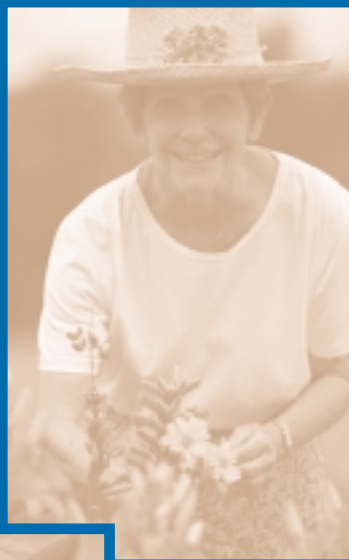




Senior Citizens Handbook



**LAWS AND PROGRAMS
AFFECTING
SENIOR CITIZENS
IN VIRGINIA**



A Joint Project of the Senior Lawyers Section and the Young Lawyers Conference of the Virginia State Bar

Senior Citizens Handbook

Laws & Programs Affecting Senior Citizens in Virginia

**A Joint Project of the Senior Lawyers Section
and the Young Lawyers Conference
of the Virginia State Bar**

**1999 Edition
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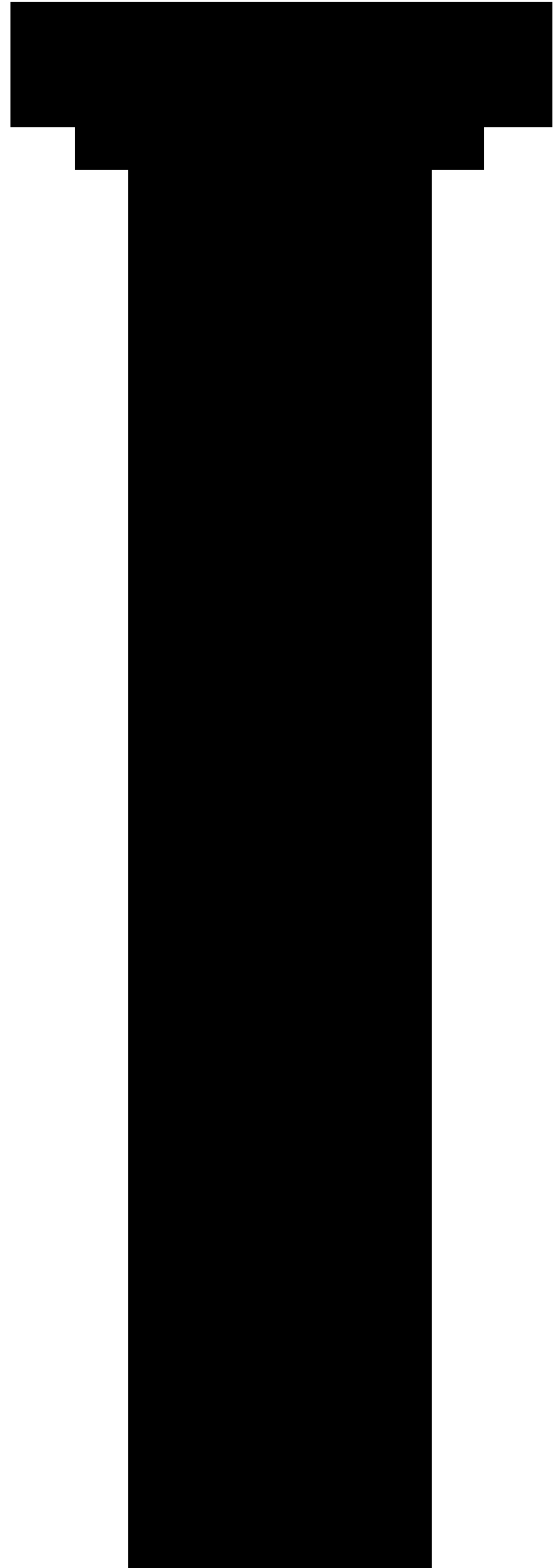


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ACKNOWLEDGMENTS/PREFACE

This book is dedicated to the job of informing all citizens of the Commonwealth of Virginia, and in particular, the elder citizens, how to find and where to look for help in solving their problems. It does not cover everything, but we hope it is helpful to the people who use it. In particular, we hope you will find the “Helpful Contacts” section useful.

This publication has been prepared under the supervision of the Senior Lawyers Section of the Virginia State Bar with assistance of the Young Lawyers Conference. Thomas J. Michie, of Michie, Hamlett, Lowry, Rasmussen & Tweel, P.C. served as the primary editor of this edition.

This 1998 edition is particularly indebted to a new publication by the Senior Lawyers Section of the American Bar Association entitled National Handbook on Laws and Programs Affecting Senior Citizens. Our new Virginia Senior Citizens Handbook utilized the ABA format for presentation of subject matter and large portions of the ABA material as well. We believe the combined resources of these publications make this our most useful handbook to date. We especially wish to recognize the contributions of the University of Virginia Law School students of the Virginia Health Law Forum headed by Susannah Shakow. Her leadership and the work of her fellow students in combining and updating the Virginia and ABA materials are greatly appreciated. We also thank the many reviewers who edited sections of this book. Many people contributed their talent and time to this update which is deeply appreciated.

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INTRODUCTION

This handbook provides a summary of many laws and programs affecting Virginia's elder citizens. While it is designed to meet the needs of seniors, it should serve as a useful tool for other Virginians who are interested in matters affecting our senior citizens. The handbook not only provides practical guidance for addressing many of the problems commonly faced by older Virginians, additionally it should be helpful as a resource for locating those public and private organizations which provide services to seniors. Although the handbook is not intended as a substitute for professional legal assistance, the information presented should assist the reader to become better educated on those legal issues impacting the quality of life of Virginia's senior citizens.

FINANCIAL ASSISTANCE

Social Security

Social Security is a system by Congress designed to supplement your retirement income. It is not intended to provide your sole source of income—it merely adds to the pension benefits, savings plans, and other investments that you will rely on during retirement.

Introduction

Different types of benefits are payable under various provisions of the Social Security Act, but when the average person uses the phrase “social security benefits” he or she usually means the Retirement, Survivors, Disability and Health Insurance Program (RSDHI). These are monthly cash benefits paid to you as a retired or disabled worker, to qualified spouses, children, and parents of retired or disabled workers, and to qualified widows, widowers, and divorced spouses of workers.

The RSDHI program is largely financed out of taxes paid by employers and employees. It is an insurance program. Benefits received by you and your dependents have been earned by you through your employment and the taxes collected regularly from your wages. These tax deductions are shown on your paycheck next to the initials “FICA.” The letters “FICA” stand for “Federal Insurance Contributions Act,” which is the official name for the federal laws which established the Social Security program in 1935. These deductions go up periodically. The money collected from this tax goes into trust funds, and current benefits are paid out of these funds.

General Eligibility

Eligibility for Social Security benefits depends on the length of time you have been working and paying Social Security taxes. Generally, an individual is eligible for benefits after a lifetime total of ten years in employment covered by Social Security. “Covered” employment refers to all employment and self-employment in which the employee and employer are obligated to pay a payroll tax to the Social Security Administration. The ten years may be calculated by adding up the total number of “quarters” worked by the individual. A “quarter” is defined as a three-month period; that is, there are four quarters per year. Thus, ten years of employment is the equivalent of forty quarters.

If you stop working before you have the forty quarters needed to qualify, your quarters will be kept on record. If you start working again, your quarters will continue to accumulate. In some cases, you may not need the forty quarters to qualify for benefits. To find out how many quarters you have or how many you need to qualify, contact your local Social Security Administration Office.

Your Social Security Number

To collect Social Security, you will need your Social Security number. If you have lost your card, or don’t know your Social Security number, you can apply at your local Social Security office. They will ask for identification such as a birth certificate for a new card, picture identification for a replacement card, and a marriage certificate or divorce papers if you simply need to change your name.

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Retirement Benefits

The amount you receive in Social Security retirement benefits is dependent on how much income you averaged over your career. If you made a high amount of income, your benefits will be proportionately greater than if you had periods of no work or low salary. Your level of benefits is also affected by when you begin receiving Social Security. If you are eligible for benefits, certain family members can also receive benefits:

- your spouse age 62 or older,
- your spouse under 62 if caring for a child under 16 years old or a disabled child,
- your former spouse age 62 or older and unmarried (provided you were married 10 years or longer),
- children up to age 18,
- children age 18-19 if they are full time students through grade 12,
- children over age 18 if child became disabled before the age of 22, and
- a widow or widower in certain situations.

When Should You Retire

Individuals are eligible to receive full retirement benefits at age 65, providing they were born in 1937 or before and they have obtained the necessary work quarters and have worked for the requisite amount of time. It is possible to obtain benefits at 62 years of age, but the amount you receive will be reduced by about 20 percent. If your full retirement age is older than 65 (that is, you were born after 1937), you still will be able to take your retirement benefits at age 62, but the reduction in your benefit amount will be greater than it is for people retiring now. If you do not take Social Security at 65 years of age and continue to work, you will receive additional money when you apply for and receive your Social Security Benefits. Your benefits will be raised by a certain percentage each year that you delay retirement.

You can also choose to receive Social Security benefits after age 65 and remain at work. Between the ages of 65 and 69, your Social Security benefits will be reduced slightly if you are making over \$14,500 per year. (The amount of this earnings limit changes every year.) When you are 70 or older, you can work and receive full Social Security benefits with no limit on earnings. If your post-retirement earnings are greater than your earnings in pre-retirement years, you may be entitled to larger Social Security benefits. Ask your local Social Security office to recalculate your benefits if your post-retirement earnings have significantly increased.

The earnings limit applies only to earnings from self-employment and wage income. Interest, dividend and other passive income, are not included in the calculation. In other words, investment income will not cause you to lose your social security benefits.

A year before you retire you should consult with a Social Security representative to help you plan the best time to apply to get the maximum benefits. There are advantages for some people in retiring at age 62, and for others it makes sense to wait until later. Your Social Security representative can help you interpret the complex rules.

Note: If you choose to delay your retirement, generally you should still sign up for Medicare at age 65. See your Social Security office for more details.

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Benefits For Your Spouse

Your spouse may be eligible for payments from his/her own Social Security benefits. Your spouse can also collect approximately 50% of your Social Security if:

- his/her payments are less than 50% of your Social Security, and
- he/she is 65 years or older or caring for your dependent child who is disabled or under 16.

Survivor's Benefits

When a fully insured worker or retired worker dies, survivor's checks can go to certain members of the worker's family:

- widow or widower who is over age 60 (or age 50 to 60 if disabled)
- surviving divorced spouse over age 62 and unmarried, provided you were married 10 years or longer,
- widow or widower under age 60 if caring for a child under 16 years old or disabled child,
- unmarried minor and disabled children, and
- parent of a deceased worker if parent is 62 or older and was dependent on the deceased worker for half of his or her support.

When a fully insured worker or retired worker dies, a small lump sum death benefit may be paid to an eligible surviving widow, widower, or entitled child.

Disability Benefits

There are benefits for certain disabled persons who are not old enough to qualify for regular Social Security payments. If you are 31 years or older and are disabled and have worked under Social Security for more than five of the past 10 years, you may be entitled to Social Security disability payments. Younger workers also may qualify with fewer years working under Social Security. For a worker to qualify for disability benefits, the worker must be unable to engage in any substantial gainful activity due to a physical or mental impairment that is expected to result in death or has lasted, or is expected to last, for at least 12 months.

An individual is eligible for Social Security Disability Insurance (SSDI) on the date he or she becomes permanently disabled. From this date, there is a waiting period of five months before benefits begin. In the event that an applicant is approved for SSDI after the sixth month of disability, the Social Security Administration will make a retroactive payment.

The level of monthly disability benefit is determined by the amount of one's earnings, age at onset of disability, and date of disability. You may receive an estimate of your benefits through your local Social Security office.

If you are eligible for SSDI, certain family members may also be eligible for benefits:

- your unmarried children under 18 or under 19 if in high school full time,
- your unmarried child who was disabled before age 22,

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- your spouse, if 62 or over,
- your spouse at any age and caring for a child under 16 or disabled.

There are also benefits for certain disabled adults and minors who have not worked under Social Security or do not have enough Social Security credits to obtain regular social security benefits. The program is called Supplemental Security Income. If you or your child is disabled, you may be entitled to such payments. In both of those situations you should contact the Social Security Administration local office and file an application. You may also contact a counselor or attorney to help in this claim. Any fees will come from whatever you receive and are set by the Social Security Administration.

Applying for Benefits

You can apply for benefits by going to your local Social Security office, or calling the toll-free number: 1-800-772-1213. The Social Security Administration has many free pamphlets and articles to advise you of your rights and duties. They will inform you on how to apply for benefits and how to receive your benefits. Social Security will also furnish a form allowing you to check the status of your Social Security account.

Appeals Process for Social Security

If your application for Social Security benefits is denied OR if any of your benefits are reduced or terminated, you have the right to appeal the decision. The appeals process has four steps: 1) reconsideration, 2) administrative hearing, 3) review by Appeals Council, and 4) federal court review.

Step 1: Make a written request for reconsideration within 60 days of the date you receive notice of the decision. If you have been receiving benefits and you receive notice that your benefits are being reduced or terminated, you must make the request within 10 days so your benefits will continue during the appeal. A Social Security representative will help you with your request.

Step 2: If you are not satisfied with the result of the reconsideration, you may appeal again and ask for a hearing before an Administrative Law Judge. Many decisions are reversed after the hearing. You must request the hearing within 60 days of the date you receive notice of the reconsideration decision.

Step 3: If you disagree with the judge's decision, you may request a hearing by the Social Security Appeals Council in Arlington, Virginia, within 60 days of the hearing decision.

Step 4: If the Council refuses to hear your case or decides against you, you have another 60 days to appeal to a federal district court. At this stage, if not before, you should seek assistance from an attorney.

Winning an appeal at any level may entitle you to receive lost benefits—retroactively to the date of application, reduction, or termination.

Contact your local Area Agency on Aging or Legal Aid office for assistance with your appeal.

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Overpayments

Every month, thousands of Social Security beneficiaries receive documents entitled “NOTICE OF OVERPAYMENT.” Overpayment occurs when the Social Security benefits you receive are more than the amount for which you are eligible. If you receive notice of overpayment which tells you that you will have to pay back the money or it will be withheld from your future check, you have the right to appeal that decision. If you appeal within **30 days** of receiving notice of overpayment, the Social Security Administration will not reduce your benefits pending the outcome of the appeal. In order to protect your rights, you should request one or both of the following:

Reconsideration of Overpayment: You have the right to ask the Social Security Administration to look at the decision again. Request reconsideration if you feel you were not at fault in causing the overpayment and if repayment of the money would create a serious hardship for you.

Waiver of Repayment: You have the right to ask that the Social Security Administration not recover the overpayment. Request a waiver if you feel no overpayment ever occurred or if the amount which Social Security claims is overpaid or wrong.

There are specific forms for each of the above which are available at your local Social Security Administration office.

Representative Payee

A “representative payee” is a person or organization designated to receive Social Security benefit checks on behalf of a beneficiary who may not be able to manage his or her own affairs. The representative payee has the primary responsibility of using the Social Security check for the beneficiary’s basic or personal needs. Usually, the representative payee is a spouse or other relative, friend, or legal guardian. Institutions, such as nursing homes and mental health centers, may also be designated to receive Social Security benefit checks on behalf of a beneficiary.

To have a representative payee appointed for a beneficiary, the Social Security Office must be notified that the individual is incapable of handling his or her own affairs. The Social Security Administration can then appoint a payee if it decides that this is in the individual’s best interest. The SSA makes such decisions based on doctor reports, court decisions, and statements from others who know the beneficiary.

If a representative payee is appointed for you, The SSA must tell you in writing before sending benefits to the payee. Any appointment may be challenged by appeal. If your representative payee does not use your benefit check for you, the SSA may have to reimburse you. You should immediately contact the SSA with reports of misuse of benefits.

Direct Deposit

You can sign up to have your Social Security check deposited directly into your bank account. Ask about this option when you sign up for benefits. Direct deposit will become mandatory for most Social Security recipients after December 31, 1998.

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Supplemental Security Income

Introduction

Supplemental Security Income (SSI) is a federal program administered by the Social Security Administration which provides income assistance to aged, blind, and disabled persons. The SSI program provides monthly cash payments to those individuals who meet income and eligibility criteria. Essentially, the program guarantees a certain income to an individual or couple. SSI will provide supplemental payments so that the total income for an individual or couple will equal the guaranteed amount. The SSI program is administered by the Social Security Administration, but it differs from Social Security retirement or disability benefits because you can get SSI even if you have never paid into the Social Security system.

Eligibility

You can qualify for SSI on either the bases of age (65 or older) or physical impairment (blindness or disability).

Under the SSI program, “blindness” is defined as the following:

- Central visual acuity of 20/200 or less in the better eye with the use of a corrective lens, or
- Visual field restriction to 20 degrees or less.

“Disabled” is defined as inability to engage in any substantial gainful employment due to a physical or mental impairment, which has lasted or is expected to last for at least 12 months or is expected to result in death. An applicant’s monthly income will affect the determination of whether the applicant is able to engage in substantial gainful employment. However, in some cases a blind applicant who can work may still qualify for benefits.

An individual or couple must satisfy the following asset and income requirements for eligibility:

- An applicant’s assets must total not more than \$2,000 for an individual or \$3,000 for a couple, after certain deductions and exclusions are made.
- An applicant’s income also must fall below specific limits after certain exclusions and deductions. (Income limitations vary from state to state.)

If your resources are over the eligibility limit, you may transfer your assets or spend them down to the resource level required for eligibility. In order to prove you no longer own the resources, you should keep receipts and other records of the ways you spend down your resources.

