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BBI
Webinar Series
From Theory to Practice: Supported Decision-Making and Financial Decisions
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>>...if you feel today anything you've heard is valuable, please tell some people about it. All participants microphones and phone lines are muted. If you have a question, please type it in the chat box. We are having people from all around the country joining us. We're pleased that each of you is here for the next 90 minutes. This is, as I said, the second of a three-part series. The first covered issues around supported decision-making and the education system. This one today, looking at supported decision-making and financial decisions.

On that note, we have two out-standing speakers with us today. You'll hear first from Michael Morris, the Executive Director of the National Disability Institute. Michael will be followed by Lori Smetanka. We will first hear from each of our presenters, we'll have some preprepared questions for them, but you're also welcome to submit questions and we'll add to those. If we have time at the end, we'll certainly go through the questions you forwarded and pick some out to ask of our presenters. With, that I'm going to hand today's session over to Michael. Michael, please tell us about supported decision-making in the ABLE Act.

>> Great, thanks, Jonathan. Appreciate being here today and joining so many of you from across the country. The topic today, as Jonathan mentioned is from theory to practice,

supported decision-making and financial decisions. I hope over the next hour, we can break this set of issues down to help all of us understand more about what's behind anyone making financial decisions. As Jonathan mentioned, we'll be talking about the ABLE Act, Achieving a Better Life Experience Act and how that will impact potentially millions of individuals with intellectual and developmental disabilities and others with significant disabilities and hopefully I can leave you with a, a better understanding and perhaps, you're part of a provider system, a policy-maker. I hope to address all of you in terms of how we help people with disabilities, support people with disabilities, have more self-determined, self-directed lives.

Let's go to the next slide. To break down this issue of decision-making in terms of really managing one's finances, I think it's important for us to dive deeper to understand what does that mean? I think any of us, people with, without disabilities face different types of financial decision-making, almost every day. Whether it's going to a bank, and withdrawing funds from an ATM or it's trying to manage a budget, or it's making decisions about savings, whether it's for short-term or long-term goals, there are a lot of issues that come up in one's life, literally, almost every day. So, I wanted to start with breaking down this set of issues about making financial decisions. The first part is to think about what does it mean to be financially capable? I'm going to share with you a two-part definition. It's a combination of knowledge and skills to inform financial decisions and behaviors. It is also the management of financial resources effectively to maintain and improve financial stability and security.

Next slide. Within this overarching concept, or framework of financial capability, there is really a determination around financial competence. What does it mean to say someone is financially competent? A definition of financial knowledge and judgment to independently manage one's financial resources and/or direct the management of one's financial resources by someone else.

Let me give you some examples that might help. One could have the financial knowledge to understand what money is, to to understand the difference between a $1 bill, a $5 bill, a $50 bill. Understand how to make change, or, or put money in front of someone to pay for a product you may have just bought in a store. It's understanding how to use an ATM machine. It's understanding the difference between a checking and savings account. To manage your financial resources, it may be to have someone help you direct in the management of those resources.

So, you may not have the physical ability to use an ATM machine, because of limitations in dexterity or, in reach. Or...you may not be able to read the screen. Although, there are growing numbers and there actually was court cases that required accessible ATM machines for people that might be challenged visually. In those cases, you might know exactly what you want to do. Withdraw funds or deposit a check. You understand all of that, but you may need someone else's help to actually perform the function. You might make decisions about creating a budget, living within that budget or creating a list in terms of savings goals. So, financial competence is a combination of knowledge and judgment. Financial competence involves high levels of direct involvement, control and choice, your choice in how your financial resources are going to be expended, and how your financial resources are going to be managed. And how you shall financial resources are saved for emergencies or longer term needs. Financial competencies has these multiple elements within it.

Next slide. We all don't begin when we grow from age of minority to age of majority and become adults. We don't automatically have financial competence. It's a combination of of learning and a combination of experience. So, it involves classroom and/or experiential learning to build the financial knowledge and skills regarding certain core competences. Budgeting, maybe managing credit and debt, it may be about understanding the purpose of saving and making real choices about how much money may I have to set aside in savings. May involve asset building for longer term financial security. And it's certainly about helping make, and the keyword here, is inform financial decisions.

Next slide. We know that for people with and without disability, we grow overtime, based on our experiences and what we've learned in managing our fiscal resources. A growing arena of support for people with and without disabilities, in addition to financial education is financial coaching. What is financial coaching? It may be helped one-on-one with someone with more experience, someone who may have even professional certifications as those are beginning to come into an arena around financial counseling and coaching or in a small group setting who can sit down with you and help you assess your financial health. Help you set financial goals and certainly short and long-term, help you improve financial well-being. Next slide?

We know historically, for people with disabilities, there have been historically low expectations about financial competence. For children, youth and adults with disabilities, there have been limited efforts made to offer financial education and financial coaching to improve financial capabilities and financial outcomes and well-being. Next slide?

