



Family Financial Exploitation and APS: A Thin Blurred Line

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Emotions Behind Money

Question One:

You've had a tough day at work.

On the way home, you pass by your favorite ice cream (chocolate, margarita) vendor.

You are on a diet and have already had your caloric maximum for the day.

Do you go in and order a chocolate sundae after a tough work day anyway?



Emotions Behind Money

Question Two:

Your friend has been out of work for months.

You're at dinner with her and the two of you have racked up an usually large bill for food and drinks.

She offers to split the bill in half.

Do you accept her offer?



Emotions Behind Money

Question Three:

Your family dog needs a major operation, \$3,000, with a fifty-fifty chance the operation will save her life.

She is 8 years old. Her breed lives typically to 10 years.

You're on a tight budget, that \$3,000 was going to go to your property taxes and are a single mom of two with no savings.

Would you spend your tax return to save your pet?



Virginia Definition:

Illegal use of an incapacitated adult's resources for another's profit or advantage.

Mishandling, fraud, or theft of income, money, accounts, assets, or property accomplished by means of trickery, intimidation or coercion.

- Taking money or property
- Forging an older person's signature
- Getting an older person to sign a deed, will, or POA through deception, coercion, or undue influence
- Using the older person's property or possessions without permission
- Promising lifelong care in exchange for money or property

Scenario One – Mrs. Grimes

- An 86-year-old white female:
- **Widowed for 5 years**
- **Owns own home with no mortgage in comfortable neighborhood**
- **Home is the least well-maintained on her street; no code violations**
- **Has history of T.I.A.s, has high blood pressure, frail, mobility limitations, depression**
- She has four grown children. Three have obtained financial and physical independence, with their own spouses, children and careers. Her youngest son, Carl, age 55, has a haphazard work history and periodic in/dependence in his living situation. He lived at home until age 38, when he married. At age 48 his wife initiated and obtained a divorce and he returned to his parents' home where he has lived for the past 7 years.
- The reporters are two of the three children who live outside the home. They allege Mrs. Grimes is being financially exploited and neglected by Carl.
- After three home visits, the APS worker has determined:
 - **Mrs. Grimes lacks financial capacity**
 - **She retains decision-making capacity in all other areas**
 - **Carl states he is looking for work but "it's a tough economy out there." There is no indication he is searching for work; he has no income.**
 - **He identifies himself as his mother's caregiver and says he must live there in order to take care of her**
 - **On a scale of 1 – 10, his care of her is a "5"**
 - **Carl feels entitled to funds from his mother's income, to pay no rent and to use her car as he needs**
 - **Mrs. Grimes cannot say exactly how much it is each month that her son takes and allows APS worker to look at six months of bank statements, which show ATM withdrawals between \$400 - \$900 per month**
 - **Her income is \$2,000/month; liquid assets \$50,000**
 - **She is ambivalent, at times protecting and making excuses for him and at other times expressing concern her own funds will run out.**



Conclusion: Founded APS exploitation, our client lacks financial capacity and son is using her money for his own needs.

Do you have all the information you need to have before you choose a course of action as an APS worker?

If not, what more do you need to know before you choose how to act in this situation?

What would be your actions/plan of care?



Group Discussion



Group Discussion

Fairfax

- #1: What is the emotional relationship between Carl and Mrs. Grimes? Carefully watch them together, body language, word choice, tone.
- #2: Risk is very important here. Assessment needs to come from the outside: doctor appointments?, medications?, equipment needed?, home safe for her?, socialization opportunities?, ADLs?, IADLs?.
- #3: Family system in which client, prior to incapacity, parented in an enabling way – symbiotic relationship with this child, sabotaging the others.
- #4: How to approach son? As “abuser” or non-judgmental approach, private conversation
- #5: Cost of intervention – how do we do no harm?, as interventions would be costly emotionally and financially
- #6: Cultural, value system of client

Scenario Two – Mr. Dixon

Mr. Dixon is a 78-year-old Caucasian male.