The following assets are NOT counted for SSI eligibility:

- your home and the land it is on;
- household goods and personal property that do not exceed \$2,000 in value;
- the full value of your car if it is needed for employment or medical reasons, otherwise up to \$4,500 in value;
- life insurance if the face value is \$1,500 or less;

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- money set aside for burial expenses up to \$1,500 (\$3,000 for couple);
- burial space for you and immediate family;
- property that cannot be sold.

In some cases, SSI recipients are eligible for other low-income assistance programs, such as food stamps. In thirty-eight states, SSI recipients are automatically eligible for health benefits under the Medicaid program.

Income

Your “countable” income cannot exceed the federal current benefit rate in order to qualify for SSI. In Virginia, the 1998 rate for those whose income is only from wages is \$1,073 per month for an individual and \$1,567 for a couple; while for those whose income is not from wages, the rates are \$514 per month for individuals and \$716 for couples. All of these rates will increase in later years. If you qualify, the amount of your monthly SSI benefit will depend on your countable income. Generally the more income you receive, the less your SSI benefit.

Income is money you receive from any source such as wages, Social Security, pension, and money from friends and relatives. Income also includes free food, clothing or housing. Some of your spouse’s income may also be counted. However, certain types of income are not counted for SSI eligibility:

- the first \$20 of any income;
- the first \$65 of earnings from employment;
- one-half of earnings from employment over \$65;
- food stamps;
- small amounts of income received infrequently;
- loans that must be repaid;
- income tax refunds and more.

You can receive SSI and Social Security retirement benefits at the same time. For example, if you were receiving \$300 per month in Social Security retirement benefits, you could receive \$190 per month in SSI benefits (if you had no other income, lived in a one-person household and owned little countable property). This adds up to \$490 per month because the first \$20 of the Social Security retirement income is not counted.

Penalties

Your SSI benefits may be reduced under the following conditions;

- You have unearned income of over \$20.00 a month; this income includes Social Security payments, pension, gifts and other unearned money;
- You are living in the home of a friend or relative;
- You live in a nursing home.

Additionally, an unmarried couple living together may be listed by the Social Security Administration as “holding out as husband and wife.” When this happens, and both persons are receiving SSI, their checks will be reduced, if necessary, so that the two checks together will equal the amount that a couple would receive.

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There is no longer any SSI eligibility penalty for giving away property. However, there is still a Medicaid eligibility penalty in effect. *See Medicaid section.*

Applying for Benefits

You can call the Social Security Administration's toll-free number, 1-800-772-1213 and complete an application over the phone, or go to your local Social Security office. If you file an application at a Social Security office, a Social Security representative will assist you with your application. Other agencies such as your Area Agency on Aging may be able to assist you in applying for SSI. Do not delay filing an application if you think you are eligible, because SSI can only be paid from the date of the application.

Appeals Process for SSI

You should receive a decision from Social Security within 60 days of your application. If you are denied SSI, you may appeal and you may be represented by a person of your choice at any step in the appeals process. Your representative does not necessarily have to be an attorney. You and your representative will receive notices of all decisions on your claim.

The first step in the appeals process is called the reconsideration. You must ask for the reconsideration within 60 days of the date you receive notice of the initial decision. Do not delay appealing because the process takes a long time. If you have been receiving benefits and you receive notice that your benefits are being reduced or terminated, you must make the request within 10 days so your benefits will continue during the appeal. A Social Security representative will help you with your request. If you are not satisfied with the result of the reconsideration, you may appeal again and ask for a hearing before an Administrative Law judge. Many decisions are reversed after the hearing. You must request the hearing within 60 days of the date you receive notice of the reconsideration decision. Again, you should appeal immediately. Further appeals of the Administrative Law judge's decision are to the Appeals Council and to federal district court. You may want to contact the local Area Agency on Aging or Legal Aid office for assistance with your appeal or questions about SSI.

Overpayments

It is not uncommon for SSI recipients to receive a notice from the Social Security Administration that they have been overpaid. Do not panic if you receive such a notice. You may not have to repay the money or you may be able to repay as little as \$10 a month. You have the right to appeal if you do not believe you were overpaid. If you appeal within 30 days of the date on your overpayment notice, your benefits will continue during the appeal. Even if you did receive the overpayment, you may not have to pay it back if you were without fault in causing the overpayment and you are financially unable to pay it back. You must file a request for waiver of the overpayment with Social Security if you feel the overpayment was not your fault. Your local Legal Aid office may be able to help you get a waiver. Social Security may withhold as little as \$10 per month from your checks even if you were at fault. You must talk to a Social Security representative about this.

FINANCIAL ASSISTANCE

Pensions

Introduction

For many individuals, pension plans provide an important supplement to savings and Social Security benefits and thus serve as a vital part of retirement income. Consequently, learning about pension plans and how they operate may prove to be a valuable safeguard before and at retirement.

A pension plan allows certain workers to defer compensation in order to earn benefits which are received upon retirement. While law does not require employers to provide pensions, approximately half of all private employers and most government agencies offer some type of pension plan that pays benefits to those retired persons who meet certain eligibility requirements.

Pension Eligibility

A worker must meet eligibility requirements before he or she can participate in a pension plan. Under the Employee Retirement Income Security Act of 1974 (ERISA), an employee must (with some exceptions) be allowed to begin participation in his employer's pension plan if he or she is 21 years old or older and has worked for that employer for one year or more. ERISA defines a "year" as a 12 month period in which the worker has worked at least 1000 hours.

Once an employee becomes eligible to participate in the pension plan, the worker begins earning pension credits which serve as the basis upon which pension benefits are awarded. The rules of the pension plan will specify how many years of work are required for an employee to become vested. To be "vested" means that you have a legal right to collect the pension when you retire. Usually, it takes between five and seven years of service with your employer to become fully vested. A vested employee does not lose the right to receive pension benefits even if he or she switches jobs, is fired for misconduct, or has a break in service.

Types of Pension Plans

Generally, there are two types of pension plans: defined benefit plans and defined contribution plans.

A **defined benefit plan** specifies how much in benefits the plan will "pay out" to a retiree. It is the most common type of plan and gives a retired worker a fixed monthly amount as described in the plan.

A **defined contribution plan** specifies how much money the employer, employee, or both will "pay in" to the plan each year for the employee. With this plan, your contributions are fixed but your benefits may vary according to your contributions and what those contributions have earned over the years. There are several types of defined contribution plans including the following:

- *Profit-sharing plans:*
employer contributes a portion of each year's profit to the plan;
- *Employee stock ownership plans:*
employer's contribution is made in the form of company stock;

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- *401k plans:*

employee may elect to defer a portion of his or her income and place the money in an individual pension account. The employer may also contribute to the employee's individual account.

Pension Rights

In 1974, the Employees Retirement Income Security Act (ERISA) was enacted to increase protection for workers' pension plans. ERISA sets minimum standards for pension plans, and guarantees that pension rights cannot be unfairly denied or taken from the worker. If you work for a private employer that offers a retirement plan, ERISA requires that pension plan rules be in writing in the Summary Plan Description (SPD). The summary should include the following:

- who is eligible to participate;
- how benefits are determined;
- the age at which you can start receiving benefits;
- who administers the plan;
- claims procedures.

You have the right to receive this information from the plan office within 30 days of your request for it.

In addition to your right to the SPD, you are entitled to receive a statement of your "personal benefit account" which explains how many benefits you have and what benefits you have vested. To be "vested" means that you have a legal right to collect the pension when you retire. Usually, it takes between five and seven years of service with your employer to become fully vested. So, if you leave your place of employment after you are fully vested, all of your benefits are still yours. If, however, you leave before becoming fully vested, you lose the unvested portion of your pension benefits.

Under ERISA, employers are prohibited from discharging an employee for the purpose of preventing the employee from receiving a pension. If this happens to you, you have the right to file suit in federal court. You will have to prove that the motivating factor for the discharge was the employer's intention to prevent payment of your pension benefits. You could potentially recover lost wages and benefits, plus attorneys' fees.

Breaks in Service

A break in service (time away from work) may have the effect of canceling pension credits earned prior to the "break." Therefore, it is important that you learn and understand the break in service rule of your pension plan. Under ERISA, an interruption in employment cannot count as a break in service unless the worker has worked less than 500 hours during the year. If a break in service occurs, the worker loses previously earned credits only if the number of consecutive years of break is as great or greater than the number of years of credited work prior to the break. Fully vested benefits are not lost by any break in service.

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Benefits for Workers' Spouses

For workers who retire after January 1, 1976, most pension plans must provide for a “joint and survivor annuity.” This means that the employee can select to have higher benefits that stop at his or her death or a lesser benefit that continues for as long as either the worker or his/her spouse is alive. The amount paid to the surviving spouse can be as low as one-half of the amount the couple received while both were living.

The Retirement Equity Act of 1984 (REA) contains several provisions affecting the rights of homemakers, widows, divorced women and working wives to receive private pension benefits after their spouse's death. (Note: REA is sex neutral and can help men as well.) The REA requires that both spouses give written consent in a notarized form before survivor's benefits can be waived.

Protection of Pension Funds

Under ERISA, a worker is protected from loss of benefits due to the employer's going out of business, acquisition of the worker's company by a new employer, or amendment or termination of the pension plan. Additionally, ERISA requires the trustees of the pension plan to do the following:

- discharge their duties solely in the interest of the pension plan beneficiaries (employees);
- act carefully, skillfully, prudently, and diligently in administering the pension plan;
- diversify the pension trust fund investments to avoid large losses;
- operate the pension plan in accordance with the plan rules.

The federal Pension Benefit Guaranty Corporation (PBGC) guarantees payment of vested retirement benefits under most defined benefits plans in certain situations, such as a company's bankruptcy. Benefits above a set level are not insured. (Note: Defined contribution plans do not get this protection.)

Appeals

If your pension application is denied, you have the right to be notified in writing of the specific reasons for the denial. You also have the right to a full review of the denial by the trustees. If you feel you have been wrongfully denied pension benefits, you should promptly seek legal assistance to determine whether an appeal is in order.

In the event of an appeal, documentation of communications with your pension plan administrator will be very helpful. Therefore, it is very important that all your communications with your pension plan administrator be put in writing and sent via certified mail, return receipt requested.

Veterans Benefits

Issued subject to a review of eligibility, numerous benefits are offered by the federal government to qualified veterans. These benefits include medical and dental care, compensation for service-connected disabilities, pensions, treatment for alcoholism and drug addiction, home and education loans, life insurance if retained upon discharge from active duty, and limited burial benefits. Medical care is also available on a priority basis to veterans with nonservice-connected disabilities. Additionally, medicines and hospital care may be available,

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subject to a means test which considers financial and insurance status, on a priority basis to veterans with nonservice-connected disabilities.

Eligibility

To be eligible for service-connected pension benefits, the veteran must have been disabled by injury or disease incurred in or aggravated by active service in the line of duty. The disability can be the result of injury, disease or the result of Veterans Administration (VA) health care. The amount of disability compensation is based on the degree to which the veteran is disabled by the service-connected condition. The minimum rating to receive compensation is 10% disabled.

Veterans may be eligible for nonservice-connected pension benefits if they meet the following eligibility criteria:

- Veteran is permanently and totally disabled so that gainful employment is impossible;
- Veteran has served at least one day during a period of war; and
- Veteran meets the prescribed income and net worth limitations.

Dependents of a disabled veteran may also be eligible for benefits. A veteran's spouse, widow or widower, child, and dependent parents may be able to get medical care, education benefits, home loans, pensions, and death benefits. Additionally, spouses and parents of veterans may get an allowance for nursing home expenses or for the expenses of a caregiver if the relative is helpless.

Relationship of VA Income to Social Security Benefits

Your Social Security Disability Insurance (SSDI) or Retirement Benefits will not be reduced if you receive service connected VA benefits. However, if you receive Supplemental Security Income (SSI), your VA benefits will be considered income. Therefore, in order to avoid overpayment, be sure to report all VA income to SSA if you receive SSI.

If you receive a non-service-connected pension, you must report all income and changes in income to the VA. A pension is reduced by receipt of SSDI or Social Security, but it is not reduced by SSI.

Applying for Benefits

To apply for benefits, contact your local office of the Department of Veteran Affairs by calling 1-800-827-1000.

Right to Appeal

Should a veteran disagree with a USDVA decision regarding the application for benefits, the decision can be appealed to the Court of Veterans Appeals. Appellate assistance may be obtained from a regional office Department of Veteran Affairs. An attorney may assist with an appeal, but federal law restricts attorneys' fees for such representation to \$10.00. If legal assistance is needed and cannot be readily found, a local legal ser-

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vices office or a lawyer referral service might be helpful. Various independent veterans' organizations such as the American Legion, Veterans of Foreign Wars, and the Vietnam Veterans of America may also be of assistance in the preparation of a claim application or with an appellate review.

Railroad Retirement Act Benefits

The Federal Railroad Retirement Act offers retirement and disability annuities for qualified railroad employees, spousal annuities for their wives and husbands, and survivor benefits for the families of deceased employees who were insured under the Act. These programs are administered by the United States Railroad Retirement Board and are very similar to Social Security benefits; eligibility is determined in much the same manner. However, if both railroad and Social Security benefits are payable, the railroad benefits may be reduced.

For more information, contact or visit the following:

U.S. Railroad Retirement Board
Roanoke, Virginia District Office
210 First Street, Room 460
P.O. Box 270
Roanoke, VA 24002
Telephone: (540) 857-2335

U.S. Railroad Retirement Board
Norfolk, Virginia Branch Office
700 Center Building
704 East Franklin Street, Suite 232
Richmond, VA 23219
Norfolk Telephone: (804) 441-3335

U.S. Railroad Retirement Board
Richmond, Virginia Branch Office
700 Center Building
704 East Franklin Street, Suite 232
Richmond, VA 23219
Telephone: (804) 771-2997

Also available upon request from the United States Railroad Retirement Board offices is an information pamphlet entitled "Railroad Retirement and Survivor Benefits." This pamphlet describes the retirement and disability annuities provided for employees under the Railroad Retirement Act, and the benefits available to their spouses and survivors. Medicare, unemployment and sickness insurance payments, and other benefits paid by the Railroad Retirement Board are described in separate pamphlets.

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The Food Stamp Program

Introduction

With food costs rising ever higher, millions of older Americans on fixed incomes have difficulty obtaining food “basics” necessary for a proper diet. If you meet the income guidelines, the Food Stamp Program may be able to help you stretch your food budget. As the name suggests, the Food Stamp Program, administered by the Federal Government, provides coupons redeemable for food, as well as plants and seed to grow food. The Food Stamp Program explicitly excludes by regulation such non-food items as alcoholic beverages, pet food, vitamins, medicines, tobacco and cigarettes.

Food Stamp Myth

Many think that the Food Stamp Program is only designed to help the desperately poor. This is not true. As of 1998 a single person can earn up to \$855 gross income per month. A couple can make as much as \$1,150 gross income per month, and a family of four can earn up to \$1,739 gross income per month, and still qualify for allotments of food stamps. Any household of two persons having a disabled or elderly member can earn up to \$855 net income per month, and a household of four persons having a disabled or elderly member can earn up to \$1,338 net income per month, and still be eligible for food stamps. Recipients of food stamps also may own a car, a home of any value, as well as income-producing property, subject to the restriction of the law.

Individual recipients can possess up to \$2,000 in resources, and households with at least one member who is 60 or older may have resources valued to \$3,000 or less (personal belongings and household items are not considered “resources”). Limits are not set on resources in households whose members all receive either public assistance, such as Aid for Dependent Children (ADC) or Supplemental Security Income (SSI). Such households are eligible for food stamps without other limitations applying. However, there are limitations for those individuals who receive ADC or SSI but live with other members of the household who do not receive such assistance. ADC or SSI recipients in such “mixed households” are granted exemption of resources through a means test.

Applying for Food Stamps

To apply for food stamps, visit your local Department of Social Services (DSS), request an application by phone, or ask someone to get an application for you. Be sure to fill in the form completely. Counties and cities in Virginia have social service offices. The phone numbers and addresses are in your telephone book. For help, see also the organizations listed at the back of this handbook. If your household has little or no money and needs help right away, let the food stamp office know. You may be eligible under the “expedited service” rules to receive food stamps within five days of the application date if you are classified as homeless or as a member of a low-income family.

After you have turned in your application, a worker will hold a confidential interview with you or another member of your household at the DSS office. If no one in your household can go, an adult friend or relative who knows your circumstances may go for you. If you are 65 or older, disabled or suffer other hardships, and

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cannot go to the food stamp office, let the office know. A worker will arrange to interview you at home or by telephone.

Eligibility

You must reside in the area and be a U.S. citizen or lawfully admitted alien, and register for work unless you are over 60 or meet other exemptions. All households may have up to \$2,000 worth of resources such as cash, checking and savings accounts, stocks and bonds, and land and buildings not used to produce income. Households with at least one member who is 60 or older may have up to \$3,000. Bring proof of countable assets to the interview to expedite your case. In most cases, your house and surrounding lot, one car, household goods and personal belongings, and life insurance policies will not be counted as resources. You must provide proof of your Social Security number.

A “household” is defined as:

- a person or group of persons living alone, or
- a person or group of persons living with others but usually purchasing and preparing meals separately, or
- a group of individuals who live together and customarily purchase food and prepare meals together.

Only households with net monthly incomes below the allowable limits may qualify for food stamps. These limits go up with increases in the size of the family and are adjusted twice yearly to reflect changes in the cost of living. Persons who are caretakers of minor children may apply for and receive food stamps as separate households and share the same residence. Persons with earned income must file monthly report forms with the local Food Stamp office. All persons, except for those who are disabled or elderly, will have their allotted food stamps determined retrospectively. For example, a person’s income and expenses for March will determine the allotment for May. You may prove your income by recent pay stubs, information given by your employer, pension information, and benefit letters from the Social Security or Veterans Administration. Check with your local Food Stamp office to determine current allowable income for your household.