We know that in the lives of people with significant disabilities, for, for children and youth in Special Education, they may have an IEP, an individual education plan, they may have an individual transition plan, as you move on into adulthood. You may have an individual plan for employment. Through the workforce development system, through Vocational Rehabilitation. You may also have an individual support plan because you're eligible in receiving home and community-based services under Medicaid in your state.

Typically, these plans have not set objectives, although they could, to build key knowledge and skills to help the individual with a disability improve their financial capability as part of efforts to advance their self-sufficiency. To expand their choice and opportunities in communities. To improve and retain employment, to look at career pathways and economic advancement.

So there, is more we could be doing to help people with disabilities really become more financially comment and more financially capable. Next slide?

The key knowledge and skills, I think this is going to be really shifting over the next ten years, because of the ABLE Act and I'm going to speak with you about the ABLE Act. The key knowledge and skills, we should expect to be part of curriculums. And be part of individual program plans in the school system, in the adult service delivery systems, are to teach people about basics, about money, money management, and budgeting. Debit and credit -- debt and credit management. Understanding public benefits and its impact on being able to earn more and options of using work incentive.

Who to go to to secure objective independent good advice and how to connect to resources, programs and services that can both build your financial capability and advance your self-sufficiency. Next slide?

Next slide? So the desired actions, if we can build for people with disabilities, support them, in financial decision-making, it's going to be based on good information and actions driven by positive financial goals. Understanding and helping people with disabilities to earn money, use money, save money, protect money, and understand all facets of money. Each of these terms reflect a different facet of financial competence and financial capability. Next slide?

So, let's put all of this into context with three different federal systems, federal laws, and programs. There is the Workforce Innovation and Opportunity Act, which includes Vocational Rehabilitation. There's ABLE, Achieving a Better Life Experience Act and the CBS, home and community-based settings final role.

Next slide...WIOA, for the first time, there's a definition of financial literacy. And an interest in promoting financial literacy for youth and adults with and without disabilities as part of employment and career pathways goal setting. There is, within WIOA, an affirmation that the goal for working-age adults with disabilities as well as youth is competitive, integrated employment. As an expected outcome to advance economic sufficiency, self-sufficiency.

There's also, within WIOA, new limits on the use of 14C, subminimum wage certificates, section 511. What do all of these have in common? Next slide, please. What all of these have in common is really recognizing that people with disability are going to be earning more than they have in the past. They're going to be interacting with income, production more than they have in the past. And there'll be new challenges, but new opportunities to live self-determined, self-directed lives, if that individual can have more control and more choice in making informed financial decisions in terms of the quality of their life. Quality of life is what ABLE is all about. It was passed by Congress and signed into law in December 2014. It creates new options for millions of individuals with disabilities to set savings goals, open ABLE accounts and not jeopardize eligibility for federal public benefits.

Next slide, please? What is an ABLE account? An ABLE account is a qualified savings account that receives preferred federal tax treatment. It enables eligible individuals to save for qualified disability-related expenses. Assets and distributions for qualified expenses will be disregarded in determining eligibility for most federal means tested benefits.

So, for the first time, we have a new option for many, many people with disabilities who have been recipients of benefits on SSI and have been stuck because to stay eligible for SSI, there's an asset limit of only $2,000. Opening an ABLE account will not affect that requirement. An ABLE account cannot take away your eligibility for other benefit.

So, what are some important requirements of ABLE account? First is an eligible individual may only have one account. The designated beneficiary of that account is the account owner. Although, another person, such as a parent or guardian may be allowed signature authority over the account. So here's where we come into play, the whole set of issues around supported decision-making. The account owner is the beneficiary. Which means this is the person who should be making informed decisions about the use of that money in that account. Money contributed and then growing through investment choices. It's critical for us to think about, not low expectations about an individual's financial competence, but the exact opposite and what support systems people structure as is possible with supported decision-making might make the critical difference, so that, instead of a guardian, and, and all issues of competency being taken away and decided this person is not competent to choose where they live, to also, make financial decisions and control their financial resources.

Supported decision-making offers us an alternative. Annual ABLE account, total aggregated amount is $14,000 a year and aggregate contributions over a lifetime cannot exceed a state limit for 529 college savings accounts, typically somewhere between 250 and $400,000.

Next slide, please? To be eligible for ABLE, you must be a person with a disability with age of onset before age 26. There must be severity of disability as is determined under SSI and/or SSDI, however...not with the current requirement under both systems to prove an inability to work. That's not part of the definition of eligibility. People can work, could be expected to work and now with ABLE, money going into an account wouldn't affect their asset limits and no adverse impact on Social Security benefits up to a certain amount. I should point out that there is, with the ABLE accounts, there is something called a Medicaid pay back. And that means that if a person should die, with money still in their account, the state Medicaid agency has a right to recoup money the state spent on that individual after all other expenses have been paid for that were set aside in the ABLE account. And so, for some people, that may be a significant challenge, but again, want to be transparent on that issue.

