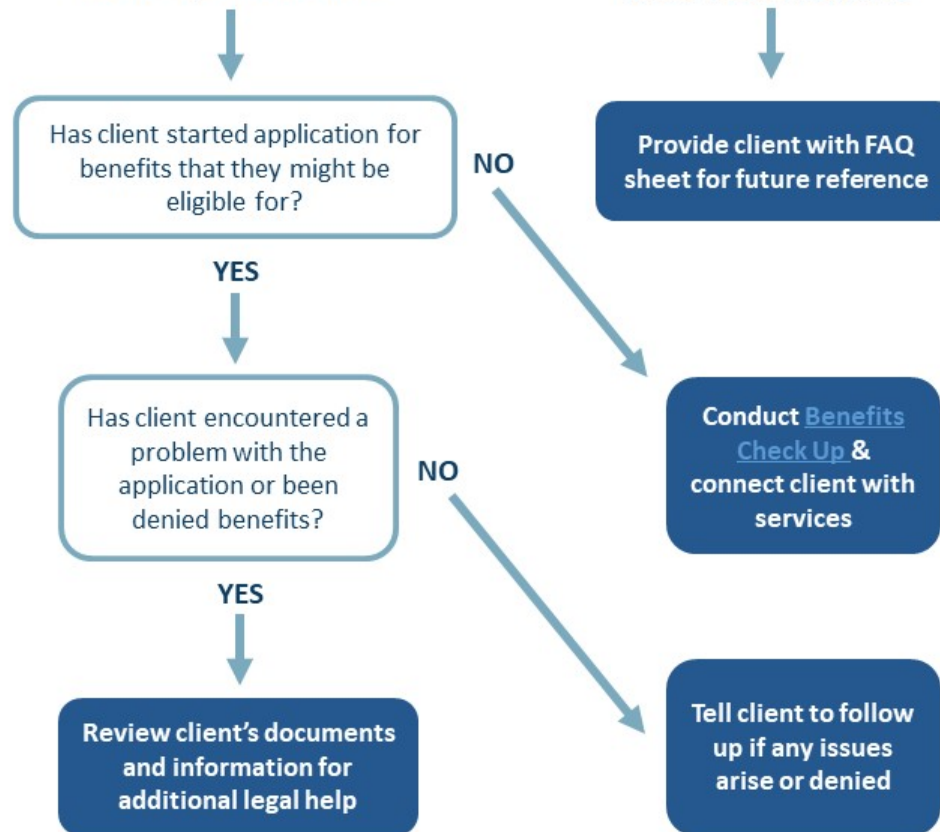
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Decision Guide 5: Screening for Income Issues

1. Is client disabled and not receiving SSI or SSID?
2. Is client a veteran and not receiving VA benefits?
3. Is client a surviving spouse of a veteran and not receiving VA benefits?
4. Is client's income level under \$750 per month?
5. Is client unable to afford basic necessities?
6. Did client have previous employment that might entitle them to a pension, but are not currently receiving pension income?

Yes to any of the above

No to all of the above



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Section 3: Referrals

No Man Is An Island

- No one discipline has all of the answers
- Build a referral network for better & holistic client service
- Referral networks:
 - Should be comprehensive & diverse
 - Informal vs. Formal Referral Agreements

Developing Your Network

- Administration for Community Living's [Eldercare Locator](#) is a good start for locating partners
 - Area Agency on Aging
 - Adult Protective Services
 - Aging & Disability Resource Centers
 - Long-Term Care Ombudsman
 - Sources for Emergency Funds & Shelters
 - Consumer Credit Counseling
 - Housing Counselors
 - Crime Victims' Fund Administrators
 - SHIP Programs
 - Pension Counseling Programs

Decision Guide 6: Older Adults Referral Guide



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Cross-Training

- Regular cross-training is recommended
 - Learn what your partners do, what their guidelines are, hours, etc.
 - Share your guidelines with them, such as income restrictions & issues covered
 - Points of Contact are important for emergencies
- Not enough to do this once—keep trainings scheduled regularly

Confidentiality & Other Concerns

- Concerns of confidentiality should not prevent you from working with aging services providers—need to develop an understanding of approaches to services
- In cross-training, explain concepts that are unique to legal services
 - Confidentiality
 - Avoiding Conflicts
 - Clients ability to consent—Capacity

Referrals to APS

- Make sure client understands the impact and benefits of a referral to Adult Protective Services due to an elder abuse issue
 - May be be eligible for more services
 - But an investigation by APS could include a home visit, criminal charges against the perpetrator or other actions
- Need to explain the issue, options & implications of the referral
- Are you a mandatory reporter?
 - Is the client covered under the law?