- **Widowed six years ago, met and moved female partner (age 63) into his home 6 months after wife's death**
- **Has three grown children from first marriage**
- **Owns own home with no mortgage in comfortable neighborhood; home is in excellent condition**
- **Has Parkinson's disease, Alzheimer's Disease, moderate stage**

- Callers are Mr. Dixon's children. They allege client lacks financial capacity and his live-in girlfriend, Carol, is spending his money on items related to her needs. They state there is a new deep brain stimulation treatment that has a 20% chance of helping slow Mr. Dixon's progression of Parkinson's Disease. It is not covered by insurance; his girlfriend refuses to encourage client to get this treatment. They allege she is unduly influencing him and also periodically blocking their ability to visit him. After speaking with client alone, girlfriend alone, and interviewing adult children by phone, APS investigator has determined:
 - **Mr. Dixon lacks financial capacity as well as executive decision-making**
 - **He is strong-willed and consistently adamant that he loves Carol, trusts her completely and has changed his will to give everything to her upon his death**
 - **He states his children "are busy buddies" although he enjoys occasionally seeing his children and grandchildren and seems unaware Carol has made that periodically difficult for them**
 - **When married to the mother of his children, Mr. Dixon was frugal with funds**
 - **Once new relationship began his spending habits changed, with more expensive cars, vacations, clothing**
 - **Carol states she has access to all his finances and quit her job when she moved in with client six years ago. She receives Social Security at \$900/month while Mr. Dixon has social security totaling \$3,000/month, according to verbal statements, as Carol refuses to allow APS worker to view bank statements, etc.**
 - **Adult children indicate client was a distant parent but "he had started softening until he met her."**



Conclusion: Founded APS exploitation, our client lacks financial capacity and Carol is using undue influence to use his funds for her own needs. An additional concern is a gut feeling that Carol cares more about \$\$ than client's

Do you have all the information you need to have before you choose a course of action as an APS worker?

If not, what more do you need to know before you choose how to act in this situation?

What would be your actions/plan of care?



Group Discussion

Scenario Three: Mrs. Glenn

Mrs. Glenn is a 90-year-old Caucasian female

- **She has been a widow for 20 years; she has no children**
- **She lives alone in her own, clean, condo with her dog, Morgan.**
- **Mrs. Glenn is in good health, on two prescribed medications, for lowering cholesterol and to control her thyroid**
- **She is thin, frail and she has moderate macular degeneration**
- **Mrs. Glenn has exhibited a steady decline in her cognitive functioning, primarily in the area of short term memory and orientation to time**

- Reporter is administrator at her local bank branch, who reports she has been coming into the bank lately with a woman in her late 50s, Maggie, who recently visited the bank with Mrs. Glenn, influencing her to put Maggie's name on all Mrs. Glenn's accounts. Reporter feels Mrs. Glenn lacks the capacity to manage her own money and she could be open to financial exploitation by Maggie, whose relationship to the client is unknown.

- Mrs. Glenn is cooperative, allowing APS worker to analyze one year's worth of bank statements, to have financial capacity assessment completed, and to interview Maggie. APS investigator determines:
 - **Client lacks financial capacity**
 - **Client's income is \$4,000/month and her liquid assets are \$750,000**
 - **There have been a series of ATM withdrawals from her bank account each month over the past year from locations Mrs. Glenn could not get to on her own and Mrs. Glenn does not know her PIN, stating "Maggie does this for me." These range from \$600 to \$1,000 per month. Otherwise, bills paid appear in line with client's needs.**
 - **Maggie is Mrs. Glenn's long-time female friend's daughter, in whom Mrs. Glenn has total confidence and states "she is like a daughter to me."**
 - **Maggie helps Mrs. Glenn to go to doctors, set up pill boxes, arrange for grocery delivery, does some cooking, and takes her on social outings.**
 - **Mrs. Glenn can perform her own ADLs and she has a house-cleaning and condo-repair service manage her living space.**
 - **Regarding her IADL, ADL and social care, APS worker has no concerns.**



Group Discussion

MONEY

One of the most personal matters in one's life is how you choose to spend your money.