After adding income of all members of the household, the worker can subtract certain deductions such as standard deduction for every household (\$134), a 20 percent deduction for earned income, dependent care (including care for disabled adults), and high housing costs. Proof of these expenses may include bills or records of payment of rent or mortgage, house insurance, property taxes, electricity, gas, oil, sewerage, telephone, and water.

If you are eligible for food stamps, you should receive your stamps no later than 30 days from the date you first applied. If you do not qualify, a written notice will explain why. If your local office requires you to pick up your stamps but you cannot, arrange to have someone that you have named pick them up for you.

Be sure to report any changes in your household’s circumstances by calling your case worker or sending in the form provided by the food stamp office. If you receive extra food stamps because you have not reported a change, you will owe the Food Stamp Program the value of these stamps.

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What to Do If Refused

If you think that your application has been wrongly denied or that you have not received the right amount of food stamps, you should tell the food stamp office right away. If they disagree with you, you have the right to request a review by a hearing officer.

You may have a friend or relative attend the hearing with you, or you may wish to obtain the services of a legal aid or private attorney.

In some cases, you can continue to receive your regular allotment of food stamps while you await the hearing officer's decision. If the hearing officer decides in your favor, you will receive the correct amount of food stamps. If the decision is in favor of the food stamp office, you will be asked to repay the value of any stamps you were not entitled to receive.

Federal Tax Relief

Federal Income Taxes

Certain types of income are taxed, while others are not. For example, gifts and interest earned on certain municipal bonds are not taxed. Salary and wages, payments from a pension plan, and investment income are forms of income which are taxed. If your income exceeds a certain level, your Social Security payments may be taxable for federal income tax purposes. Included in the instructions for the IRS Form 1040 is a worksheet that will help you figure whether any part of your Social Security payments is taxable.

When you file an income tax return, you are allowed a **personal exemption**, unless you are eligible to be claimed as a dependent by someone else. In some instances, you are allowed **additional exemptions** if you provide primary support for a dependent (such as a parent, child, or grandchild).

Federal Income Tax Credit

You may be eligible for a 15 percent tax credit if your income does not exceed the specified level, and:

- you were 65 years of age before the close of the tax year; or
- you are permanently and totally disabled.

This credit will reduce the tax you owe, but it will not result in a refund. Contact your tax advisor or local IRS office if you think you may be eligible for the federal tax credit.

Earned Income Credit

You may be eligible for the Earned Income Credit if you are working and you have a child or grandchild who lives with you. The tax credit is available to anyone who maintains a home for himself and a child who is either under the age of 19, a student, or disabled. The credit is available only if you have less than the specified level of income. Earned income for this tax credit includes salaries, tips, and earnings from self-employment. Pension and annuity payments are not included. This tax credit may reduce the tax you have to pay and may even result in a refund.

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Taxpayers Who are Blind or Older Than 65 Years

For taxpayers who elect not to itemize their deductions, an additional standard deduction is available for individuals who are blind or over the age of 65. The additional standard deduction is available in addition to the basic standard deduction available to all non-itemizing taxpayers. Individuals who are both blind and over the age of 65 may claim two additional standard deductions. While the amount of the additional standard deduction generally changes each tax year, the additional standard deduction for tax year 1997 was \$1000 for unmarried individuals and \$800 for married taxpayers.

You may be eligible to claim the additional standard deduction for blindness if either:

- Your central visual acuity doesn't exceed 20/200 in your better eye with correcting lenses; or
- Your field of vision is limited such that your visual field extends no more than a 20 degree angle.

You may be required to submit a statement from your physician certifying the degree of your visual impairment. Consult your tax preparer for further information about qualifying for the additional standard deduction for blindness.

Medical Expenses

If you itemize your deductions on your tax return, you should consider your medical and dental expenses. Medical expenses are deductible if they account for more than 7.5 percent of your adjusted gross income. Deductible medical expenses include the following:

- doctor and hospital bills
- health insurance costs (Note: Medicare Part B premiums are deductible; the basic cost of Medicare Part A is not deductible unless voluntarily paid by the taxpayer for coverage.)
- prescription medicines and drugs
- hearing devices and glasses
- nursing help
- equipment (such as elevators for the physically disabled)
- transportation costs to and from medical care
- long term care and nursing home expenses, if the home is necessary for medical care.

For more information, contact your local IRS office or your tax advisor.

Sale of Principal Residence

The Taxpayer Relief Act of 1997 repealed the one-time \$125,000 exclusion of income from the sale of a principal residence by taxpayers age 55 or over. The Taxpayer Relief Act replaces this provision with an exclusion of up to \$250,000 (or \$500,000, in the case of married taxpayers filing a joint return) of income realized on sale or exchange of a principal residence by taxpayer regardless of age.

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To be eligible for the exclusion, a taxpayer must have owned the residence and occupied it as a principal residence for at least two years during the five years before the date of sale. The exclusion is not a one-time exclusion, but is generally available no more frequently than once every two years.

Medical Savings Account (MSA)

The Balanced Budget Act of 1997 creates a new type of Medical Savings Account (MSA) for individuals on Medicare. For tax years beginning after December 31, 1998, Congress has authorized a four-year pilot program that permits eligible seniors to establish MSAs called “MedicarePlus Choice MSAs.” These MSAs must be used in conjunction with a MedicarePlus Choice MSA health plan, which requires a certain deductible to be satisfied before a senior citizen’s medical expenses are reimbursed. The Secretary of Health and Human Services will make tax-free contributions to the MSA from Medicare trust funds equal to the deductible amount under the account owner’s MedicarePlus Choice MSA health plan coverage. The account owner can use the MSA to pay for qualifying medical expenses, with no tax imposed on withdrawals for such purposes.

MedicarePlus Choice MSAs are a test program and will be available to the first 390,000 eligible seniors who enroll. The pilot program ends December 31, 2002.

Long Term Capital Gains

The top tax on long term capital gain is reduced by the Taxpayer Relief Act of 1997 from 28 percent to 20 percent (to 10 percent for taxpayers in the 15 percent bracket). There are holding period rules, so consult your tax advisor.

Estate and Gift Tax Exemption

Under the Taxpayer Relief Act of 1997 the estate and gift tax exemption excludes up to \$625,000 of a decedent’s estate for decedents dying, or gifts made, in 1998, \$650,000 in 1999 and \$675,000 in 2000 and 2001. More increases will occur in later years with the exemption topping out at \$1 million dollars in 2006 and later years.

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Other Important Tax Changes

Other important changes in the federal tax structure will affect individuals, families, businesses, and investors. Consult your tax advisor.

Real Estate Tax Reductions for the Elderly

Many local political subdivisions (counties and cities) offer elderly property owners a reduction in their real estate taxes. The rate of reduction and qualifications vary from place to place, so call your local Finance Department or Real Estate Tax Assessor's Office to obtain an application which must be filed annually.

HEALTH CARE

Medicaid

Introduction

Medicaid is a cooperative federal-state program which provides health care services to the poor of all ages. The program is administered by state agencies, and thus the regulations governing Medicaid vary from state to state. In Virginia, the program is administered by the Department of Medical Assistance Services (“DMAS”). At the federal level, Medicaid is administered by the Health Care Financing Administration (HCFA).

Medicare and Medicaid are frequently mistaken for one another, but the programs serve two different populations. Note the following differences between *Medicaid* and *Medicare*:

Medicaid is a joint *state and federal* program for public assistance recipients and other medically indigent *adults and children*. Medicaid was designed to meet the medical needs of the poor, and therefore, the elderly must often deplete a major part of their assets before they are eligible for Medicaid benefits.

Medicare is a federal medical benefits program that is financed through the Social Security system and is primarily for the elderly.

Eligibility

Among the people eligible for full Medicaid benefits are Supplemental Security Income (“SSI”) recipients and other persons who are age 65 or greater, blind or disabled (according to Social Security disability standards) and who meet certain income and asset limitations. Medicaid benefits include:

- Medicare Part B premiums, deductibles, and coinsurance;
- Inpatient hospital services with limitations and deductibles;
- Outpatient hospital and rural health clinic services;
- Nursing home care;
- Physician services;
- Transportation;
- Long-term care alternatives, such as home personal services;
- X-ray and laboratory services;
- Home health care services;
- Clinic services;
- Prescription drugs;
- Medical supplies and equipment in limited circumstances;
- Physical therapy and related services; and
- Emergency hospital services.

Among the people eligible for limited Medicaid benefits are:

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- **Qualified Medicare Beneficiaries** (“QMBs”), certain elderly and disabled persons entitled to Medicare Part A whose annual income is at or below the national poverty level and whose resources are very limited. Medicaid will pay the Medicare Part A and Part B premiums, deductibles and coinsurance for QMBs.
- **Specified Low-Income Medicare Beneficiaries** (“SLMBs”), certain elderly or disabled persons entitled to Medicare Part A whose annual income is no greater than 120% of the national poverty level and whose resources are very limited. Medicaid will pay the Medicare Part B premium for SLMBs.
- **Qualifying Individuals** (“QIs”), certain elderly or disabled persons entitled to Medicare Part A whose annual income is greater than 120% but no more than 135% of the national poverty level and who are not otherwise eligible for Medicaid benefits. Medicaid will pay the Medicare Part B premium for QIs.

Applying for Medicaid

Applications for Medicaid are accepted by the local Department of Social Services. The Department of Social Services requires personal information about the applicant as well as information about poverty owned, bank account balances, stocks and bonds, income and medical bills.

Resource Limitations

In determining Medicaid eligibility, resources are categorized as either countable or non-countable. **Countable assets** are used to determine Medicaid eligibility and include those assets for which there is a meaningful possibility that they could be sold or otherwise converted into cash. Among the assets that count are bank accounts, stocks, Individual Retirement Accounts, deeds of trust, or real property other than the home. **Non-countable assets** are those assets which are not counted in determining the resources available to a person for purposes of qualifying for Medicaid treatment. Non-countable assets include the following:

- your home;
- personal effects, including clothing, jewelry, photographs;
- household furnishings, such as furniture, paintings, appliances and electronics, which are exempt only while being used in the applicant’s home;
- one automobile;
- property essential to the institutionalized person’s self-support;
- some life insurance policies;
- burial funds and cemetery plots.

Transfer of Assets

When an individual applies for Medicaid, he or she will be asked to disclose any property transfers made within the last 36 months, or if you have set up a trust fund, the last 60 months prior to application. Intentional reduction of assets in order to qualify for Medicaid, by putting assets into a trust, giving it away, or otherwise disposing of it without receiving compensation of a like value can cause ineligibility for Medicaid

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coverage of long-term care services. The penalty period is dependent on the value of the asset transferred, how long ago the transfer occurred, whether compensation was received, and other factors. Therefore, before any transfer of assets is made, consultation with an attorney knowledgeable about Medicaid matters is suggested.

Medicaid and Long Term Care

Medicaid is the largest single payor of long-term care services. Many individuals of substantial means eventually spend their money and then seek coverage through the Medicaid program, particularly since there are so few long-term care insurance policies in force. Medicaid covers care in nursing facilities and in community alternatives allowed by waivers to federal rules. It is important to advise a nursing home or home for adults when planning for admission if you expect to apply for Medicaid within six months of entering, because screening must be done in order to verify that the intended care is medically appropriate.

If you are single and require long-term care, you will most likely be expected to pay a portion of your income toward your cost of care, retaining an amount for personal needs, with Medicaid making up the difference each month. For married people, if a spouse is institutionalized, income assets are treated differently in order to prevent the spouse at home from becoming impoverished.

You may request a Medicaid resource assessment before you file an application for Medicaid, if you have not done so previously. At the time you file a Medicaid application, a resource assessment will be performed. Although the income of your spouse is not deemed to be yours, married persons are considered to have available to them all resources held by their spouses. For Medicaid to assess your resources, you must list all your assets, which will be categorized as either countable or non-countable. Non-countable assets are assets which you may retain. Some non-countable assets are: your home, automobile, your personal furnishings, cemetery plots, some funds set aside for burial and some life insurance policies. Countable assets are assets which are legally available to you. You must spend all but \$2,000 of your countable assets before you will be eligible for Medicaid under current law. If you are married and require institutional care, you will be referred to as the institutionalized spouse and your well spouse will be referred to as the community spouse. The community spouse will receive a notice of Medicaid resource assessment which will state the protected resource amount for the community spouse. The protected resource amount is the minimum value of assets that the community spouse may retain and protect from the necessary resource reduction before the institutionalized spouse achieves eligibility. This amount may be raised by a court order. The protected resource amount is subject to a minimum of \$15,804 and a maximum of \$79,020 as of 1998.

There is no strict income limit for individuals receiving nursing home care, provided the individual's income is less than the average monthly private pay rate for care in a nursing home. If you are a Medicaid applicant to whom an income limit applies and your income is above the Medicaid limit, you may be placed on a spend-down. Once eligible for Medicaid, you will be entitled to maintain a small amount of income for personal needs. If married your spouse will be entitled to keep all his or her income and may be entitled to keep a portion of your income as well.

The scope of Medicaid services depends on the type of eligibility that a person meets. For the SLMB, coverage is limited to payment of the Medicare Part B premium amount. For OMB, coverage includes the Medicare coinsurance and deductibles in addition to the Part A and Part B premium amounts. For full coverage, Medicaid includes doctor visits, hospital inpatient and outpatient care, drugs, X-rays, lab tests, trans-

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portation to medical services, and prescription drugs. Long-term care can be offered in rehabilitation hospitals, nursing facilities, or community alternatives including adult day health care or in-home aides as needed.

Appeals

If you feel you have been unfairly denied Medicaid eligibility, you have the right to appeal the denial within 30 days. To file an appeal, write to the Appeals Division at DMAS, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219. In making the choice to appeal, you may wish to obtain the advice of legal counsel.

Conclusion

Medicaid rules are very complex, and detailed rules exist for such items as what constitutes countable income and assets, when property transfer is a potential bar to receipt of services, and whose income and resources will be used against what financial standards. For specific guidance, particularly regarding estate planning and long-term care, you may wish to contact an attorney who practices in the area of elder law.

Medicare

Introduction

Signed into law in 1965, Medicare is a federal health insurance program for people 65 years of age and older. While it is the primary source of publicly funded health care for the elderly, people with permanent kidney failure and certain younger disabled people are also eligible to receive Medicare benefits. The program is administered by the Health Care Financing Administration (HCFA) which works with the Social Security Administration in enrolling people in Medicare and in collecting Medicare premiums.

Two Parts of Medicare

Medicare has three parts: (1) Part A, which is hospital insurance; (2) Part B, which is medical insurance; and (3) Part C, which is the new Medicare + Choice program. Most people qualify at age 65 and can receive the benefits of Part A. There is no monthly premium for Part A, but there is a monthly premium for Part B benefits. You can enroll in Part A without enrolling in Part B.

Applying for Medicare

To receive any Medicare benefits, you must apply at a local Social Security office. You will not receive benefits unless you apply for them. Part A benefits, however, follow automatically Social Security or railroad retirement benefits. If you do not enroll within a period including the three months before and four months after reaching age 65, the premium will be increased by 10 percent and you may only sign up during the first quarter of each subsequent year.

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Medicare Part A: Hospital Insurance

Medicare Part A helps pay for covered services received in a hospital or skilled nursing facility following a hospital stay, or from a home health agency or hospice program.

You are eligible for Part A if:

- You are 65 or over or qualify for Social Security retirement benefits, or Railroad Retirement benefits, OR
- You are disabled and have been receiving Social Security disability benefits or Railroad Disability benefits for the past 24 months, OR
- You are receiving dialysis or need a kidney transplant because of permanent kidney failure, OR
- You are age 65 or over and do not meet any of the above requirements, but you pay a Medicare premium.

Inpatient Hospital Care

From the first day through the 60th day in a hospital during each benefit period, Medicare Part A pays for all covered services except the first \$764 (in 1998), which is the deductible. From the 61st day through the 90th day, Part A pays for all covered services except a \$191 per day copayment (in 1998). If you are in the hospital for more than 90 days in a benefit period, you can use your “reserve days” to help pay the bill. For a reserve day, Medicare pays all covered costs except for daily coinsurance of \$382 (in 1998). You have a lifetime supply of 60 reserve days. So, for days 91 through 150 of a hospital stay, Medicare Part A will cover all but \$382 per day. There is no coverage for days 150 to 365 for an inpatient hospital stay.

Skilled Nursing Facility Care

A skilled nursing facility is different from a nursing home. It is a facility that primarily furnishes skilled nursing and rehabilitation services. (Note: Many nursing homes have specialized skilled care units.) Skilled care is to be distinguished from basic personal or custodial care such as assistance in walking, getting in and out of bed, eating, dressing, bathing and taking medicine. Medicare Part A will not pay for custodial care if that is the only kind of care you require.

Medicare Part A helps pay for a skilled nursing facility stay to a maximum of 100 days in each benefit period, but only if you need daily skilled nursing care or rehabilitation services for that long. In each benefit period, Part A pays for all covered services for the first 20 days in a skilled nursing facility. For days 21 through 100, Part A pays for all covered services except for \$95.50 a day (in 1998). You are responsible for all charges beginning with the 101st day.

Home Health Care

Medicare will pay for all medically necessary covered home health services under Part A and/or Part B, depending upon the circumstances. Medicare pays for visits by a Medicare-approved home health agency. In order to qualify for coverage, you must:

- need intermittent skilled nursing care, physical therapy, or speech therapy,

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- be confined to your home, and
- be under a doctor's care.

A hospital stay is not needed to qualify for the home health benefit, and you do not have to pay a deductible or coinsurance for home health services.