Warm Handoffs

- More than just providing a phone number or address
- Provides accountability & ensure client does not miss out on essential services
- Examples:
 - Conference call
 - Arrange for the client to be contacted directly
 - Referral through formal agreement system
 - Walk client to services

Case Study: Max

Max's spouse died six months ago and things are simply a mess. Despite his best efforts he has not been able to get an order from the probate court giving him access to his late spouse's separate bank account, it is only a few hundred dollars but he really needs the money. He thinks he is eligible for SNAP benefits, but the rules are so confusing. He applied for Medicaid and was rejected for not providing a copy of the car title, he does not own a car. His application for a free transit pass was denied, because his ID has a hyphenated last name, and his other papers do not—he wants to honor his late spouse with the hyphenated last name, he assumed the name change was automatic when he married two years ago.

Poll: Which issues are civil legal services best equipped to handle?

- Access to the bank account
- Snap application
- Medicaid Denial
- Transit pass denial
- More than one of the above

Spotlight on Screening & Referral Tools

- [Benefits Check Up](#)
 - Learn more about & screen for eligibility for benefits
- [Elder Investment Fraud and Financial Exploitation: Checklist for Lawyers](#)
 - Checklist & screening questions
- **Watching for New Technology:**
 - Legal Risk Detector App—online assessment & referral tool (not widely available yet)
 - Smart Intake Tool—intake & referral portal between legal services & another service provider

Conclusion

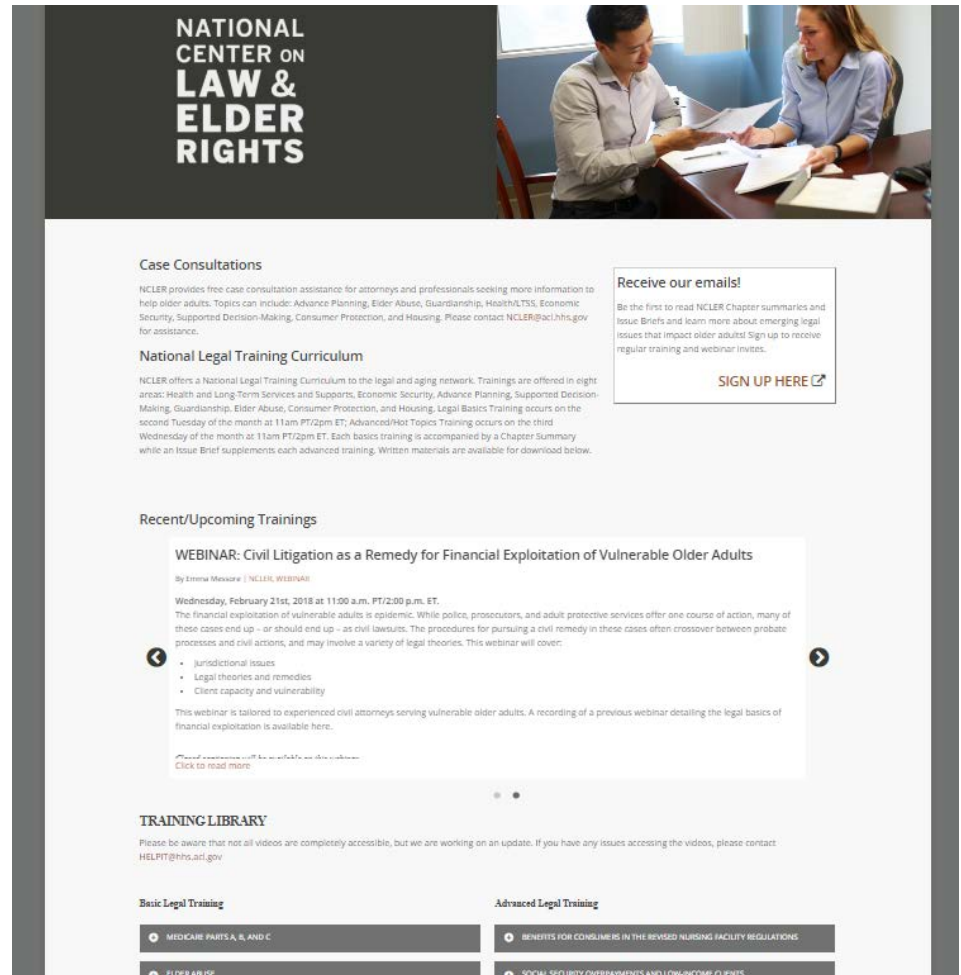
- Look beyond the presenting issue
- Problems come in clusters
- Screen for benefits your client may never have thought of
- Looks for signs and signals of abuse, the majority of abuse goes unreported, never talked about
- Collaborate and refer clients
- Develop a referral network before you need it.