Next slide, please? So, other people are also eligible to, for opening an ABLE account. If you were not on Social Security and stated in the prior slide, a certification, a letter from a, a licensed physician indicating significant disability, meaning that SSI or SSDI determination, but not reflecting on inability or ability to work, age of onset, 26 or younger, you're eligible. How and what would the fund be used for? Well...qualified disability expenses really cover almost anything. It's broadly construed to even include basic living expenses, and the expenses for items do not have to indicate medical necessity and they, again, cover almost anything. As you'll see in the next slide. It could cover education, housing, transportation, employment training and support, technology, health, prevention and wellness, legal fees, financial management services, basic living expenses, funeral and burial expenses, really, broad, broad coverage because it's all about trying to improve quality of life.

Next slide, please? We know that ABLE assets will be disregarded or receive favorable treatment when determining eligibility for most federal means-tested benefits. For people on SSI, only the first $100,000 in ABLE account assets will be disregarded. Funds above 100,000 will be treated as resources, housing expenses intended to receive the same treatment as all other housing costs, paid by outside sources, however, the new guidance from SSA indicate that housing expenses as resources only if distributed within one month and held until the following month.

Next slide, please? As I mentioned, even if your Social Security benefits are suspended, if your ABLE account balance exceeds 100,000, as you spend more money, and your balance falls back below 100,000, your SSI cash benefits would be reinstated. And...I talked about, as well, the Medicaid pay back challenge.

For purposes of this law, the state is considered a creditor of the ABLE account and not a beneficiary. Next slide, please?

As we mentioned, contributions to an ABLE account are made with post tax dollars. So the money going in has no favorable tax consequence unless you are in a state where the state law that was passed also gives you a tax deduction or a credit, depending on state law for the money that you're putting in. Again, the, the tax implications are for the money coming out, any income made on investments would be tax free. Next slide, please?

As I mentioned in a list of where these financial resource issues come into play, another one is the CMS, Medicare, Medicaid services, home and community-based service settings that promote individual choice and control in using allocated financial resources. The public resources. More and more states are moving to individual budgets, which are at the control or could be at the control of the individual with a disability. The settings rule also promotes moving away from and out of shelter work, opportunities for competitive integrated employment. It's promoting self-determination and management of individual budgets and requires every state to put together and submit a transition plan for approval to CMS that moves these, these very principles forward.

And the reason I shared with you the WIOA, as well as ABLE account and the CMS setting rule, because all of it is about really changing expectations, raising expectations that people with disabilities are going to be earning income or they're going to have management of an individual budget based on a person-centered plan. They are going to need to really become more knowledgeable and skillful in the management of financial resources. That doesn't necessarily mean that that's going to happen without support, that that's done in a vacuum and I think that's where supported decision-making really, really offers an option that could be a critical difference.

Next slide, please? What do WIOA, ABLE and CMS final rule have in common? They're raising expectations about individual, financial capability, ability to earn, to work, to save, and to manage financial resources. They're encouraging individual knowledge and skill development to become more financially competent. To put in place supports that improve financial decision-making and performance. Not automatically take away from the individual, oh, this person couldn't possibly manage money or couldn't possibly make informed financial decisions.

Well, the truth itself is, I don't believe any of us, independently, make most financial decisions. So, supportive decision-making offers a framework where a person, not on their own, but with a circle of support, with people, that individual can trust, cannot only gain more experience, but have someone to really support them in the, those critical areas of managing financial resources, creating a budget, managing credit and debt, the difference key core competencies I mentioned in one of the earlier slides.

Next slide, please? Supported decision-making can help build individual knowledge and skill, inform and improve financial decision-making and reduce the need for representative payee, guardian, or individual acting with power of attorney. Next slide, please.

So, what's ahead with ABLE accounts? There are two states that have opened ABLE programs which then make anyone eligible for opening an ABLE program, an ABLE account, anywhere in the country to consider. Those are the states of Ohio and Tennessee. And this week, the state of Nebraska, is opening an ABLE program. In the next ten days, the state of Florida will be opening and more states will open between now and the end of the year.

Always, with ABLE accounts, the owner is the beneficiary. The next stage of development, even for states opening these new ABLE programs is to think about what they can do in cooperation with other state agencies, Vocational Rehabilitation, state education agency, state workforce development agency, state Medicaid agency. How can we put in place financial education, financial coaching, classroom, as well as experiential learning to help enhance financial competency for individuals with disabilities.