Hospice Care

Medicare covers the following hospice services:

- Physician services
- Nursing care
- Medical appliances and supplies
- Drugs (for pain and symptom relief)
- Short-term inpatient care
- Medical social services
- Physical therapy, occupational therapy and speech/language pathology services
- Dietary and other counseling.

Medicare Part B: Medical Insurance

Medicare Part B pays for many medical services and supplies, but most importantly, it provides coverage for your doctor's bills. The full range of benefits includes:

- Physician's services
- Outpatient hospital services
- X-rays and laboratory tests
- Certain ambulance services
- Durable medical equipment, such as wheelchairs and hospital beds, used at home
- Services of certain specially qualified practitioners who are not physicians
- Physical and occupational therapy
- Speech/language pathology services
- Partial hospitalization for mental health care
- Mammograms and Pap smears
- Home health care if you do not have Part A

Part B generally does not cover outpatient prescription drugs, although there are some exceptions.

Health Care

Medicare Part B costs \$43.80 per month in 1998. After a \$100 deductible is met, Medicare pays 80 percent of the Medicare-approved covered services. You are responsible for the remaining 20 percent, which is called coinsurance.

Medigap and Supplemental Insurance

Introduction

Because Medicare has significant gaps in coverage, Medicare beneficiaries may choose to purchase a supplemental health insurance policy. Such policies may be purchased to cover items like prescription drugs, the Medicare Part B coinsurance, and custodial nursing home care. There are a variety of private supplemental insurance policies available to help pay health care expenses. You may choose from the following types of coverage:

- Medigap Policies: provide coverage for some services not covered by Medicare;
- Managed Care Plans: plans which allow you to purchase health care services for fixed charges;
- Long Term Care Insurance: policies which pay for nursing home or home care;
- Continuation or conversion of an employer-provided or other policy you have when you reach 65;
- Hospital indemnity policies: policies which pay for each day of inpatient hospital services; and
- Specified disease policies: policies which pay only when you need treatment for the insured disease.

You may also qualify for full Medicaid benefits or limited Medicaid assistance in paying Medicare costs. Please refer to the section on page 15 regarding Medicaid eligibility.

Medigap

Medigap insurance is specifically designed to “fill in the gaps” of Medicare coverage. In order to make it easier for the consumer to choose the appropriate Medigap policy, the National Association of Insurance Commissioners (NAIC) devised and promulgated ten standard Medigap packages of benefits which are labeled “A” through “J”. Each package incorporates different benefits. (See chart, page 25) All states (except Minnesota, Massachusetts, and Wisconsin) limit the number of different Medigap policies that can be sold to no more than the 10 standard Medigap plans.

Insurers are prohibited from checking on the health of Medicare applicants 65 or older for six months after they sign up for Medicare Part B. No company can require a holder of a Medigap policy to switch to one of the new plans and companies are now prohibited from selling a new policy to a person who already has one, unless it is to replace an existing plan.

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Description of Medigap Packages

Plan A is known as the Basic Plan, and must be included in every Medigap policy now offered for sale. Plan A includes all coinsurance for a hospital stay for the 61st to the 150th day, all charges for an extra 365 days in the hospital and also takes care of the deductible under Part A for the first three pints of blood. Medicare Part B pays 80 percent of the physician's allowable charges. For those who have this coverage, Plan A also pays the remaining 20 percent.

All plans except Plan A and Plan B cover up to 100 days in a skilled nursing facility, as well as the Medicare Part A deductible. All plans except A and B cover emergency care in foreign countries. The Part B deductible is covered by Plans C, F, and J. Plans E, I, and J cover 100% of Part B excess charges over approved charges (for physicians who do not accept assignment) and Plan G pays 80% of these. Plans D, G, I, and J pay for at-home care after a hospital stay. Preventive medical care is covered by Plans E and J, and prescription drugs are covered by Plans H, I, and J, with a \$250 deductible, a 50% coinsurance and limit of \$3,000 for Plan J and \$1,250 for Plans H and I.

Most companies do not offer all nine “add-ons” (B-J). Companies do not charge the same premiums for the same coverage. Some companies are doing individual underwriting of the risk. It is important to comparison shop and make sure you understand what you do not get from Medicare and what you do get from the Medigap policy you are considering.

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Ten Standard Medicare Supplement Plans

	A	B	C	D	E	F	G	H	I	J
Basic Benefit	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲
Skilled Nursing Coinsurance			▲	▲	▲	▲	▲	▲	▲	▲
Part A Deductible		▲	▲	▲	▲	▲	▲	▲	▲	▲
Part B Deductible			▲			▲				▲
Part B Excess (100%)						▲	▲		▲	▲
Foreign Travel Emergency			▲	▲	▲	▲	▲	▲	▲	▲
At Home Recovery				▲			▲		▲	▲
Basic Drug Benefit (\$1,250)								▲	▲	
Basic Drug Benefit (\$3,000)										▲
Preventive Care					▲					▲

Managed Care

Introduction

One of the most difficult decisions a retiree must make is choosing a health care plan. There are numerous, often confusing, health care plan options to consider. These options range from traditional fee-for-service plans to the rapidly growing managed care plans.

Fee-for-Service Plan

Under this traditional health care plan, the individual can choose any licensed physician and use the services of any hospital, health care provider or facility. Generally, a fee is paid each time a service is used. For Medicare beneficiaries, Medicare pays a share of the hospital, doctor, and other health care expenses. The beneficiary is responsible for certain deductibles, coinsurance payments, all permissible charges in excess of Medicare's approved amounts, and all services not covered by Medicare. Some of these out-of-pocket expenses may be covered by supplemental "Medigap" insurance.

Managed Care

The term "managed care" is used to describe health care systems that integrate the financing and delivery of appropriate health care services to those individuals covered by the plan. The goal of managed care is to decrease the costs of health care without sacrificing the quality of care. Managed care systems may pursue this goal through the following mechanisms:

Establishing a limited network of providers who agree to fixed payments based on the number of members enrolled in the plan. This arrangement is called **capitation** and is designed to encourage providers to

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care for patients efficiently and to promote healthy behavior so expensive treatment is less often necessary.

Requiring enrollees to consult a primary care physician who coordinates care and makes any necessary referrals to specialists.

Using a “utilization review” process in which a group of health care professionals determine the appropriateness of care.

Health Maintenance Organization (HMO)

A Health Maintenance Organization (HMO) is a type of managed care system which provides comprehensive medical care to its members on a pre-paid basis. Through its network of contracted family physicians, specialists, hospitals and other health care providers, an HMO manages the delivery of health care for its members. The beneficiary usually must obtain health services from the professionals and facilities that are part of the HMO. These services may be provided at one or more centrally located health facilities or in the private practice offices of the doctors and other health care professionals affiliated with the plan. While many HMO plans do not charge a monthly premium, some plans may require enrollees to pay a monthly premium which typically ranges from \$50 to \$75 per month. Additionally, HMO plans may require a small copayment for each appointment and drug prescription. Usually, there are no additional costs to the enrollee no matter how many times he or she visits the doctor, is hospitalized, or uses other covered services.

Managed Health Care Plans for Retirees

Medicare Risk HMOs: Under these plans, you must receive all covered care through the plan or through referral by the plan. If you go outside the plan for service, neither the plan nor Medicare will pay for those services. You will be responsible for paying for the entire bill out of your own pocket. There are exceptions to this restriction in the event that you need emergency or urgent care.

Medicare Risk HMOs will cost you the least money but limit your choices of doctors and services the most.

Medicare Cost HMOs: Under these plans, you have more flexibility to visit health care providers outside of the plan. If you go to providers affiliated with the plan, you pay only the applicable copayments. If you go to providers outside of the plan, Medicare will pay for its share of the approved charges, but the plan probably will not pay its share. You will have to pay for Medicare’s coinsurance, deductibles, and other permissible charges, just as if you were receiving care under the fee-for-service system. These plans are good choices for those who travel frequently or live outside the plan’s service area during part of the year.

Medicare Cost HMO may cost more but will give you more choices of doctors and services.

Preferred Provider Organizations (PPOs): Under these plans, individuals select a primary care provider (PCP) when they enroll and are encouraged through benefit design to use this PCP as the first stop for all care. The PPO establishes a contracted fee with physicians and hospitals that is usually discounted from regular charges. Enrollees have the flexibility to select non-network providers, but they will not receive the PPO discounted rates for service.

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Preferred Provider Organizations are the closest to traditional fee-for-service Medicare, with large numbers of doctors and providers to choose from.

Point of Service Plans: The point of service plan is an option under Medicare Risk HMOs. Under these plans, the enrollee is permitted to receive certain services outside the plan's provider network and the plan will pay a percentage of the charges. The enrollee is expected to pay at least 20 percent of the bill in return for this flexibility.

A *Point of Service Plan* may be a good option if you travel often, have homes in more than one state, or want to continue seeing your own specialist. However, be careful as some of these plans require you to sign away your right to appeal HMO decisions.

Advantages and Disadvantages of Managed Care Plans

In making a decision to enroll in a managed care plan, you may want to consider the following advantages and disadvantages:

Advantages

- Provision of increased preventive care because of better preventive benefit coverage and increased screening and early treatment.
- Increased quality of care due to coordination of services.
- Decrease in out-of-pocket expenses (as compared to fee-for-service plans).
- Provision of services and items which are not covered at all under traditional fee-for-service Medicare. (For example, most Medicare HMOs provide significant coverage for prescription drugs.)
- The need for Medigap insurance to supplement your Medicare coverage will be eliminated.

Disadvantages

- Less flexibility to use the services of specialists and less follow-up care (as compared to fee-for-service plans).
- Requirement of prior approval by your primary care physician for elective surgery, medical equipment and services provided by specialists.
- Lower levels of satisfaction with patient-physician interpersonal relationship.
- It can take up to 30 days to disenroll.

A major concern regarding managed care is that HMOs have incentive to refuse authorization of needed care. Because HMOs receive a set monthly fee from Medicare, the HMO could increase its profits by refusing to authorize care.

Questions to Ask

You should ask the following questions about the HMO you may be considering for enrollment:

- How long has the HMO plan been in business?
- What has been the turnover rate of the network's physicians during the past five years?

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- What is the average waiting time for appointments?
- If I do not like my assigned physician, can I change doctors?
- What percentage of the network's doctors are board certified?
- What is the plan's annual disenrollment rate?
- What percentage of enrolled patients have filed appeals in the last year?
- What percentage of appeals were ruled in favor of the patient?

Additionally, get information about the health care providers and facilities affiliated with the plan. Note whether the plan's providers are in a location convenient to you and whether transportation is available at all hours to get you to them.

How to Enroll in a Managed Care Plan

You can obtain the names of managed care plans in your area by calling your state insurance counseling office or by calling Medicare at 1-800-638-6833.

Most plans have continuous enrollment, so you can join at anytime. All plans that have contracted with Medicare must have an advertised open enrollment period of at least 30 days once a year.

The 1997 Balanced Budget Act provides the following extended preventative benefits under Medicare: yearly mammograms; pap smears, including pelvic and breast examinations; diabetes glucose monitoring and diabetes education for people with diabetes; colorectal cancer screening; bone mass measurement; and flu and pneumococcal shots. It is suggested that you consult your doctor to determine what benefits apply to you.

1999 Medicare Changes—The Medicare + Choice Program

Upcoming Changes in Medicare

The Balanced Budget Act of 1997 substantially restructures Medicare. The biggest change involves the creation of Medicare Part C, the Medicare + Choice Program. Medicare beneficiaries will have to choose between "original" Medicare (the traditional Medicare fee-for-service program) and the new Medicare + Choice Program. The new program will offer beneficiaries a variety of health delivery models, including HMOs (with or without point of service option), PPOs (preferred provider organizations), PSOs (provider sponsored organizations), and Medical Savings Accounts (MSAs), and private fee-for-service Medicare.

November 1998

A special government sponsored education and publicity campaign about Medicare + Choice will take place in November, 1998. There will be regional toll free telephone numbers and an Internet site to respond to questions.

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November 1999

The first enrollment period will occur in *November, 1999* with choices taking effect *January 1, 2000*. Beneficiaries who do not make any election will remain in whatever program they are in at the time. (Example 1: a beneficiary with “original” Medicare will stay enrolled in Parts A & B; Example 2: a beneficiary enrolled in an HMO will automatically be enrolled in Part C - the Medicare + Choice program because that is where the HMO option will be offered). Beneficiaries will have the right to enroll or disenroll continuously from Medicare + Choice through the end of 2001. There will be some restrictions starting in 2002.

Websites

- The most up-to-date and reliable information is available at the Internet address for the Health Care Financing Agency (HCFA), which is in charge of the Medicare system, is www.HCFA.gov.
- Another resource is the Medicare Right Center at www.Medicarerights.org or (212) 869-3850. The website gives an e-mail address for questions.

The following definitions are meant to provide clarification to a very confusing list of options that will become available to beneficiaries:

Original Medicare: Beneficiaries can use any hospital and can go to any doctor who accepts Medicare patients.

Health Maintenance Organization (HMO): Patients must use doctors, hospitals, and suppliers approved by the HMO. The HMO may pay for prescription drugs and other items not covered by the Medicare program.

HMO with Point-of-Service Option: Patients meet most of their medical needs using doctors and hospitals on an approved list. Physician referrals to specialists are not necessary.

Provider-Sponsored Organization (PSO): This plan is owned and operated by the doctors and hospitals that provide most of the services to beneficiaries.

Private Fee-For-Service Plan: Patients may go to any doctor or hospital, but there may be substantial costs for beneficiaries because the Federal Government does not limit the premiums that may be charged. The plan gets a fixed amount of federal money for each beneficiary. Doctors are paid a separate fee for each service.

Medical Savings Account: Beneficiaries choose a private insurance policy with a high deductible to cover catastrophic expenses. Medicare pays the premium and may deposit additional funds according to a government formula based on the cost of the policy compared to other Medicare + Choice options. This money would be deposited in a tax-free savings account, which may be used to pay medical expenses including those incurred to meet the deductible. Patients may have to use their money to pay medical bills if the savings account is insufficient. Beneficiaries may enroll in MSAs from January, 1999 through January, 2003. It will be limited to 390,000 people to pilot this option.

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Long Term Care Insurance

Introduction

Long-term care coverage is an insurance product which first appeared in the early 1980s. Different policies are available to cover custodial care in the nursing home, home care, and care in a skilled nursing facility if Medicare benefits are unavailable. When shopping for long term care insurance, it is very important to carefully examine and compare policies in order to avoid duplicating any existing coverage provided by other insurance policies.

Coverage

Medicare does not pay for custodial long-term care and will only pay limited benefits for home health and for skilled nursing home care as a transitional phase between the hospital and ultimate return to the home. Some Medicare supplement insurance policies (Medigap) will pay for limited skilled nursing home care. While nearly half of Americans who turn 65 will eventually enter a nursing home, many will have nursing home stays of less than 100 days. Many others will have to pay someone to help them continue living in their home. Long-term care insurance can provide the means to pay for required care not covered by Medicare or Medigap.

Federal Income Tax Advantages

You should consult your tax advisor about a recently passed federal health insurance law that provides tax incentives to encourage people to purchase long-term care insurance. As of 1997, the cost of long-term care insurance may be deductible from federal income tax.

Considerations When Buying a Policy

As in the case of all applications for insurance, it is the responsibility of the prospective policyholder and not the agent to make sure that the application is accurately completed. Failure to reveal what may appear at the moment to be an insignificant medical problem could possibly void the policy.

Be sure that policy coverage is adequate. Some policies only cover licensed nursing homes. You should be sure that your policy covers skilled, intermediate and custodial care. If another level of care such as home health care or adult day care is desired in place of or in addition to other types of care, make sure the policy provides for it.

Watch the restrictions, many of which are common. Recent studies indicate that if prior hospitalization is required in order to activate the policy, there is more than a 50 percent chance of never collecting any money from the insurance company. If only skilled care will be reimbursed, either wholly or partially, there is a 45 percent chance of noncollection. Then there are waiting or elimination periods. If such periods are 90 days or more, the same studies indicate that there is a 30 to 40 percent chance of not collecting.

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Be sure that the benefits are in line with local nursing home and home care costs. Currently, the cost of nursing home care is \$30,000 annually across the United States, and in major metropolitan areas, the average escalates to \$60,000. The policy should also provide in some manner for inflation protection, even if the premium is raised proportionately. The maximum dollar benefit under the policy should be scrutinized.

Obviously, lifetime policy duration is advisable. Renewability should be guaranteed. Make sure that preexisting conditions are covered and that the type of facility you would want to enter is covered. For example, retirement communities often do not qualify under many policies. Normally, at a minimum, all levels of care in a licensed Nursing Facility, Home Care and Respite Care are what the average person considering this type of insurance wants covered. Some policies provide for a return of premium in the event of death prior to a given age, such as 70. Be sure that there is no exclusion for Alzheimer's Disease and other organic brain disorders (cognitive impairment). As a matter of fact, check all exclusions carefully.

The National Association of Insurance Commissioners in December 1990 issued guidelines for the various states in connection with the regulation of long-term care insurance. However, there is no substitute for careful investigation to make sure that the policy you acquire will meet your needs when the time comes. Companies offering long-term care insurance should have toll free numbers where you can contact specialists in the area at the home office, and it is recommended that you take advantage of this service. The agent can give you the number.

Eligibility

To be eligible for benefits, the insured is normally required to need assistance in at least two and perhaps three of what are known as ADLs --Activities of Daily Living. ADLs include eating, bathing, dressing, transferring positions, and toileting. If the policy requires more than three, it should be avoided. Qualification is usually determined independently or by the insurer.