What is needed are questions that allow a deep understanding of the reasons behind a client's choices:

- Think about what is most important to you in your life. What makes life meaningful or good for you now?
- How do you prefer to spend money?
- What makes a home a home for you?

Values vs. Preferences

“Values” refers to an underlying set of beliefs, concerns, and approaches that guide personal decisions, where as we use “preferences” to refer to the preferred option of various choices that is informed by values.

For example, a person may **value** being a protector and provider, so may have a **preference** that results in a history of generous giving to younger relatives.

Even when cognitive functioning may be compromised, a person may still be able to express important deep-rooted values underlying their decisions.

Undue Influence

- Undue influence is a legal concept that refers to a dynamic between an individual and another person. It is the intentional use of social influence, deception, and manipulation to gain control of the decision making of another.
- Related to legal doctrines of fraud and duress, undue influence may be alleged in legal transactions, such as executing a will, entering a contract, or conveying property to another, as well as in cases of financial abuse.
- While diminished capacity may make one more vulnerable to undue influence, it is not a necessary component of the dynamic. Therefore undue influence can be present even when the victim clearly possesses mental capacity.

Financial Capacity

- Financial capacity is a construct (medical, legal, cognitive) that represents the ability to independently manage one's financial affairs in a manner consistent with personal self-interest and values.
- For historical reasons, Anglo-American law has traditionally treated an individual's financial capacity separately from the capacity to manage personal affairs Conservatorship vs. guardianship
- Financial Capacity involves:
 - Performance skills
 - Judgment Skills that optimize financial self-interest
 - Values that guide personal financial choices
- Financial skills can vary widely among cognitively normal individuals and is associated with factors of education and socioeconomic status:
 - Entering into contracts - high bar
 - Creating a budget - medium bar
 - Communicating to professional your desires regarding your will - low bar

Assessing Financial Capacity

From a clinical standpoint, this specific capacity is highly cognitive and very vulnerable to neurological, psychiatric and medical conditions that affect cognition such as dementia, stroke, traumatic brain injury, and schizophrenia.

Medical conditions that impair financial capacity include:

- neurodegenerative disorders like Alzheimer's Disease and Parkinson's
- Schizoid spectrum disorders
- Bipolar disorder
- Substance abuse
- IDD

Several tools exist for the psychologist to assess financial capacity, including: the money management section of the Independent Living Scales, the Financial Capacity Instrument and the Hope Mont Capacity Assessment Interview

In assessing financial capacity, it is important to obtain information regarding an individual's lifelong values and approach to managing money and finances

Table 1. Description of Financial Capacity Instrument Domains and Tasks

	Task Description	Task Difficulty
Domain 1: Basic Monetary Skills		
Task 1a: Naming coins/currency	Identify specific coins and currency	Simple
Task 1b: Coin/currency relationships	Indicate relative monetary values of coins and/or currency	Simple
Task 1c: Counting coins/currency	Accurately count groups of coins and/or currency	Simple
Domain 2: Financial Conceptual Knowledge		
Task 2a: Define financial concepts	Define a variety of simple financial concepts	Complex
Task 2b: Apply financial concepts	Practical application/computation using financial concepts	Complex
Domain 3: Cash Transactions		
Task 3a: 1-Item grocery purchase	Enter into simulated 1-item transaction; verify change	Simple
Task 3b: 3-Item grocery purchase	Enter into simulated 3-item transaction; verify change	Complex
Task 3c: Change/vending machine	Obtain exact change for vending machine use; verify change	Complex
Domain 4: Checkbook Management		
Task 4a: Understand checkbook	Identify and explain parts of check and check register	Simple
Task 4b: Use checkbook/register	Enter into simulated transaction and make payment by check	Complex
Domain 5: Bank Statement Management		
Task 5a: Understand bank statement	Identify and explain parts of a bank statement	Complex
Task 5b: Use bank statement	Identify aspects of specific transactions on bank statement	Complex
Domain 6: Financial Judgment		
Task 6a: Detect fraud risk	Detect and explain risks in mail fraud solicitation	Simple
Task 6b: Make investment decision	Understand investment situation/options; make investment decision	Complex