You can -- next slide, please. Learn more about where ABLE is going, visit www.ABLENRC.org. You can learn more about where every state is, in terms of opening ABLE programs. You'll learn more about the first four states, which are at the front of the line in getting programs opened. Ohio, Tennessee, Nebraska, and Florida. And I think, overall, what I hope it does is, next slide -- please. Is to bring us to a point where collectively, whether you're a policymaker or you're working in one of the many systems I've spoken about, let's increase the availability of financial education. Some of the ABLE accounts are going to come with debit cards, which will have control features, which will limit how much money one could spend at any point. Protection against abuse and fraud. We're going to be looking at states also, very carefully wording power of attorney agreements which might limit the control and financial decision-making to certain types of decisions and not others.

But, I think, this is an arena that I think is going to grow and supportive decision-making is a critical, structural piece, to give people more control.

Let me, last slide. Whoop. I think there was one before that, but that's okay. Is there one more? There should be a slide --

>> It's the contact slide.

>> Oh, okay, we'll leave it alone. I'm so sorry, I think I took up more time than I hoped. I hope I painted for all of you, a picture, financial decision-making is critical in all of our lives. It's critical for individuals with disabilities to have more self-determined, self-directed lives. Supportive decision-making is a critical way this can happen and there are things like ABLE accounts where this is going to be pivotal. Thank you so much.

>> Thank you, Michael. Let's now hear from Lori Smetanka, the Executive Director for the National Consumer Voice for Quality Long-term Care.

>> Thank you so much for inviting me. Not sure you're familiar with the Consumer Voice. We're a national non-profit organization founded in 1975. And...our focus is on educating, equipping and empower consumers and their advocate to obtain quality and affordable long-term services and supports. We do that in a number of ways, including to advocate for public policies that support quality of care and quality of life that's responsive to individual needs in all long-term care settings.

Today, I'm going to talk about the risks and opportunities for financial exploitation of older adults and also talk about strategies for preventing and responding to that exploitation.

There've been countless newspaper headlines, studies, hearings, and reports on elder abuse and neglect and the number of stories of exploitation are on the rise. Just this morning, I was at a hearing being held by the Senate Judiciary Committee on this very issue. Chairman Grassley from Iowa called financial exploitation of the elderly, the crime of the 21st century. It's the faster growing form of elder abuse. What studies are showing is that at least 1 in 5 or 20% of older Americans have reported that they have been a victim of financial exploitation.

A lot of outreach and education about financial exploitation is focused on elders and vulnerable adults living in their own home or with family members, but they're not the only victims of exploitation. Financial exploitation occurs in long-term care facilities, both nursing homes and assisted living, or boarding care-type homes.

What we see, 20% of people who have reported they've been victims of exploitation is a staggering number. Evidence suggests that the true number is actually much, much higher. One study that we were reading recently found that protective services or victim assistance programs indicated that only one out of 44 cases of exploitation are actually being reported. Over the past several years, I've not only heard increasing numbers of cases through the work I do, but also from friends, colleagues and frankly, even members of my own family who have been victimized. This really is an enormous problem.

We really started hearing a lot about the issue of financial exploitation a few years ago, when the economy started its downturn that led to the most-recent recession. The cases among, among exploitation of older adults really skyrocketed.

We heard lots of stories from long-term care ombudsmen programs and other consumers in the field about challenges that individuals were having. We do find that older adults are attractive targets for financial abuse. Some of the reasons include that they may be vulnerable due to cognitive decline or problems with physical health, which require them to be dependent on others for care or basic needs. Many older adults are isolated, their spouse has died, their children or other family members live far away and they really are living on their own and trying to have all their needs met on their own.

Some have significant assets or equity in their homes. Which makes them a target for financial abuse and...others are the primary or regular source of income for their household. Multigenerational household because of pensions or Social Security, which is a regular source of income that keeps everyone in that house going.

The impact of financial exploitation, we've found to be significant. There are emotional effects on older adults. Many victims become depressed and are fearful of others, they withdraw, becoming more isolated. They're embarrassed, they feel the loss of dignity, how could they have been victimized or taken advantage of by another person? They just don't really comprehend how that could have happened or even worse, for many of them, how could a trusted individual, a family member or friend, have treated them that way? We think that so many people don't report their, the crimes that are reported against them, because they are embarrassed that they have been victimized, and don't want to embarrass themselves even further.

We see that the loss of personal funds, or property is significant like savings or investments, jewelry, artwork, other items of value. Loss of housing is another area that we see being taken advantage of, whether it be their family home that's been sold or that they face eviction from a long-term care facility because their money has been diverted by a perpetrator.

In fact, the number of discharge notices for nonpayment being issued for long-term care facilities skyrocketed over the last few years to where it is now the number one complaint that's received by long-term care ombudsmen that work with residents and family members across the country. It's been in the number one spot for the last three years.

Other individuals are living without needed goods and services, which cause additional physical and medical issues, just increasing the cost of the exploitation, because their money has been diverted and used for, or misappropriated by someone else.