Conclusion

In conclusion, it should be noted that premiums rise very rapidly as the insured gets older, and many policies require medical underwriting. As a result, it is important that long-term care insurance be considered at an early age. At this writing, the cost of a good long-term care insurance policy and a Medigap policy at age 65 are about the same. Each individual must decide for himself or herself whether either, neither or both Medigap and long-term care insurance are appropriate. It is also important to make sure that coverage is not duplicated by Medicare, Medigap or long-term care insurance in case you have one or all of them. For additional information, contact your state's health insurance counseling program. The following resources are also available to assist you:

- *Before You Buy: A Guide to Long-term Care Insurance* (D12893)
- *Making Wise Decision for Long-Term Care* (D12330)
- *A Handbook About Care in the Home* (D955)

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For these three publications, contact:

AARP

Fulfillment

601 E. Street, N.W.

Washington, D. C. 20049

(Specify Publication Number)

- *A Shopper's Guide to Long-Term Care Insurance*

For this publication, contact:

National Association of Insurance Commissioners

120 W. 12th Street, Suite 1100

Kansas City, MO 64105-1925

Alzheimer's Disease

Introduction

Alzheimer's Disease (Alzheimer's) is a type of dementia. Dementia is the term used to describe a serious decline in intellectual function, including memory, the ability to think and behavior. The primary organ affected by this disease is the brain, specifically the areas involving cognitive function and memory function. Mild memory problems, including difficulty recalling names or retrieving information, are seen with normal aging. Memory may be affected by multiple small strokes, Parkinson's Disease and a variety of medical illnesses and medications. Recent estimates put the number of Americans suffering from Alzheimer's at 4 million. The prevalence of this disease rises with age, with approximately 47 percent of individuals affected by age 85.

Alzheimer's and related dementia have a tremendous impact on the spouse and on the family caregivers (who are often referred to as the "hidden victims" of the disease). Alzheimer's indeed affects the entire family. It is important that caregivers get support because the stress of caring for someone with Alzheimer's disease is often mentally and physically draining for caregivers. When the caregivers become ill, they are no longer able to care for the patient, resulting in institutionalization of Alzheimer's patients.

Symptoms

The onset of Alzheimer's usually is gradual, beginning with minor memory problems and progressing to significant memory loss. Alzheimer's may also cause visio-spatial difficulties, poor judgment, personality changes, or other evidence of impaired brain function. In turn, this decline in mental function leads to behavioral and emotional changes, loss of ability to care for oneself, and ultimately death due to physical deterioration. Alzheimer's affects each individual differently. Therefore, the number and degree of symptoms, as well

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as the course of the disease, may vary from person to person. Eventually, Alzheimer's leaves its victims totally unable to care for themselves. Symptoms you may notice in an individual with Alzheimer's include problems remembering recent events, difficulty in performing familiar tasks, confusion, personality changes, behavior changes, impaired judgment, difficulties in finding words, in finishing thoughts, or in following directions. Be particularly alert for depression, which often occurs early and is hidden or "masked" in Alzheimer's patients. If it is suspected, seek professional help.

Services Available

Caregivers for the Alzheimer's patient will need support and assistance in giving that care. There are many people who can help - family and friends, health care professionals, Alzheimer's Association Chapter members, and others. Specialized programs and services can make life easier and more enjoyable for the caregiver and the person with Alzheimer's. For example, individuals with Alzheimer's may forget or refuse to eat. Meals on Wheels is a helpful program, but someone may have to be at home to accept delivery and supervise the eating. It is important that an individual with Alzheimer's receives help from people who are trained to help those with Alzheimer's.

Healthcare Services

If you suspect that someone you know has Alzheimer's, it is important to contact your family physician or nearby teaching hospital for a physician referral. A comprehensive evaluation involving physicians, nurses, neurologists, and social workers can assist families in developing comprehensive plans of care for patient and family. Medical professionals can also evaluate the patient for other medical problems that may be causing or contributing to the dementia. It is important to have one primary care physician. That physician can provide continuing care for the person with Alzheimer's, and in providing that care, treat other illnesses that arise, prescribe medications, answer questions, and provide caregiver support. When needed, the caregiver may seek a second opinion from a physician specially trained in managing Alzheimer's disease. A physician may also suggest that you consult a geriatric psychiatrist to help manage the behavior, depression, and personality changes that often accompany the disease. Nurses involved with Alzheimer's patients or Alzheimer's support group members can teach family members the ongoing practical care of a person with Alzheimer's.

A family may also want to consult an attorney experienced in medical assistance law or the local Social Services Agency to advise them on their rights to government financial support through Medicare, Medicaid, Social Security, disability, or veterans benefits.

Rest for the Caregiver

The job of caring for a person with Alzheimer's can be overwhelming. It is important that the caregiver take an occasional break, away from hands-on caregiving. Remember that asking for help will allow you to care for your loved one longer. There are several options for the caregiver to have some time away from caregiving. These options provide for care for the Alzheimer's patient for a few hours, a few days or even on a permanent basis.

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Day to Day Assistance for the Caregiver in the Home

If you would like the Alzheimer's patient to remain in the home, you may contact visiting nurses, home health aides, and paid companions to provide service in the home. These individuals provide services that may include health care, personal care, shopping, cooking, or housework. Make sure that the person providing the home care is familiar with Alzheimer's so that they can provide special care.

Day to Day Assistance Outside the Home

Adult daycare programs provide people with Alzheimer's several hours a day of structured recreation and mental stimulation. In an adult day care program, people with Alzheimer's can interact with others, exercise, listen to music and engage in other activities. These activities can give them an opportunity to enjoy life and can be extremely beneficial to the patient and the family.

Short Term Assistance for the Caregiver

Certain hospitals, nursing homes and residential facilities offer short-term stays for the Alzheimer's patient. This service, often called "Respite Care" provides full-time care of the Alzheimer's patient within the facility, for a period of days or weeks. When the Alzheimer's patient is in Respite Care, the caregiver has a chance to take a vacation, or just to get some relief from the stress of caregiving.

Long Term Assistance

As Alzheimer's disease advances and symptoms worsen, the family of the Alzheimer's patient may have to decide to make other living arrangements for the victim. Placing a family member in a nursing home or other long-term facility for any reason is a difficult decision and yet, at some point, it may be the most responsible decision that can be made. Some nursing homes specialize in the care of persons with Alzheimer's, offering so-called Alzheimer's or Special Care Units. A word of caution: be certain the program that you choose is in fact one of substance with high-quality personnel. It may be beneficial for you to actually visit the program and see it in action. If a person with Alzheimer's is terminally ill, he or she may be accepted in a hospice program.

Resources for Families

Alzheimer's affects families physically, emotionally, financially and socially. Many families find that other problems become magnified under the stress of caregiving and that they need help, support, or advice, in areas not directly related to the illness. Although you may receive support from families, neighbors, and clergy, it may be advisable to seek outside assistance. The Alzheimer's Association often receives phone calls from families of Alzheimer's patients who have questions about what can be done to protect the future security of the patient and/or his family. The Alzheimer's Association has chapter and peer support groups in cities across the country, and provides the support families need. In addition to providing support and guidance, many chapters offer educational literature, consumer information and workshops for caregivers and professionals. There is also a Safe Return program which sets up a file with photographs of the Alzheimer's patient, which can be of assistance if the patient becomes lost. Call your local Alzheimer's Association chapter for more information.

Legal Considerations for Alzheimer Patients

As soon as Alzheimer's is suspected, the family and the patient should meet with a knowledgeable attorney to plan for legal and financial complications. This is important because during the early stages of the disease,

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the Alzheimer's patient may be capable of participating in legal and financial planning to protect the future management of his or her life and assets. When meeting for a legal consultation, it may be helpful to have the following documents: executed wills and trusts, prior tax returns, health and life insurance policies, pension information, deeds, mortgages, bank accounts and information about other financial investments. Below are several legal issues which should be considered.

Making Life Easier

Introduction

With the continued increases in health care costs, it is more important now than ever for individuals to focus on prevention of illness and injury. There are many ways seniors can make daily tasks safer and easier. Alternative methods and selfhelp devices are available to allow continued independence or a return to independence after illness or injury.

Prevention of Injury or Illness

1. Exercise

Statistics have proven that even a minimal amount of exercise is beneficial. Regular exercise is not only good for your heart, muscles, and joints, but also for your mind. Consult your doctor before you make significant changes in your level of exercise.

Contact your local Area Agency on Aging, church, or area malls to inquire about walking or other types of exercise programs.

2. Home Safety

Many accidents that occur in the home can be avoided by taking simple precautions.

- a. Remove or secure scatter rugs that may cause a fall.
- b. Use your best judgment to decide if getting into and out of a tub is still safe or easy. Consider a tub or shower chair available from home medical equipment vendors and some large chain stores.
- c. Place nonskid strips, decorations, or matting in your tub.
- d. Elevate your toilet seat if getting up or down is difficult or painful. There are many options available with or without railings for support.
- e. Install railings at your stairways; if you are unable to do so, use the stairway with the fewest steps.
- f. Rearrange furniture to allow for adequate space if you use a walker or a cane.
- g. Make sure you have a working smoke detector and check it yearly. Map out an escape plan in case of an emergency.
- h. Take a safety tour of your home. Try to identify anything that might be a safety risk to you and change it.

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3. Energy Conservation and Work Simplification

By eliminating unnecessary tasks or changing the way you do them, you can conserve your energy. The following are suggestions to help you if you suffer from weakness and low activity tolerance or just want to be more efficient.

- a. Plan your day carefully. Establish priorities and determine the best time of day for each task. For example, if bathing tires you, take your bath before going to bed.
- b. Organize yourself and your work environment so all necessary tools, equipment and supplies are at hand. Keep lists of “things to do.”
- c. Position yourself correctly. Arrange yourself or your work environment so that you do less bending, stooping, twisting, reaching or standing for too long.
- d. Sit for as many activities as possible. However, you should avoid remaining in the same position for too long (sitting or standing) during a task. Such positions can cause an increase in your blood pressure because they require your heart to work harder.
- e. Maintain good posture during all activities to allow for maximum lung expansion.
- f. Rest when needed. Listen to your body’s signals, stop and rest before you become exhausted. If you use this technique, you will find it takes less time to recuperate.
- g. Avoid extreme temperature (outside or inside, including temperature of bath water). Your body maintains a normal temperature. When you are in extreme hot or cold, your heart works over time and your body burns more energy trying to regulate itself. So, use moderate temperature bath water, dress appropriately for the weather and avoid going out in the hottest part of the day.
- h. Modify tasks or avoid tasks that require overhead arm work. Working with arms over the level of your heart requires your heart to work harder. Try to eliminate the distance between yourself and the task by using a step stool, longhandled reacher/duster, etc.
- i. Eliminate unnecessary details of tasks. For example, you can let dishes air dry, buy permanent press clothing, or prepare extra portions of food for freezing.

4. Joint Protection

Many daily tasks can put damaging stress on your joints. If you suffer from arthritis, bursitis, or any type of joint pain and stiffness, evaluate the positions of your joints during tasks and choose an alternative position or use a selfhelp device.

- a. Respect pain. Don’t start an activity that you cannot stop for rest.
- b. Avoid using a tight grasp.
- c. Avoid holding your hands or any other joint in the same position for too long.
- d. Use two hands instead of one.
- e. Slide objects across counters/floors rather than carrying them, or use a wheeled cart.
- f. If possible, use larger joints for tasks. For example, carry your pocketbook at your elbow or, even better, your shoulder, instead of in your hand; hold your grocery bags in your arms instead of holding them by the handles.

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- g. Avoid direct pressure on the thumb side of your hand.
- h. Use electrical appliances and selfhelp devices. Examples of selfhelp devices include the following: elastic shoe strings, longhandled shoe horns, zipper pulls, Velcro rather than button closures, raised toilet seat, tub or shower chair, longhandled reacher/bath sponge, builtup handled utensils, doorknob extensions, and more. Many shops and mail order catalogues carry these items. An organization, doctor, or hospital that works with seniors can help you.

Recovery from Injury or Illness

Unfortunately, not all accidents, illnesses or degenerative changes are preventable. Modern medicine is becoming increasingly adept at saving patients from oncefatal strokes, heart attacks and accidents. Modern medicine also provides relief from the pain of some conditions like cancer or arthritis. However, many people survive these problems only to find new ones at home or work. . .problems that can lead to a loss of independence. The person may no longer be able to perform even simple tasks such as eating, dressing and bathing.

When people experience problems with any daily or occupational task and are unable to correct problems themselves, occupational therapy may be appropriate to help them return to as functional a lifestyle as possible. The hospital is the most common treatment setting for occupational therapy, but services are also provided in schools, community mental health facilities, rehabilitation facilities, nursing homes, adult day care centers and more. Occupational therapists also see people in their own homes if they meet homebound requirements.

Reimbursement for occupational therapy services is covered under some provisions of Medicare, Medicaid, and other state and federal programs, commercial and private insurance companies and CHAMPUS. Facilities offering rehabilitation services are required by law to offer occupational therapy services for their patients. Contact your insurance company to determine if your policy covers occupational therapy. To locate occupational therapy services in your area, contact your primary physician or local hospital.

Conclusion

For additional information about health promotion and accident prevention, contact your local Area Agency on Aging.

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Nursing Homes

What Is a Nursing Home?

A nursing home is a long-term care facility designed for people who need less care than a hospital provides, but for whom adequate services are not reasonably available in the home or community. It is designed for those needing long-term nursing or convalescent care due to aging or prolonged illness or injury. This care might include, for example, administering medicines, preparing special diets, rendering treatments prescribed by a doctor and total nursing care. Generally, the services offered by nursing homes include medical and nursing care, meals, laundry, and housekeeping. Additionally, quality facilities offer dietary, pharmacy, recreational and social services, plus occupational therapy, physical therapy, and speech therapy. Most nursing homes are proprietary (for profit) facilities; however, a small percentage of nonprofit homes operate in Virginia and are usually community or church affiliated.

Nursing Home Staff

Many people are involved in providing services to the residents of nursing homes. Some of these people include the following:

Administrative Staff: Includes an Administrator, Director of Admissions, Director of Personnel, and Finance Director; these people are responsible for the overall operation of the nursing home.

Medical Director: This is the physician responsible for overseeing the delivery of medical care to all residents in the nursing home.

Nursing Staff: Includes a Director of Nursing (who is usually a registered nurse), the Assistant Director of Nursing, Registered Nurses (RNs), Licensed Practical Nurses (LPNs), and nursing assistants; generally, the Director of Nursing and Assistant Director of Nursing supervise the work of the nursing staff. The registered nurses and licensed practical nurses provide medical treatments, administer medications, and provide written documentation of medical care. The nursing assistants provide custodial care to patients (for example, bathing, feeding, and toileting.)

Therapists: Includes physical, occupational, recreational, and speech therapists who help residents maintain their physical and functional status.

Social Services Staff: Includes social workers who help residents cope with emotional and psychological issues.

Activities Director: Provides therapeutic recreational programs which are designed to meet the assessed needs of the nursing home residents.

Dietary Staff: Includes a food service director and dietary assistants. The food service director manages the meals program, guaranteeing that dietary requirements are met for the nursing home residents. Dietary assistants are involved in the preparation and delivery of meals.

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Financial Assistance

Medicare

You can receive financial assistance from Medicare for a certain number of days of care in a skilled nursing facility per spell of illness if you qualify for Medicare benefits. This is provided under Medicare hospital insurance (Part A). There are deductibles and coinsurance amounts that must be paid and there may be conditions for qualification. Generally, Medicare does not cover many nursing home expenses.

Medicaid

Medicaid, the program which is jointly administered by the federal government and the state, also pays for care in most nursing home facilities. A physician must certify the level of care needed, and you must be eligible for Medicaid benefits. Make sure that the nursing home will continue to serve a resident whose funding source may switch from private or Medicare funds to Medicaid funds.

Veterans Benefits

The Veterans Administration may provide assistance for nursing home expenses to some veterans. Assistance may also be available to some children and surviving spouses of veterans. In order to receive these benefits, however, you must choose a nursing home that is under contract with the Veterans Administration. Contact your local VA office for more information.

Private Health Insurance

Some private health insurance plans provide for limited nursing home coverage. If you are covered by private insurance policies, you should talk with the carrier or your insurance agent to find out specifically what nursing home care is covered. Most private insurance policy coverage is contingent upon the physician's documentation of the need for skilled nursing care (as with Medicare coverage.) Thus, while many persons expect their private insurance to pick up where Medicare leaves off, this is often not the case.

Guarantors and Responsible Parties

Any agreement between a nursing home and a prospective resident (or the resident's family) for the provision of care in return for payment of some kind is a contract, and any written statements should be read and understood **before being signed** just as in any other contract. Guarantors, responsible parties, or cosigners for these contracts are bound to make good the debts of the nursing home resident should he or she not be able to pay. **If you are considering becoming a guarantor or responsible party, (for instance, son or daughter) you should take special care to understand exactly what obligations you may have to take on.**

Nursing Home Regulation

Nursing homes are regulated by both state and federal laws. While state laws vary, all nursing facilities must be licensed under state law. States usually inspect nursing homes once a year. More than eighty percent of nursing homes participate in Medicare or Medicaid, and thus are required to meet federal certification standards on quality of care, quality of life and residents' rights.

Resident Rights

When you enter a nursing home, you must comply with reasonable rules of the facility and you must respect the rights of staff and other residents. However, you do not surrender your basic civil rights when you

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enter a nursing home. While institutional care may place limitations on your privacy and lifestyle, you should expect care that is compassionate, dignified, and high quality.

The federal Nursing Home Reform Amendments of 1987 provides the following rights to residents:

Right to information - Nursing homes must provide:

- written information about your rights, including personal funds, the right to file a complaint and how to contact the ombudsman and the state survey agency;
- written information about the services included under their basic rate and any extra charges for additional services;
- advance notice of any changes in room assignment or roommate;
- an explanation of your right to make a health care advance directive and information about their policies on complying with advance directives (see Advance Directives);
- information about eligibility for Medicare and Medicaid and the services covered by those programs.
- upon reasonable request, the facility must provide the results of the most recent survey (inspection) of the facility.