Additional Resources

- [Eldercare Locator](#)
- [Medicare Savings Programs Income Limits](#)
- [Supplemental Nutrition Assistance Program Eligibility](#)
- [Medicare Part D Extra Help Information](#)
- [Benefits Check Up](#)
- [National Adult Protective Services Association](#)
- [National Center on Elder Abuse](#)

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- Learn about upcoming NCLER trainings
- Access all materials from past trainings, including webinar recordings
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NATIONAL CENTER ON LAW & ELDER RIGHTS

Case Consultations
NCLER provides free case consultation assistance for attorneys and professionals seeking more information to help older adults. Topics can include: Advance Planning, Elder Abuse, Guardianship, Health/MLTSS, Economic Security, Supported Decision-Making, Consumer Protection, and Housing. Please contact NCLER@acl.hhs.gov for assistance.

National Legal Training Curriculum
NCLER offers a National Legal Training Curriculum to the legal and aging network. Trainings are offered in eight areas: Health and Long-Term Services and Supports, Economic Security, Advance Planning, Supported Decision-Making, Guardianship, Elder Abuse, Consumer Protection, and Housing. Legal Basics Training occurs on the second Tuesday of the month at 11 am PT/2pm ET; Advanced/Hot Topics Training occurs on the third Wednesday of the month at 11am PT/2pm ET. Each basics training is accompanied by a Chapter Summary while an Issue Brief supplements each advanced training. Written materials are available for download below.

Recent/Upcoming Trainings

WEBINAR: Civil Litigation as a Remedy for Financial Exploitation of Vulnerable Older Adults
By [Krisna Messore](#) | [NCLER Webinar](#)
Wednesday, February 21st, 2018 at 11:00 a.m. PT/2:00 p.m. ET.
The financial exploitation of vulnerable adults is epidemic. While police, prosecutors, and adult protective services offer one course of action, many of these cases end up – or should end up – as civil lawsuits. The procedures for pursuing a civil remedy in these cases often crossover between probate processes and civil actions, and may involve a variety of legal theories. This webinar will cover:

- Jurisdictional issues
- Legal theories and remedies
- Client capacity and vulnerability

This webinar is tailored to experienced civil attorneys serving vulnerable older adults. A recording of a previous webinar detailing the legal basics of financial exploitation is available here.

[Click to read more](#)

TRAINING LIBRARY
Please be aware that not all videos are completely accessible, but we are working on an update. If you have any issues accessing the videos, please contact HELPT@hhs.acl.gov

Basic Legal Training

- MEDICARE PARTS A, B, AND C
- ELDER ABUSE

Advanced Legal Training

- BENEFITS FOR CONSUMERS IN THE REVISED NURSING FACILITY REGULATIONS
- SOCIAL SECURITY OVERPAYMENTS AND LOW-INCOME CLIENTS

Receive our emails!
Be the first to read NCLER Chapter summaries and Issue Briefs and learn more about emerging legal issues that impact older adults! Sign up to receive regular training and webinar invites.

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Case Consultations

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