The cost that we hear about with respect to financial exploitation is actually in the billions. Almost $3 billion alone, in 2010, was diverted through exploitation or financial abuse. But there's also, additional cost to taxpayers through the Medicare and Medicaid system, Social Security, pensions, all of those funds are being exploited or we're seeing increased cost to the Medicare and Medicaid systems because of the diversion of some of the private funds.

When we think about financial exploitation, I'm going to very briefly talk about three different forms and unfortunately, in each of these situations, not only could the perpetrator be a stranger, but could also be a person known to or even related to the victim.

On the first slide, we see there's exploitation that's the result of occasion or opportunity. And...in these cases, we see that the victim has money or assets and the perpetrator wants them. It's basically as simple as that and they're not above stealing or lying to get at those assets.

Many of the cases that we hear about is when maybe an elder is being charged for services, like home repairs that are never provided or for which they've been significantly overcharged. Or where the elder lives alone and they're being targeted by theft, for theft by others. These are also situations that we hear so many examples on the news today around scams. Some of the examples we've been hearing about include someone will call and pretend to be a grandchild who is in trouble and needs money sent quickly or a perpetrator will tell a victim they won a lottery or a sweepstakes, but needs to give money in order to claim the prize.

A new popular scam that we're hearing about is someone calling saying they're from the IRS and that they owe money and will be criminally prosecuted if they don't respond immediately. I had that one at my own house. People were calling leaving messages saying the IRS was calling.

At the hearing this morning, we heard about these and other scams where the older individual is threatened with the loss of care or benefits or fines or jail if they don't comply.

At one conference I was at a few years ago, they played recordings of a perpetrator on the phone with an elderly victim. It was heart-wrenching to hear the recording of the person. The perpetrator was very aggressive and verbally abusive on the phone. The elder was very agitated, scared, crying, you could tell that the perpetrator was not just abusive, but shaming and berating the victim to do what they want. We even saw a video this morning at the hearing that showed the persistence of the perpetrators when they've got a vulnerable elderly person on the phone. They don't let up and they keep at them until they finally cave to get them to stop calling.

There is significant and widespread work being done nationally to combat these scams. A number of federal agencies have been working on the issues. They're working with private industry, like banking and retailers, like Western Union or CBS to train staff about the warning signs of exploitation and to establish Policies and Procedures for combatting it. We've seen instances where an elder might be hospitalized or neat care and someone use the elder person's money for their own needs, instead of paying for the elder person's care in a long-term facility.

In one case, the daughter of a woman in rehabilitation completely gutted her mother's house when the person was in rehab. When it came time to send her back home, her house was uninhabitable. She had to stay in a nursing home.

The situations often come to light after an elder who lives in a nursing home or assisted living receives a discharge notice for nonpayment and found themselves several months in arrears or the facility finds out the money or the house is gone.

Secondly, let's talk about exploitation that comes from a form of desperation. In these cases, the perpetrator is so desperate for money, often to fund an addiction to drugs or alcohol, pay gambling debts, for example, they'll do anything, including stealing money from a parent or grandparent, or relative to get the money. Unfortunately, often it's family and friends that are targeting an older adult because they need the money so desperately.

And then, a third form of exploitation that I'll mention today is a predatory form of exploitation. We hear a lot of these stories. They make the news as well. A new friend or romantic interest will come on the scene, devoted to the older adult. They're always around, making themselves at home, becoming one of the family. It appears as though they're trying to replace the family, sometimes, in order to get the older adult to turn over assets or no them.

They begin isolating the older person from their family and friends so they will then, become the primary person that the elder relies on and they will encourage them often to change their wills, change their beneficiaries and make themselves that person so the family gets cut out and then they get, then the perpetrator gets control over the elder's money.

This last type of exploitation also refers to trusted professionals. In some cases, guardians or agents under powers of attorney or caregivers that abuse the trust misplaced on them and misspend the money put in their care. They may take the money without permission. They fail to repay money they owe, they charge too much for services. Oftentimes, we'll see they fail to use the money for the individual's needs, including food, clothing or housing or Health Care, which just exacerbates the problems.

So, now let's talk about some of the things that can be done to be supportive of an individual and work with them in a way that provides for maximum independence and autonomy. And managing their life and money, but also helps to put some checks in place to step in so there's someone helping out with the individual who might need some assistance in managing their own funds.

First we want to be aware of what the warning signs are. So...as a family member, friend, legal counsel or other trusted individual working with an older adult, you need to be aware of warning signs that might show something is amiss with the older adult. Bills that might be going unpaid or you see new significant changes in spending patterns is always a sign that something is a skew. Possessions might be going missing or the individual is buying frequent or expensive gifts or a particular individual -- if they start talking about changing their will or changing beneficiaries or want to make significant or immediate changes in legal documents, it might be cause for concern where you might need to ask some questions.