Self-determination rights - Residents have the right to:

- choose a personal physician;
- be informed in advance about any changes in care and treatment which could affect resident well being;
- participate in changes in care and treatment or planning care and treatment;
- voice complaints about care without fear of discrimination or reprisal for voicing concerns;
- participate in resident and family groups.

Personal and privacy rights - Residents have the right to:

- participate in social, religious, and community activities that do not interfere with the rights of other residents;
- privacy regarding accommodation, medical treatment, written and telephonic communications, visits, and meetings of family and resident groups;
- confidentiality regarding medical and personal records;

Visitation rights - Nursing homes must permit immediate access to a resident:

- by personal physician and representatives from state and federal agencies, including the ombudsman program;
- immediate family or other relatives, if resident consents;
- by others with “reasonable” restrictions.

Involuntary transfer and discharge rights - Residents may only be transferred or discharged under the following conditions:

- the resident’s welfare cannot be met in the facility;
- the resident’s health has improved so that nursing care is no longer needed;
- the health and safety of individuals in the facility are otherwise endangered;

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- the resident has failed, after reasonable notice, to pay for care;
- the facility ceases to operate.

Protection against Medicaid discrimination - Nursing homes that participate in the Medicaid program must:

- have identical policies and practices regarding services to residents regardless of the source of payment;
- provide information on how to apply for Medicaid;
- not require a third-party guarantee of payment to the facility;
- in the case of a Medicaid recipient, not charge, solicit, accept, or receive gifts, money, donations or other considerations as a precondition of admission or continued stay in the facility.
- not require, request, or encourage residents to waive rights concerning Medicaid.

For nursing homes that are not federally regulated because they do not participate in the Medicare or Medicaid programs, Virginia has a comprehensive nursing home patients' bill of rights, giving residents a right to:

- **Be fully informed:** of services and charges in the facility, of their medical condition, and of their rights as patients.
- **Just cause for involuntary transfer and discharge:** Be transferred or discharged only for medical reasons, for their welfare or that of other patients, for nonpayment for their stay, and be given reasonable advance notice (at least 5 days in nursing homes, 14 in ACRs) or any transfer or discharge.
- **Exercise their rights:** as patients and citizens, voice grievances and freely recommend changes in policies to staff and to outside representatives.
- **Manage their financial affairs:** or receive quarterly accountings if they delegate this to the home or ACR.
- **Individualize their service plan:** Participate in developing an individualized service plan, in consultation with a representative of the facility and a health care provider.
- **Be free from mental and physical abuse,** and from chemical and physical restraint (except in emergencies or when authorized by a doctor for a limited time).
- **Be treated with consideration and respect,** and have privacy in treatment and care of personal needs.
- **Personal and privacy rights to:**
 - Not be required to perform services for the facility;
 - Associate and communicate privately with persons of their choice;
 - Meet with social, religious and community groups;
 - Retain and use personal clothing and possessions as space permits;
 - Be assured of privacy for spousal visits, if married; or if both are patients, be permitted to share a room, unless medically prohibited.

Problem-solving: Virginia law requires that patients be free to complain to outside sources without hindrance or fear of reprisal. If you have a problem, try the following steps:

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- First, define the problem. Writing it down may help you clarify your concerns.
- Second, verify the problem. When has it happened? (Give times and dates, if possible.)
- Who else is aware of the problem? Ask questions of others who may be aware of the same situation.
- Your third step is to resolve the problem:

Identify the right person to approach with your concern. The facility is required to have a grievance procedure. Usually, you will go to the source of the conflict, meeting with the supervisor of the floor or department involved, or the social worker; then, if necessary, you may bring questions to the attention of the department head, director of nursing, and finally, the administrator.

When bringing your concern to the staff person, state the problem and obtain a commitment to address the problem with a time limit for a response. Discuss solutions and state the response that you consider satisfactory. Set a time when you will return to check on progress. Most health care staff and professionals wish to provide quality care, so do not hesitate to speak up when you first notice a problem.

If the problem cannot be resolved, even though you have gone through the grievance procedure, call:

Long-Term Care Ombudsman Program
Virginia Association of Area Agencies on Aging
Statewide Toll-Free: 1-800-552-3402

Capital Area Agency on Aging
(804) 343-3000

Complaint Coordinator
Center for Quality Health Care Services and Consumer Protection
Virginia Department of Health
(804) 367-2102, toll-free 1-800-955-1819

Choosing a Facility

Choosing a facility deserves much care and attention. “Shopping” might include the following:

- Consider the alternatives first when independent living becomes difficult for an older person. Examine the possibilities for adult day care, senior citizen housing and homemaker/home health care services in your area by calling your local area agency on aging. Include the prospective resident in all decision making, if possible. It might be helpful to jointly make a list of desirable characteristics, including personal touches, and a list of unacceptable characteristics.
- Determine the level of care needed by consulting with the personal physician and the prospective resident.
- Plan a means of financing the care. Seek advice from the local Social Services Administration to find out whether the stay can be covered by Medicare or Medicaid. Consult with an insurance agency or former employer to determine whether the stay is covered by the individual’s personal health insurance or pension plan.
- Make a list of appropriate facilities in your area. The Virginia Department of Health maintains a current list of nursing homes, and the Virginia Department of Social Services has list of adult care residences. To

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get information about nursing homes or assisted living facilities, call your local area Agency on Aging.

- Find out about the homes or assisted living facilities on your list by consulting with the hospital social worker if the person is coming from the hospital, and with physicians, clergy and friends.
- Call the homes or assisted living facilities to see if they have openings, whether there is a waiting list and, if so, how long.
- Check the level of care offered. Match the level of care required by the prospective residents with the level of care that the facility is licensed to offer. If the facility is a nursing home, determine whether the home is certified for Medicare or Medicaid.
- Make appointments to see the homes or assisted living facilities. Select the two or three most attractive homes or assisted living facilities in terms of quality and level of care provided, reputation and location. Request an appointment to tour the home and to talk with the admissions director. If possible, plan your visit with the morning activity and the midday meal. Talk to the residents and, if any are present, to visiting family members and friends.

Questions to Ask

When considering a facility, ask questions and make observations like the following:

- Does the nursing home have a current license? Ask to see it.
- At what level of care are nursing services available?
- Are staff or family physicians and other medical services readily available to residents? Can a personal physician or nurse come to the facility?
- Is there a well-organized activities program with provisions for regular input?
- What facilities and staff are available for rehabilitation and physical therapy?
- What are visiting hours?
- Does the home or assisted living facility have continuous in-service education for staff?
- Does the home or assisted living facility serve attractive, nutritious meals, or special diets that are planned by a Registered Dietician? In assisted living facilities, will you be able to prepare your own meals if you so desire?
- Is there an adequate fire safety system, and is a plan posted for quick evacuation of residents?
- What services are included in the “basic daily charge” of the home or assisted living facility, and what services are provided for “extra charges”?
- What kind of deposit is required in advance? What is the facility’s refund policy?
- Do you have the right to purchase your own medications under non-emergency circumstances?
- What third party payments will the home accept? Does it take Medicare and Medicaid patients? How will the facility handle patients who must switch from private resources or Medicare to Medicaid during their stay?

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- What is the facility's policy for returning residents to the facility after the resident has been in an inpatient facility? What are the circumstances under which a resident will be discharged?
- How clean are residents' rooms, bathrooms, kitchens, nursing stations and lounges?
- Is the home environment pleasant and attractive? Are there appropriate decorations? Are there personal decorations in residents' rooms?
- Do staff and residents seem to have a positive attitude toward one another? Are ambulatory residents free to move about?
- Are residents treated with respect and afforded as much privacy as possible?
- What are the daily costs of care and what is not included?
- Are religious services conducted at the facility?
- Can residents bring their personal pieces of furniture?
- Does the facility offer special programs or a special unit for the treatment of Alzheimer's patients, and of other neurological problems?
- Does the facility have a policy to insure that the residents receive fresh air daily?
- Does the facility have a place for the safe keeping of valuables?

Long Term Care Ombudsman Program

The Long-Term Care Ombudsman was established in 1979 as a requirement of the federal **Older Americans Act** to improve the quality of care in America's long-term care facilities. The Program serves as a focal point whereby complaints, made by or on behalf of older persons in long-term facilities or those receiving long-term care services in the community, can be received, investigated and resolved. Additionally, the Long-Term Care Ombudsman Program identifies problems and concerns of older persons receiving long-term services and recommends changes in the long-term care system that will benefit these individual consumers.

A major component of the Program includes educating consumers of long-term care services about their rights and how to advocate on their own behalf when they have a problem or concern. The Program is also a resource for information and counseling regarding long-term care services and aging related issues. The Ombudsman Program disseminates information about long-term care services, including options for paying for services, how to choose a long-term care provider and consumer rights. [Virginia operates a toll-free telephone number (1-800-552-3402) to assist individuals with making a complaint or requesting information.

In addition, the Long-Term Care Ombudsman Program works closely with other consumer advocacy programs, regulatory agencies and providers to promote the empowerment and autonomy of older persons, and the resolution of complaints. The goal of this coordination is to help people understand their rights, exercise choices, and ensure quality long-term care services.

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The Office of the State Long-Term Care Ombudsman is operated by the Virginia Association of Area Agencies on Aging. Its mission is to serve as an advocate for older persons who receive long-term care services. The Program operates a statewide toll-free telephone number (1-800-552-3402) to assist individuals with making a complaint or requesting information.

Originally established in 1979 as a requirement of the federal Older Americans Act to improve the quality of care in America's long-term care facilities, the Virginia program was expanded in 1983 by the Virginia General Assembly to include community based long-term care services as well. Currently there are 9 local Ombudsman Programs covering 13 of the 25 Area Agencies on Aging in the Commonwealth. These local programs are operated through the Area Agencies on Aging. These local Ombudsman Programs provide an advocacy presence in their communities which can efficiently respond to consumers' requests for information and concerns about quality of care.

In addition, the Long-Term Care Ombudsman Program works closely with other consumer advocacy programs, regulatory agencies and providers to promote the empowerment and autonomy of older persons, and the resolution of complaints. The goal of this coordination is to help people understand their rights, exercise choices, and ensure quality long-term care services.

The Office of the State Long-Term Care Ombudsman is located at 530 East Main Street, Suite 428, Richmond, VA 23219, (804) 644-2804 or 1-800-552-3402 (toll-free- Mark C. Miller, State LongTerm Care Ombudsman).

Assisted Living Facilities

Introduction

The term "assisted living" is used to describe any group residential program that is not licensed as a nursing home and that provides personal care and support services to people who need help with daily living activities as a result of physical or cognitive disability. Support services provided may include general oversight and assistance with activities of daily living and instrumental activities of daily living.

Generally, assisted living combines housing, personal services, and light medical care. The facilities provide support to those individuals too frail to live alone, but too healthy to utilize most of the medical services provided in a nursing facility. Other names for assisted living facilities include: residential care facility, domiciliary care, homes for the aged, community-based residential facility

Design

Assisted living facilities may be free-standing, near or integrated with nursing homes, as components of continuing care retirement communities, or at independent housing complexes. Assisted living options may range from one-bedroom apartment units to free-standing two-story homes.

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Regulation

Assisted living facilities, unlike nursing homes, are not regulated by the federal government. Consequently, services and levels of care at these facilities vary from state to state according to different state and local laws. Most states have minimal regulations, allowing competition in the marketplace to set the standards for quality.

Paying for Assisted Living

Private funds pay for about 90 percent of assisted living services. Some assisted living services may be paid for by Supplementary Security Income, Older Americans Act, and Social Services Block Grant programs. Long term care insurance policies may, in some cases, cover assisted living as an “alternative care benefit”. Medicare does not cover assisted living expenses under any circumstance.

Choosing an Assisted Living Facility

Choosing an assisted living facility can be a difficult decision. It is important to visit several communities and to talk with residents and staff. A careful comparison should be made of fees and services offered by different facilities. For important points of consideration, refer to “Choosing a Facility” and “Questions to Ask” under the Nursing Home section.

Adult Day Care

Introduction

Adult day care programs provide a variety of daytime services for impaired older adults. Individuals who participate in adult day care programs attend on a regular, planned basis. Most adult day care centers are open 8-10 hours a day on weekdays and there is a trend toward weekend service as well. Adult day care centers work to assist the older adult to remain living in the community at the highest level of independence possible. Many participants and their family caregivers are able to delay or avoid use of more costly in-home and nursing home care by using adult day care. Admission requirements and procedures vary somewhat across centers, but all require that the applicant have a personal physician or clinic with whom care can be coordinated.

Services Provided

Adult day care services are designed to assist both the participant and the family. Adult day care centers provide health maintenance services, therapeutic activities, personal care, and emotional support to participants. Older persons may benefit from the special care if they are:

- physically impaired
- socially isolated
- in need of personal care help
- mentally confused

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- limited in their ability to function independently in the community
- in need of supervision

Family caregivers benefit from adult day care as well. Knowing their family member is safe at the day care center gives employed caregivers peace of mind while at work.

Paying for Adult Day Care

Although many adult day care participants pay for care out-of pocket, almost all centers have provisions such as sliding fee scales or scholarships, to serve those who need financial assistance. Most long-term care insurance policies cover adult daycare, and worker's compensation policies have paid adult daycare costs for those with work-related disabilities. Medicare, however, does not pay for adult day care or other long-term care services (nursing home, adult home, in-home companions.) Medicaid may pay for adult day care and transportation if the person meets financial and nursing home pre-admission screening criteria.

Regulation of Adult Day Care

The majority of centers are licensed by the Commonwealth and meet standards related to ratio of staff to participants, staff and volunteer qualifications, staff training and continuing education. Physical plant and safety issues are monitored by health, fire and licensing officials. In addition, many adult daycare funding sources (Area Agency on Aging, United Way, Medicaid, etc.) conduct periodic inspections of various aspects of the facility, staff and care provided. Complaints about care can be directed to the Virginia long-term care ombudsman (1-800-552-3402) for investigation.

Home Care

Introduction

Home care refers to a variety of services performed at a person's home by an outside agency. It enables elderly persons requiring part-time medical or personal care to remain in their homes and thereby avoid the higher priced nursing home care. "Home health care" is the term used by Medicare when referring to specific medical services rendered in the patient's home which are reimbursed by Medicare. However, there are many additional services available to homebound elderly which are not covered by Medicare. The term "home care" refers to this broader range of services. Both "home health care" and "home care" will be discussed in this section.

Types of Services Available

The types of services which are available fall into two categories: skilled services and home support services.

Skilled Services

Skilled services include part-time nursing care, physical therapy, speech therapy, occupational therapy, medical supplies and equipment. For example, a nurse may come to the house periodically to change the dress-

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ing on a wound, adjust a catheter, or give an injection. The physical therapist may come to review exercises with a patient recovering from a hip fracture. The cost varies depending on the length of the visit and the type of care. Some of the expense may be covered by Medicare, Medicaid or health insurance.

Home Support Services

A homebound senior citizen may also receive home support services, such as homemaker services and home chore services. These programs offer assistance with the activities of daily living. A homemaker or home health aide will help the patient with bathing, grooming, and dressing. The aide may also assist with meal preparation, grocery shopping, and light housekeeping. A home chore service provides house cleaning, household repairs and yard work. These services are usually not covered by Medicare or Medicaid. The new standardized Medicare Supplement policies (“Medigap”) have very limited at-home recovery programs, and not all companies offer these plans and all applicants do not qualify. Sometimes religious or civic organizations may offer limited services free of charge or there may be a publicly sponsored program through the Area Agency on Aging in your community. Home care may be an optional extra in a long-term care insurance policy. More information can be obtained from your Area Agency on Aging.

Nutritious home-delivered meals are available to home bound senior citizens through programs like “Meals on Wheels”. Meals are delivered once or twice a day, five to seven days a week. Most programs can accommodate special diets. The cost is modest and most programs have a sliding scale fee based upon one’s ability to pay. This program varies from place to place and local information can be obtained by contacting your Area Agency on Aging.

Other home care and support services may be provided by programs in your community. Typical community based services include the following: transportation, case management, information and referral, legal services, adult day care, congregate meal sites, home delivered meals, senior centers, respite care, and telephone outreach. Contact your local Area Agency on Aging for available community-based services.

Arranging for Home Care

Home care is available through hospitals, public health departments, Area Agencies on Aging and private agencies. If the home care follows a hospitalization, frequently the hospital discharge planner will assist you in coordinating the services you need. Your family doctor is able to develop a plan for home health care and recommend agencies to contact. If you anticipate reimbursement from Medicare, Medicaid, or insurance, a doctor’s certification of medical need is essential. Other sources of information include: Area Agencies on Aging, adult day care centers, and local religious organizations, such as Jewish or Catholic Family Services. The National Home Care and Hospice Directory lists home care organizations by city and state. Look for a copy at the public library or your Area Agency on Aging. **Finally, the Information and Referral section in the back of this handbook is a starting place for assistance in locating home health care providers.**

Choosing a Home Care Provider

You can determine the caliber of a Medicare-certified home care provider by reviewing its Medicare Survey Report. Contact your state’s insurance counseling program for assistance in obtaining this document. Many states require home care providers to earn a license to operate. In order to obtain a license, facilities must meet basic legal and operating standards imposed by the state department of health. Contact your state health

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department to obtain information on its licensed providers. Additionally, you should inquire about the accreditation of the home care provider. Several professional organizations have established standards to define quality in home care services, and many home care providers voluntarily seek accreditation from these organizations to signify that they have met national standards for quality care.