If it's becoming increasingly difficult to get ahold of the elder, you call, but they're unable to be reached by telephone or if you do call and suggest a visit, it's hard to get, to make plans with them. Oftentimes, because there's another person who is trying to keep them isolated from family members or friends.

Other warning signs could include the older person begins to act agitated or fearful around a particular person or you notice behavior changes when that person is around. Or when you visit, you find they don't have needed items or supplies, refrigerator and cupboards are bear, they don't have the necessary clothing for the weather outside, for example, but checks are still being written on their account. Or as I mentioned earlier, they'd Reeve a discharge notice for nonpayment from a nursing home or assisted living facility when someone was supposed to be responsible for paying for their care. Any of these cases or examples should raise cause for question or concern and may really indicate that something is going on that would require additional assistance.

One way to try to prevent some of these situations from occurring is to have really open communication and a good plan in place with the older individual that's developed and agreed to by both the older person and their trusted family member or friends that relates to some of the decisions, that need to be made in terms of how their money could be managed, what types of supports they might need and how the family member or friend can provide that support to them.

If some of the decisions related to finances have been out of character, or questionable, it's really important to have good communication to help prevent the victimization, either from starting or continuing.

Some examples of things that can be included in a plan include taking some time, periodically, if the person agrees, to work with them on their finances, maybe pay bills together so they're both involved in the process, but can get some support from the trusted family member or friend. So you both really know where the money is going and how it's being spent, assuring there'll a second set of eyes on the money. So that it could maybe prevent some challenges from happening in advance.

It is important to remember that while we're still competent, we have the ability to make our own choices about how we spend our money, even if it's not to the liking of our children or our grandchildren. I certainly know I don't always agree with the way my own mother spends her money, but having good communication and being able to help if they're having difficulty can prevent others from being victimized and prevent them from being victimized by others.

It might be as part of a plan, you put into place, and talk about how and where their money will be kept. So for example, maybe a certain amount of money will be kept in one account and it'll be used for living expenses and paying for bills, but a second account will be set up each week or month that can be used for whatever the older adult wants so a plan is put in place to assure that the living expenses are being covered and that not all of their assets are being subject to potential victimization.

Talk through how the elder can respond. If they receive a request or demand for money. Like on a scam or over the phone or if a family member asks them for money. Remind them that government agencies like the IRS or Social Security will never call and ask for money or their account information or anything like that. They need to know it's okay to hang up and not respond to the people on the phone. We're talking about a generation that really is known for being polite and following rules and deferring to authority. They need to know that just because someone's on the phone demanding something from them, even if they think it's a federal agency, they do not have to respond on the phone.

Having talked through what they can say, giving them examples of how to respond, may just give them the confidence to just say no or hang, on the call or on the line.

Also important is to work with them on protecting their personal information. Bank account numbers, Social Security information, credit card information, assure that it's being kept in a safe place when they're at home, maybe even locked up when they're at home. Understanding who would have access to the information, talking through things like this in advance could really help prevent issues later on.

Other things that can be planned ahead for supporting older adults with decision-making is related to their finances is to talk with them about preparing advanced care planning documents. So that they can document their wishes in event that they are no longer able to speak for themselves at some point in the future. The conversations are difficult to have, taking care of the decisions in advance is one way to avoid some of the challenges or conflicts that really arise when this hasn't been done. They can spell out their wishes, for example, regarding who they might want to, to make their financial or Health Care decisions for them or what they'd want to do with any assets that they have. And elder law attorneys can provide some of the necessary guidance in this fashion.

Know the older adults, friends and caregivers. If you find suspicious activity, some of the things that was mentioned earlier like frequent or expensive gifts being bought for someone, possessions are missing, they're increasingly being isolated from friends or family or there are new friends or individuals that are part of their inner circle that you just have had no contact with before, know that you need to be asking questions, get to know those people, what's their intent and so that you can really keep an eye out to make sure that the older adult is not going to be victimized.

And to further help assure that the older person is not subjected to scams, we did talk about some things on the previous slide, but another example I listed here is to sign up for do not call lists. Hopefully some of those calls won't even come to them.

There are a number of things you can do. If you have other ideas, I'd love to hear about them and have my contact information at the end of this presentation.

In addition to having a plan, we recommend you be proactive in setting up checks and balances with the older individual. To try to prevent their being victimized. So things that can be done include talking with financial institutions, for example, about what types of systems they have in place to respond to suspicious activity, or fraud on an account. As I mentioned earlier, there's been a significant push by the financial industry, and by government agencies in the last few years on developing systems and tools for detecting and preventing financial abuse.

So, know what they are, with the, with the institutions that you're dealing with. An older adult should appoint only a trusted individual as their agent under power of attorney. It's not a bad idea to require that agent have to report to a third party. Maybe another trusted family member. As one of those checks and balances in terms of making sure that all the control over someone's finances is not left with just one person.

For each of the examples on this page that we have, this slide, we really are reinforcing open communication, working together and developing a plan as well as having some checks and balances in place that allow for assistance to be triggered, while still providing as much autonomy and independence as possible for the older individual.

We know that as people get older, the likelihood that they're going to need to leave in a congregate setting like a nursing home or assisted living facility increases and those individuals also are at the risk of being victimized, victims of theft, or misappropriate -- misappropriation of their property.

So, it's really important to become educated about your rights and responsibilities with respect to your finances when you are living in a long-term care facility. Including understanding your bills, understanding what your, what the responsibilities of the facility are, to protect your assets and protect your, your belongings while you're in there.

There are other things that the older adult, his or her representative can do to protect resources like review financial records pertaining to the older adult if any of the money is being held in the facility. People that live in long-term care facilities, many of them designate the facility as representative payees, for example, or they receive personal needs allowance amounts, that they can have access to and spend and so, understand what's in those records and how that money is being, is being kept in the facility. Keep an inventory of your belongings and keep it updated so that you know what should be with the individual in the facility, keep money and valuables at a minimum that are taken to the facility, but whatever you do keep there, know how it can be locked up and protected. Certainly residents that are living in long-term care facilities shouldn't have to not have any access to the things that are important to them or to their money, but there needs to be a process in the facility for keeping it safe.

So...really, need to know what that is and ask the facility. And I think, really importantly, is, report any concerns about theft or exploitation immediately to the administration and even to law enforcement. The same as you would, in your community-based home, if you have concerns about theft, law enforcement should be called in.

It's important to know your rights as it relates to financial exploitation. Residents have the right to access records to manage their financial affairs, to be informed of available services and charges for each service and to be able to file a complaint without fear of retaliation. These rights are guaranteed to them under federal law.

In assisted living or home care, aside from the HCBS settings rule that was mentioned earlier by Michael there, are no federal rules for assisted living and so, we rely on state law. So it's important to know what your state protections are, but...all states require that residents be protected from abuse, neglect or exploitation.

Nursing homes and other long-term care facilities have a responsibility to protect their residents, like I mentioned. Excuse me. There are things that they can do. And that they have a responsibility to do, such as having Policies and Procedures in place or protecting residents from abuse and exploitation. Educating their staff on what those policies and procedures are, ensuring they're following them. Showing strong leadership to say that abuse of any kind will not be tolerated in the facility.

Importantly, the facility must attempt to stop abuse from occurring, however they can. By removing the perpetrator if they're known, reporting to law enforcement, people in long-term care facilities are mandated reporters of abuse. In most, if not all states. So, if abuse is suspected, they do have a duty to report it. According to their own Policies and Procedures, they should be investigating what occurred when, and identify who was involved.

Another point here, in the event that a resident's bills aren't being paid by a responsible party, notification should take place quickly. We heard too often in instances where arrears go as long as six, eight or 12 months or more before anyone was notified their bills weren't being paid. Getting on top of it early can help getting it taken care of.

If you have suspicions that an older adult or loved one is the victim of financial exploitation, there's a lot of information available in agency's responsible for investigating, investigating this type of abuse.

If they reside in a long-term care facility, in a personal care home, you can bring your concerns to a trusted staff person. Long-term care ombudsman programs are there to advocate for residents of long-term care facilities and are a good resource, they can help either help with resolving the complaint or put you in touch with other entities like law enforcement or protective services that can help.

Adult protective services, investigate reports of abuse, and can take protective action. Important to know that, you know, we know that financial exploitation is a crime, so as I mentioned earlier, law enforcement or offices of district attorneys or attorneys general can be called for assistance.

There are a number of resources available. I wanted to give you links to websites. What you see on the slide in front of you, where you can get some really excellent materials around the issue of, of financial exploitation and abuse and some strategies for responding to it. And...with that, there's my contact information, and I would be happy to either take any questions or feel free to e-mail or call me. Thanks.

>> Thank you, so much, Lori. We have a few questions. I have first one for Lori. Lori, you mentioned the importance of communication and supported decision-making is at its heart, communication between people, between the person and supporters, between providers in the financial realm, between people who are in the financial realm, bankers and other financial folk, so what we hear from a lot of older adults, it's hard to admit they

might need support. Are there resources available that can help promote good communication and help older adults express their wishes?

>> There are, Jonathan. There are a number of places where people can go for resources that can help with communication. We have some good fact sheets on our website and the link is on the slide that people are seeing in front of them, that people can use to talk about some of these issues. There's some other great resources from the Consumer Financial Protection Bureau that can help enhance some of the communication. There's a group called the Conversation Project that gives tools and strategies that family members and individuals can use to open communication about a variety of issues. And they've been a really terrific resource. And then, I mentioned advanced care planning. There are some really great tools that have been developed that can really enhance communication in a number of front ways around that area and the American Bar Association has some fantastic tools on their website as well.