Questions to Ask

The National Association for Home Care suggests asking the following questions in choosing a home care provider:

- How long has the provider been serving the community?
- Does the provider supply literature explaining its services, eligibility requirement, fees, and funding sources?
- How does this provider select and train its employees? Does it protect its workers with written personnel policies, benefits packages, and malpractice insurance?
- Are nurses or therapists required to evaluate the patient's home care needs? If so, what does this entail? Do they consult the patient's physicians and family members?
- Does the provider include the patient and family members in developing the plan of care?
- Is the patient's course of treatment documented, detailing the specific tasks to be carried out by each professional caregiver? Does the patient and family receive a copy of this plan, and do the caregivers update it as changes occur? Does this provider take time to educate family members on the care being administered to the patient?
- Does this provider assign supervisors to oversee the quality of care patients are receiving in their homes? If so, how often do these individuals make visits? How can the patient and his or her family members call with questions or complaints? How does the agency follow up on and resolve problems?
- What are the financial procedures of this provider? Does the provider furnish written statements explaining all of the costs and payment plan options associated with home care?
- What procedures does this provider have in place to handle emergencies? Are its caregivers available 24 hours a day, seven days a week?
- How does this provider ensure patient confidentiality?

Paying for Home Care

Medicare will pay for home health care if all of the following conditions are met:

- a doctor certifies your need and sets up a plan of treatment;
- you need intermittent (part-time) skilled nursing care, physical therapy, or speech therapy;
- you are homebound; and
- the services are provided by a Medicare-certified agency.

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Not all agencies are Medicare-certified. If you satisfy these conditions, then Medicare will pay the reasonable costs for covered home health visits. You will have to pay for the costs that Medicare does not cover, including the difference, if any, between what Medicare considers “reasonable” and the actual cost. Medicare does not cover the cost of full-time nursing care at home, meals delivered to your house or homemaker services. However, in some circumstances, Medicare will pay for intermittent use of a home health aide, occupational therapist, medical social services, and medical supplies and equipment. For lower income persons, Medicaid may also cover home health care for an individual who would otherwise qualify for admittance to a nursing facility but wishes to remain at home instead. Because Medicaid sometimes reimburses the home health agency less than the actual cost of care, not all agencies will accept Medicaid patients. Therefore, a Medicaid eligible patient should inquire about this first.

Although in the past, home health care has not been included in private insurance plans, many insurance companies are beginning to offer the coverage. You need to check the coverage under your policy and also check with the home health agency to make sure they will accept private insurance. Those eligible for Veterans Administration benefits or CHAMPUS should look into coverage under these programs as well.

While reimbursement is usually available for skilled services received in the home, this is seldom the case for home support services such as a homemaker or an aide. Some agencies have received federal, state or local government funds to provide these services to senior citizens meeting specified eligibility requirements. You should check with your local Area Agency on Aging or the individual home health agency to see if you qualify.

Continuing Care Retirement Communities

Introduction

Also known as life care retirement communities, these facilities have been in existence for over 60 years; however, the industry has greatly expanded in the last two decades. Although the vast majority of Continuing Care Retirement Communities (CCRCs) are run by nonprofit organizations, a number of major corporations have entered the market. The number of these communities is expected to double by the year 2000. The typical CCRC serves between 200 and 300 residents.

What is a Continuing Care Retirement Community?

A Continuing Care Retirement Community is a financially self-sufficient residential community for senior citizens that offers medical care and nursing services in addition to independent living. Continuing Care Retirement Communities vary in the image they wish to project. Some are closely aligned with a particular religious denomination. Some seek to cover the basics in a simple community setting, while others attempt to create a country club or resort atmosphere.

Type A Facility: Extensive Plan

CCRCs differ in the amount of health care they offer their residents. What is sometimes referred to as a “Type A” or “extensive” facility will provide food, housing, medical services and nursing care, and assisted living care for the remainder of the retiree’s life, frequently even after you have exhausted your financial

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resources. It can be thought of as a form of self-insurance, spreading the risk of catastrophic health care costs among all residents in the CCRC so that no one will face financial ruin. Because of the guaranteed health care, Type A facilities are the most expensive.

Type B Facility: Modified Plan

“Type B” or “modified” retirement communities offer the same services as the Type A facilities but without the health care guarantee. For example, a Type B facility may provide 15 days of nursing care per year. After you use up your 15 days, you must pay a daily charge for the nursing care. In the event you run out of money, the facility is not contractually obligated to provide for your care.

Type C Facility: Fee for Service Plan

In the “Type C” or “fee for service” community, residents have priority access to the nursing unit, but they must pay for the services received. Moreover, Type C facilities generally do not include meals or personal care assistance as part of their package. Consequently, they are the least expensive.

CCRC Fees

A Continuing Care Retirement Community charges two fees - a onetime entry fee followed by a monthly maintenance fee. The entry fee may currently range anywhere from \$38,000 to \$400,000 depending on whether it is a Type A, B, or C facility, the size of the living unit, and the amenities associated with the community (such as swimming pool or golf course). The monthly maintenance fee usually ranges from \$650 to \$3,500 and may be increased from year to year as inflation dictates. Residents meet the monthly fee with social security and pension income, while the funds for the entry fee are often obtained from the sale of the retiree’s home. An alternative used by some CCRCs is to offer a reduced entry fee which is accompanied by proportionally higher monthly fees.

Pros and Cons

Security and flexibility are two reasons for joining a CCRC. With increased life expectancies brought about by modern medicine, many elderly persons experience two stages in their retirement years. The younger elderly are capable of independent living and community involvement. For this age group, the social and recreational features are attractive. Dependency and declining health characterize the second stage of retirement. The CCRC is equipped to keep you in your apartment as long as possible. Housekeeping and dietary services (offered by the Type A and B facilities) handle the day-to-day living activities you may no longer be able to do for yourself. Transportation to shopping areas is often provided. Most importantly, a nursing facility is located on the premises if and when skilled or custodial care becomes necessary. The support systems of a CCRC enable various gradations of living along the independent/dependent continuum tailored to the individual’s needs. In addition, some life care contracts (Type A) promise to care for you even after you exhaust your financial resources.

There are some drawbacks to living in a Continuing Care Retirement Community. The most obvious is the cost. The entry fees are so expensive that should you join a CCRC and later find you do not like it, the bulk of your life savings is gone and you cannot afford to move elsewhere. Some senior citizens do not desire a community as homogeneous as CCRCs tend to be. Finally, there have been a few instances where, due to fraud or mismanagement, CCRCs have gone bankrupt. Virginia is one of 35 states which attempt to reduce this risk by regulating the industry. CCRCs must register with the State Corporation Commission and provide detailed annual disclosure statements to the Commission, residents, and prospective residents. In addition, the Commission is authorized to intervene when a CCRC shows signs of financial instability.

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Residents' Rights and the Possibility of Dismissal

Once you have invested a large sum of money in a life care contract, you do not want to be evicted or dismissed on the whim of management. Virginia law permits dismissal only after a showing of good cause. Good cause is defined as: (i) proof that the resident is a danger to himself or others; (ii) nonpayment by the resident of a monthly or periodic fee; (iii) repeated conduct by the resident that interferes with other residents' quiet enjoyment of the facility; (iv) persistent refusal to comply with reasonable written rules and regulations of the facility; (v) material misrepresentation made by the resident on his application; or (vi) material breach of the terms of contract by the resident.

Virginia law also gives CCRC residents the right to form a Residents Association and requires quarterly meetings between residents and management.

Choosing a Continuing Care Retirement Community

Initially, you must determine whether or not communal living is for you. The book *If I Live to be 100* by Vivian Carlin and Ruth Mansberg is very helpful in this regard. Free from technical language, the book describes the day-to-day lives of residents in a retirement community. The authors address management/resident relations, the nursing unit, recreational activities, and the relationship between the retirees and the townspeople. Once the decision is made to pursue this form of housing, you should visit each CCRC you are considering and determine what the entrance requirements for each are. You should also inquire about rules and policies. A visit ought to include a night in the guest house as well as a couple of meals in the dining room. Ask questions about the services available. How many meals are included in the contracts? Is service available to the resident's apartment if it is needed? Is the kitchen willing to prepare meals to fit a prescribed diet?

You should tour the grounds and buildings, paying close attention to the layout, appearance, upkeep, and security. Within the apartment you should look for the usual features which concern prospective renters or homeowners, along with looking for an emergency call system. You should engage the residents and staff in conversation. Are the people friendly? How do they interact? Are there many social activities? Is there a library? Are there recreational facilities?

You should insist upon visiting the nursing unit. This is essential for the Type A facilities as health care constitutes a significant portion of the services you will be purchasing. Does the health care facility provide a full range of services, such as annual or routine physical exams, dental care, physical /occupational / speech therapy, prescription drugs and/or eyecare? What is the limit to the health and medical care coverage that is included in the regular fees? What is the community's policy for transferring residents from apartment and independent living units to nursing home facilities? What is the policy for returning residents to their apartments or independent living units? You should observe the manner of the staff. Are they calm or frantic? What about the patients? Are they groomed and dressed? Are the halls clean and free of odor? Finally, the visit should include a trip into town to see the nearby churches, stores and recreational opportunities.

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Seek Professional Advice

More important than the physical layout of a retirement community is the insurance/ services package you will be buying. You must remember that you are buying a contract and not real estate. To this end, you should carefully read the contract and have your lawyer read it. You should have in writing all fees and the corresponding services to be rendered by the provider. Clarify whether services such as housekeeping, linens and personal laundry, telephones, parking and transportation are included. You should ask the facility for its fee-hike history. You should see what the refund policy is in the event a resident dies prematurely or chooses to leave the community. Nonrefundable entry fees tend to be lower. However, retirees wishing to leave an estate for their heirs may want to look for a CCRC offering a refundable (or partially refundable) entry fee.

You and your lawyer should also scrutinize several annual reports and balance sheets of the CCRC. You should ask if an actuarial study has been done and request a copy of the report. Even more so than a financial disclosure statement, an actuarial study will reveal whether the facility will be able to meet its obligations several years down the road. In addition, you might inquire if the CCRC has been accredited by the American Association of Homes and Services for the Aging (AAHSA). As of January 1996, this group has inspected and accredited over 180 CCRCs in 24 states.

Continuing Care Retirement Communities are increasing in popularity as evidenced by the long waiting lists for admission at some of the more established facilities. Careful planning, coupled with wise shopping, can make this form of housing and health care a successful alternative for many senior citizens.

For more information, consult *The Continuing Care Retirement Community: A Guidebook for Consumers*. The Guidebook costs \$4.00 and is available from:

AAHSA Publications
901 E Street, NW, Suite 500
Washington, DC 20004-2837

For a list of those CCRCs in Virginia which are registered with the State Corporation Commission (SCC), you may contact the SCC:

State Corporation Commission, Bureau of Insurance
Tyler Building
1300 East Main Street
Richmond, VA 23219
1-800-552-7945 (toll-free)

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Landlord-Tenant Issues

As you make the transition into senior citizen's status, the housing accommodations that once met your needs may no longer serve your best interest. Some people prefer to avoid the physical and financial requirements of home ownership and instead rent a residence or apartment. There are a number of rights and duties of both a landlord and a tenant in Virginia. Here are some guidelines.

Obtain Necessary Information About Rental Property

After deciding the amount of rent you can afford and the type of house or apartment you want, you should shop around thoroughly. Carefully inspect the rental property you are considering, and note any problem areas or damage. It may be helpful to ask other tenants about the property and landlord relations. You should also consider the housing's insulation, heating and cooling systems, security, parking, quality of construction and proximity to public transportation and shopping. Other important factors to be considered include the cost and availability of utilities, the demographic of your neighbors (seniors, families, students, transients, etc.) and handicapped accessibility.

Understand Your Lease

A lease is an agreement between the owner of property, the "landlord," and a person who wants to use the property for a period of time, the "tenant." The lease may be oral or written, however, a written lease is much better and safer. Oral leases are not preferred because they are only as good as the recollection of the parties who enter into them. If either a landlord or a tenant fails to remember any term of an oral lease or disagrees with the other party's recollection of the terms of the lease, there is no writing to consult to resolve such a matter.

An example of an oral lease is a tenant telling a landlord that he or she will pay \$500 a month for the apartment and the landlord saying, "Fine, it's yours," accepting the first rent payment and delivering the keys to the property. Generally, the term of an oral lease is the same as the period of time for which the tenant pays the rent, up to one year. For example, if the tenant pays rent each month under an oral agreement, the term of the lease is only one month. This is called a month-to-month tenancy. If the tenant pays rent once every three months, the term of the lease is three months.

A written lease is a contract signed by both the landlord and the tenant which spells out the rights and responsibilities of both the landlord and the tenant. Although there are no special terms needed to create a lease, a standard lease should include the names of the parties, a description of the premises, the length of the lease, the amount of rent and security deposits due, if any, and the signatures of the landlord and tenant. Any oral promises and agreements must be written into the lease, or they will not be binding. Any subsequent change to the written lease must also be in writing and signed or initialed by both the landlord and the tenant. Although the landlord must provide the tenant a copy of the written lease within one month, it is best to insist on a copy signed by the landlord prior to paying rent and prior to moving in.

Before signing a lease, you should read it carefully, fully understand the contents, and agree with the contents. If you are not satisfied with the terms of your lease, it may be wise to consult an attorney.

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Virginia Residential Landlord and Tenant Act

The Virginia Residential Landlord and Tenant Act (VRLTA) governs most landlord and tenant affairs. However, the Act does not apply to:

- public housing; if applicable HUD regulation is inconsistent with the VRLTA.
- institutional housing;
- transient housing for less than thirty days;
- landlords who, as individuals, own or lease:
 - no more than ten single family residences subject to rental agreements; or
 - no more than four condominium units or single family residences located in any city; or in any county having either the urban county executive form or county manager plan of government.

Even if your leasing situation is among those not generally covered by the VRLTA, you and the landlord can agree to have the VRLTA govern your lease. If the landlord specifically provides in the rent agreement, for VRLTA to govern your lease then it will apply. Simply ask your landlord to include such a provision in your lease.

Security Deposits

The landlord can and probably will request a security deposit before renting property to you. The purpose of the deposit is to guarantee that you will take good care of the property while you are renting. If the VRLTA applies, the security deposit may not exceed the total of two months rent and if the landlord holds the security deposit for more than 13 months from the date of the lease, interest must be paid on the amount of the deposit from the date of the lease until the security deposit is returned to you. The interest will accrue in 6 month increments at a rate equal to the Federal Reserve Board discount rate of January 1 each year.

When you move out, the security deposit can only be used to pay for rent due but not paid, and for damages to the unit caused by other than normal wear and tear. Note, however, that the landlord has thirty days in which to notify tenant of any deductions. Thus a tenant does not normally have a right to count his security deposit as the last month's rent.

If the VRLTA applies, the landlord must give you a written list of any alleged damage to the property, the amount claimed for the damage and any rent due, and he must return the net balance from your security deposit within 30 days after the lease ends and you have moved out.

If you desire to be present when the landlord inspects the apartment at the termination of the lease, you may so request in writing. The landlord must then notify you of the date and time of the inspection. Inspection must be made during business hours and normally within 72 hours of your moving out.

To ensure that you get your full security deposit back when you move out, you should take certain steps to protect yourself when you first move in. If the VRLTA applies, the landlord is required within five days of the beginning of your tenancy to submit to you an itemized list of damages to the unit already existing at the time you moved in. The list is deemed correct unless you object to it in writing within five days. If the landlord does not submit such a list to you, then you should thoroughly inspect the apartment and submit an itemized list of your own to the landlord. Remember to keep a copy for yourself.

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Rental Application

When you want to lease property, the landlord may require you to first file an application and pay a fee. If you decide not to rent the property, or if the landlord rejects your application, then under VRLTA the landlord: (1) may keep an application fee of \$20 or less, and (2) must refund any portion of the fee in excess of a specified list of actual expenses and damages if the application fee exceeded \$20. Generally, the refund must be made within twenty days.

It is against the law and it is a discriminatory housing practice for any person to refuse to rent, or to represent to a person that an otherwise available dwelling is not available due to an individual's age. If you believe you have been discriminated against on the basis of your age, you should file a complaint with the Real Estate Board in writing within one year after the alleged discriminatory housing practice occurred.

Duties of the Tenant (under VRLTA)

- You must comply with all obligations in the rental agreement.
- You must pay the rent on time.
- You must keep the dwelling clean and remove rubbish from the premises.
- You must not deliberately or negligently destroy, deface or damage the premises, or permit others to do so.
- You should get permission from the landlord before you allow more people to move in with you than was originally represented to the landlord, or before you sub-let the property.
- You must permit the landlord to enter the property at a reasonable time and after reasonable notice so that the landlord may inspect the property, make necessary repairs or improvements, supply necessary or agreed-upon services, or show the property to prospective tenants or purchasers.
- You must give the landlord duplicate keys to all burglary and fire protection devices you install, and you should get the landlord's permission before installing these devices.
- You should NEVER withhold rent without first consulting a lawyer. If you cannot afford one, check with your local legal aid office. A list of these offices is near the end of this handbook.
- You must give proper written notice before moving out. Look to the terms of your lease for the proper notice requirements. If you have a month-to-month tenancy, 30 days advance written notice is required from the beginning of the next tenancy period.
- You must follow the rules and regulations established for the property. This includes controlling the conduct of yourself, others authorized to live with you and your guests.

Duties of the Landlord (under VRLTA)

- The landlord must comply with local building and housing codes affecting health and safety. If you believe that your landlord is not complying with the local code, contact the local housing inspector.
- The landlord must maintain all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appliances, including elevators, in good working order and condition.
- The landlord must make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition.