>> Thanks. A question for Michael. A lot of what we hear is people with mental disabilities is they cannot make decisions. But we know decision-making is a skill, the more you do it, the better you get at it. What can be done to improve financial capacity for individuals with severe disabilities who may not have been given the opportunity to make decisions in their lives?

>> I think there are a number of things, Jonathan. The first is what I mentioned, is...we have so many systems that require, annually, at least, and, and more frequently, if necessary, developing individual program plans.

So...if we're talking about a child, in K-12 system, we should make sure, this is really for parents. Make sure that building financial capability, the skills of learning basics about money, learning about, even in terms of independent living skills, visiting a bank and sitting down and talking about the difference between a checking and a savings account. Within the IEP and then for adults, with both the workforce development and Vocational Rehabilitation systems, it's not just setting out at operations as I want a job and I want to work, it's coming with that, is going to be a paycheck. And...we shouldn't assume that people are going to pick up the knowledge and skills to manage money effectively. It could be built into the plan. I think for the ABLE accounts to come is sort of this unique opportunity where the beneficiary of the account is also the owner. The owner of that account is most-likely going to get contributions to that account from family members and friends and so, it's just expanding our thinking to create a, a circle of support for that individual to help create the opportunity to gain experience, learn more about, with each experience, how to manage money and, and build financial competence.

>> Great, thank you, Michael and following up on that, the ABLE Act, you said is one that really is a natural fit for supported decision-making. Why do you feel that way? What's the significance of supported decision-making with an ABLE account, as opposed to an account like a needs trust where a trustee makes a decision?

>> With so many self-advocates, family members, organizations that work for so many years, over eight years to, to convince Congress, educate Congress to create ABLE accounts, I think implicit and part of the framework, to separate it from trusts was that the beneficiary is the owner and it raises a different level of expectation that as the owner of the account, that person shouldn't be left alone to try to figure this out, but again, I think supported decision-making is the perfect framework to help that individual make informed financial decisions and manage, probably more financial resources than they have ever had in the course of their life. This is an entirely new framework. I think it keeps very much with the philosophy of self-determination, and the philosophy of original architects of the ADA. Americans with Disabilities Act. It's not just achieving economic self-sufficiency, it's being able to manage financial resources which I think puts into play how our different service delivery systems, non-profit providers, community, different types of community partners and public agencies, need to take very seriously. Let's add to what we do, Centers for Independent Living, let's add to what we do, financial education, let's bring in and they will come for, for free. Banks and credit unions are set up to have community representatives come in, employees of the bank come in and offer a financial education class or bring a group of individuals to the bank and sit down with them to explain the importance of a checking or savings account and how that's more secure, more stable than a check-cashing place or other ways that people might have been dealing with, with a paycheck.

>> Thank you, Michael, on that note, a question for Lori. We hear a lot about the potential of financial abuse of older adults and in fact, it's one of the main reasons for guardianship. One of the things I tell people when I'm asked that, often the same protections are available whether you're under a guardianship or not. Two of the main ones we hear about are the long-term care ombudsmen and adult protective services. Can you help us understand the difference between those two? How does the long-term care ombudsmen respond to complaints of financial abuse differently than adult protective services?

>> Sure. The long-term care ombudsmen program is set up to

be advocates for individuals living in long-term care facilities. In some states, they even are advocating for people receiving long-term services and supports in their home and community-based settings. They take direction directly from the consumer or the individual. They are there to find out what it is that the individual wants to have happen with respect to the complaint, what would cause the complaint to be resolved to their satisfaction and then the ombudsman will help them achieve that. Sometimes it's getting information, sometimes it's reporting, an abusive situation or exploitive situation to another agency. Sometimes it's helping them get some different type of resources. But the ombudsman is there to support and take direction from the resident.

Adult Protective Services, on the other hand, advocates on behalf of the individual, but it's more of a protective agency and they can take action regardless of what the individual may want to happen. It's more paternalistic. And while certainly they take into account what the wishes of the individual are, they can take action regardless of what the individual wants.

>> Thank you, Lori. With that, we don't have any additional questions, so we're going to wrap up a little bit early, which, given the number of lawyers on the line is something of a small miracle. I want to thank everyone for joining us. I hope you've understood between this presentation and the prior one, how supported decision-making can be engrained in people's lives to improve people's lives. Next month, a date to be determined, please watch for an announcement, we'll be having Erica Wood from the American Bar Association and Marsha Tool from the Colorado Developmental Disabilities Council talking about ways we can improve supports and services through supported decision-making to better-enable people to live in the community. We hope you'll join us and we hope you'll spread the word about these presentations and please visit us at www.supporteddecisionmaking.org. My name is Jonathan Martinez. It's been our pleasure, thank you so much.

[Call concluded at 2:21 p.m. ET].

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