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- The landlord must provide for collection, storage and removal of garbage if there are two or more dwelling units. However, the tenant may be responsible for sorting the garbage under state and local recycling laws and ordinances.
- The landlord must supply hot and cold running water, heat in season and, if equipped, air conditioning - unless the rental unit is supplied by a direct public utility connection or the rental unit has its own hot water, heat installation, or air conditioning unit under the tenant's exclusive control.
- The landlord must keep common areas shared by two or more rental units in a clean and structurally safe condition.

Note: The first three duties of the landlord listed above cannot be waived, and a clause in the lease waiving these duties is unenforceable. Additional duties of landlord and tenant may be spelled out in the lease.

Tenant Remedies/Defenses

You can defend a lawsuit brought against you by your landlord for possession of the unit or unpaid rent by asserting that the landlord failed to comply with the lease or his/her duties under the VRLTA, only if you take the following steps BEFORE the landlord sues you:

- a. Notify the landlord in writing of the problems (certified mail return receipt requested is preferable); and
- b. Pay your rent into an escrow account with the court of the city or county in which the property is situated.

You may sue the landlord in General District Court for the city or county where the rental unit is located if the landlord violates either the terms of the lease, or the provisions of VRLTA, provided you first take the following steps:

- a. Notify the landlord in writing of the problems (certified mail, return receipt requested is preferable); and
- b. Allow the landlord 30 days to remedy the problem (fewer days are required if it is a health or safety problem); and
- c. Pay your rent when due into an escrow account with the Court.
- d. You cannot be successful in your suit if you have received from your landlord more than three notices to "Pay or Quit," or civil warrants within the past year.

If there is something wrong with the rental property that affects your health and safety, you must notify the landlord in writing stating that if the conditions are not fixed within 21 days, you are going to terminate the lease 30 days after the landlord gets the letter. If the landlord fixes the conditions within 21 days, you cannot terminate the lease.

If the landlord fails to provide an essential service, such as heat, electricity, running hot and cold water, gas, etc. you must notify the landlord in writing. If you allege that emergency conditions exist, you may sue the landlord in General District Court and the court must hear the case within 15 days from proper service of process on the landlord.

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Important Things to Remember

You can NEVER successfully use the remedies/defenses listed above if you, your authorized agent, or your guest caused the damages.

You can NEVER properly withhold rent money on your own, you must always pay the money into court or to the landlord.

You should ALWAYS make written and dated complaints to the landlord and be sure to keep a copy.

Keep receipts/cancelled checks of rent payments, copies of lease agreements, records of damages, and any correspondence between yourself and the landlord.

The landlord can keep a security deposit only in the amount of rent owed, or for the costs of repairs or cleaning after you move.

If you suspect or find that the rental unit is substandard, you should:

- a. Call the landlord and ask that the repairs be made.
- b. Give written notice of the problems to the landlord by certified mail.
- c. Call the health department or local housing inspector if the landlord refuses to make the repairs.
- d. Contact a lawyer if the problem still exists.

Landlord Remedies/Eviction (under VRLTA)

When you get behind in your rent, the landlord has a legal remedy either for rent, possession of the property, or both. In order to enforce this right, the landlord must have a "Notice to Pay or Quit" served upon you. The Notice generally states that you must pay all the rent due within five days or the landlord may terminate the lease and take possession of the rental property. If the rent is not paid within five days and you have not vacated the premises, the landlord may sue you to get possession of the property and possibly to recover any losses, including attorney's fees if applicable.

There are other reasons why the landlord may attempt to evict you other than the nonpayment of rent. If you violate the rental agreement in a material way affecting health and safety, the landlord may serve notice requiring you to move out in 30 days unless you have corrected the lease violation within 21 days. If the breach poses an immediate threat to health and safety, the landlord can terminate the lease immediately, allowing you a hearing within 15 days at the most. If you have not moved out at the end of the notice period, the landlord can bring a suit to gain possession of the property.

If you are on a month-to-month lease, your landlord needs no reason to evict you. All your landlord has to do is give you 30 days written notice, beginning at the day your usual rent is due. However, as mentioned before, the landlord cannot evict you solely on the basis of your age.

If the court orders you to move out, and you still refuse to move, the landlord can have you evicted, usually by the sheriff. Both you and your possessions will be removed from the premises.

Under the VRLTA a landlord cannot act on his own either to remove you or your possessions physically from the premises, to lock you out, or to cut off your utilities in order to force you out. The landlord must use only the proper court procedures to evict you.

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Retaliatory Action by Landlord

If you complain to the landlord or to the Health Department or some other government agency about the condition of the building, bring a lawsuit against the landlord, or join a tenant organization, the landlord cannot, because of such action, raise the rent, reduce services, terminate your lease, or threaten to terminate your lease.

Rental Assistance Program

Section 8 Housing or the Rental Assistance Program is a rental subsidy program funded by the federal government. The program is designed to supplement the rent payments of low income families and individuals who qualify. Under the program, the tenant pays only up to 30 percent of his or her income in rent. The government pays the difference. An advantage of the program is that an elderly tenant can live in the apartment or house of his choice and may even be able to get help paying for the place where he already lives. The rental assistance program is not available in every Virginia locality. To find out if Section 8 assistance is available in your area and if so, how to apply, contact your local social services department, redevelopment or housing authority, or Area Agency on Aging.

Eligibility

To qualify for assistance your income must be within the specific limit for your locality. The limit differs for each city and county in Virginia. The limit also depends on household size.

If you meet the income requirement, you may qualify for assistance if you:

- Belong to a family consisting of yourself and one or more family members; or
- Are handicapped, disabled, or are 62 years of age or older and you live with someone who takes care of you; or
- Live alone and are 62 years of age or older; or
- Live alone and are handicapped or disabled, or are forced to move by government action or natural disaster.

How Does the Program Work?

Your eligibility is determined during an intake interview. Your local social services department can help you schedule one. If you are eligible and are considering moving or currently have no adequate housing, you will be told how to look for reasonably priced housing to meet your needs.

After certification to participate in the program, you have approximately 60 days to find suitable housing and an owner who agrees to lease to you. Any housing approved under the program must meet minimum housing standards for decent, safe and sanitary housing as established by the U.S. Department of Housing and Urban Development (HUD). Additional local minimum housing codes must also be met. Your present residence may qualify if it meets these required standards.

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Once your lease is signed with the landlord, the local agency reviews it and often inspects the dwelling to make sure it meets program standards. Next, the local agency and the landlord sign a contract authorizing payment of rent on your behalf. You pay a monthly amount for rent, which is determined by your income, family size, etc. and the local agency pays the difference between the family contributions and total amount of rent due. Both the family and the agency make the payments monthly and directly to the landlord. Under the program, the tenant pays no more than 30 percent of his/her adjusted income. This amount is equal to the gross annual family income after certain deductions are subtracted in accordance with instructions from HUD. A share of the rent to be paid by the tenant may be further reduced if (i) the utilities are not included in the rent charged by the landlord, or (ii) the tenant has medical bills, including medical insurance bills, which exceed three percent of his/her annual income.

A limited number of Section 8 Rental Assistance certificates are available. Qualification for the program does not necessarily entitle you to immediate assistance. For some eligible individuals, the waiting list for the certificate is quite long.

For more information on the federal rental assistance program contact the housing authority or Area Agency on Aging nearest you.

Energy Assistance Program

The Energy Assistance Program is a federally funded program which helps eligible households with the cost of heating their homes. Benefits are available for low income families if they are responsible for heating cost. To be eligible for assistance, a household must meet certain income and resource requirements, and these requirements change yearly. If you receive SSI, your household is probably eligible. For more information, contact your local Area Agency on Aging.

The Energy Assistance Program has two parts. Fuel Assistance helps eligible households with the cost of heating their homes. Crisis Assistance helps household in emergency situations by providing assistance, such as repairing heating equipment and paying security deposits. The program is federally funded and the requirements change yearly.

Who is Eligible for the Energy Assistance Program?

As to the Fuel Assistance Program, those who received fuel assistance in the previous year receive an application form in the mail. Persons who did not receive fuel assistance in the previous year must visit, call or write a local social services agency. A face-to-face interview is not required. As to Crisis Assistance, it usually begins November 1 and ends March 15. However, these dates are subject to change. Contact your local Department of Social Services for additional information.

To be eligible for either of the programs, a household must meet the following income and resource requirements:

- ***Income Requirements***

Total household income cannot be more than 130% of the Poverty Income Level for the household size.

- ***Resource Requirements***

A household may have up to \$2,000 in resources including but not limited to cash and money in a bank account. A household with a member who is age 60 or over or a member who is disabled (one who receives

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SSI, Social Security Disability, Railroad Retirement Disability, or Medicaid Disability) may have up to \$3,000 in resources.

- ***Other Requirements***

Fuel Assistance - You must be responsible for paying all or part of the cost of heating your home.

Crisis Assistance - You must have a heating emergency.

Does Every City or County Offer the Same Kinds of Assistance?

Fuel Assistance and Crisis Assistance are currently offered by all counties and cities in the Commonwealth of Virginia.

How Long Does the Social Services Agency Have to Process My Case?

Fuel Assistance - As soon as possible but no later than 30 days from receiving your application.

Crisis Assistance - One week or as soon as possible if life-threatening.

Other Energy Assistance Programs

Both investor owned utilities and rural electric cooperatives provide energy assistance to low-income households. Programs include fuel assistance, cooling assistance, and budget billing. For more information, contact your local electric utility.

Telephone Assistance Programs

If you do not have a telephone or cannot afford the one you have, the local telephone company in your area may waive or reduce many of the service connection charges if you are a low-income household through the "Link-Up America" program. This program generally provides a 50 percent reduction in service connection charges for a single phone line, provided you have no phone service and are eligible for Social Service assistance. Contact your local telephone company services representative for more information. Additionally, most local telephone companies now offer eight or more types of phone service, several of which are much cheaper than a flat rate unlimited calling service. Further information is available through your local telephone company.

Reverse Mortgages

If you are 62 years of age or older, you may want to explore the possibility of obtaining a reverse mortgage on your home.

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What is a Reverse Mortgage?

A “reverse mortgage” is a mortgage loan against home equity. The total loan amount is based on the current appraised value plus anticipated appreciation of the home, and on the life expectancy of the borrower. This loan does not require any monthly payment. Instead, it provides monthly cash advances or line of credit to a borrower, and requires no repayment until some future or determinable time--usually when the last borrower dies, sells or leaves his or her home.

It is the “reverse” of forward conventional mortgage, where the borrower starts with less equity, makes monthly payments, reduces the loan balance and increases equity. At the outset of a reverse mortgage, the borrower owes very little against his or her outstanding mortgage and has substantial equity in the property. The lender makes monthly payments to the borrower, the loan balances rises and equity declines.

The FHA-Insured Reverse Mortgage

The FHA-Insured Reverse Mortgage, made under the United States Department of Housing and Urban Development (HUD) Home Equity Conversion Mortgage Insurance Demonstration (HECM), has the most attractive features for seniors who qualify as borrowers. Under HECM, all co-borrowers must be at least 62 years of age and own the home free and clear or have an outstanding mortgage balance low enough to be refinanced with the HECM proceeds. Advantages of the HECM reverse mortgage are:

- HECM Reverse Mortgages are non-recourse. The principal amount available is based, in part, on the assumption that the borrower's home will appreciate by an assumed 4 percent a year, compounded annually. If instead, the home values goes down, the HECM lender must continue to make advances until the HECM loan is due. The difference is made up by FHA Insurance.

The due date for a HECM reverse Mortgage is most favorable for seniors. The due date is when: (i) the last borrower dies; (ii) a borrower conveys his or her title to the property and no other borrower retains title or a long-term leasehold interest; (iii) the property is no longer any borrower's principal residence; (iv) a borrower fails to occupy the property for more than 12 consecutive months because of physical or mental illness and the property is not the principal residence of at least one other borrower; or (v) a loan obligation of the borrower is not performed. The principal amount available to the borrower outlives these assumptions. Again, the HECM lender must continue to make advances until the HECM loan is due.

HUD will fund HECM loan advances to the borrower if a lender defaults. The defaulting lender may incur significant penalties. Other than some delay in receiving payments from HUD, however, little risk from lender default exists for a HECM borrower.

Obtaining the HECM reverse mortgage depends on age and home ownership, not on the borrower's income, credit or assets.

Disadvantages of Reverse Mortgages

The benefits of a reverse mortgage are dependent on the particular situation of the borrower. A reverse mortgage can be invaluable to elderly persons who can no longer afford to live in their residences. Nevertheless, by utilizing the reverse mortgage, a borrower must realize that his or her home, which often the most significant estate asset is becoming encumbered, and will not be left to the heirs debt-free. The owner

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remains liable to make all repairs and to maintain the property, and must pay real estate taxes, assessments, and other costs.

As a general rule, the longer a borrower keeps a reverse mortgage, the lower the total annual loan cost will be, because mortgage insurance, closing costs, interest, and service costs will be spread over an extended period. The major disadvantage is the reverse mortgage's high total annual loan costs (TALC) if borrowers die or sell after a short time.

Conversely, if the borrowers outlive the mortality assumptions, or the house fails to appreciate at the assumed four percent annual rate, the TALC may be very low.

It is important to remember that, as the elderly population of this county increases, so do continuing problems of fraud and elder abuse. There have been examples of so-called "estate planners" or mortgage finders who have charged outrageous fees to the elderly for matching up borrowers and lenders. For example, one 69-year old borrower was charged \$5,571 (10 percent of her loan amount) to an estate planner; another elderly couple, one of whom was disabled, were charged \$4,000 (8.5 percent of their loan amount); and a 75-year-old borrower paid \$4,200 to HECM mortgage finder. This latter victim later said, "I never thought I would have to pay that much money (to someone) for simply coming to my house a few times and giving me the name of a lender." HUD has estimated that hundreds of elderly homeowners have been victimized by mortgage finders who charged thousands of dollars for information on reverse mortgages. For people of limited means who are trying to find a way to stay in their homes for the remainder of their lives, the charging of these excessive fees is unconscionable. (Excerpted with permission from *Reverse Mortgages: Maximizing Income Opportunities for Seniors, Experience*, Vol 7, No. 4 Senior Lawyers Division, American Bar Association, Summer 1997.)

Reverse mortgage documents are complex and can be confusing. Consequently, anyone contemplating a reverse mortgage should consult and be counseled by an experienced attorney who is completely independent of the mortgage lender. It is essential that the homeowner/mortgagor understands the contract and its disadvantages as well as its advantages, before he/she signs it.

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Divorce and the Elderly

When an older client divorces, all of the issues set forth in this handbook must be considered, as well as others unique to the marital relationship. The first step is to obtain a lawyer. A matrimonial lawyer can be located by contacting your physician, your clergyman, the local Bar Association's Lawyer Referral Service or your local Chapter of the American Academy of Matrimonial Lawyers.

When you meet with your lawyer, if you are overwrought or upset, it is also advisable to have a relative or friend accompany you. You should first discuss the fee arrangement to assure that you will be able to afford that particular lawyer. If you cannot afford the fee, you should contact your local Legal Service Corporation.

You must be completely honest with your lawyer. You will need to know your monthly living expenses, the family income, all assets and how titled, whether there are any agreements between you and your spouse, existing medical insurance, whether there are Social Security or other retirement benefits and whether or not they are in pay status, the names and status of all credit accounts, including utilities. If you do not have this information, your lawyer will help you obtain it.

If you are interested in learning more about divorce, you may order a copy of *The Divorce Handbook*, published by the American Academy of Matrimonial Lawyers which can be purchased for \$10 from the AAML, P.O. Box 11704, Columbia, South Carolina 29211.

Real Estate Transfers

Many senior citizens who own real estate — especially those who are retired — attempt to sell or give away their property for various reasons. Some persons want the additional income. Other persons want to help their families avoid paying heavy inheritance and real estate taxes on the property after they die. These people are usually people with sufficient assets to be subject to Federal death taxes. For 1999, these amounts are \$1,300,000 for couples and \$650,000 for single persons. However, senior citizens who wish to transfer their property for any reason, or change a title in any way (for example, by adding a name to a deed), should consider several things before doing so.

- If you deed your property to a child or someone else as a gift, you may not be eligible for Medicaid coverage for longterm nursing home care for some period of time, depending on the value of the property, and the terms of the transfer.
- If you deed your house to a child or someone else and do not keep your name on the deed, that person can force you to move out of your house.
- If you want to add another name to your deed so that each of you has an equal share and the right of survivorship, the deed must be explicit. For example, the deed must say: "as joint tenants with right of survivorship," or, if the other person named in the deed is your spouse, the deed must say: "as tenants by the entirety with the right of survivorship."
- If you add another name to your deed so that each of you is a joint tenant with right of survivorship or you are tenants by the entirety with the right of survivorship, remember that you cannot sell the property later

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without the other person's permission. Also, upon your death, the property will automatically belong to the other person if that person has survived you, regardless of what you may provide in your will.

- If you want to give your property to another, but keep the right to live in it for the rest of your life, your deed to the other person must specifically reserve a “life estate” to you or the right to live on and use the property for your lifetime.
- Depending on the value of the property transferred, you may be making a gift which will require you to pay gift taxes.
- If you have equity value in your property because its value exceeds the unpaid mortgage and any other liens against the property, you can borrow against the equity by obtaining a “Home Equity Loan.” You will be required to put a mortgage on your property. Many of these programs allow you to borrow and repay the loan as your needs permit as long as the loan balance never exceeds a certain limit. A less common way to borrow against your equity is the “Reverse Annuity Mortgage.” If you have equity value in your property you can borrow against this equity and receive monthly income. You will have to put a mortgage on your home. The loan fees, interest rates, restrictions, and fees paid to professionals (attorneys, appraisers, surveyors) can vary widely. Before entering either a home equity loan or a reverse annuity mortgage, make sure you have a complete understanding of all the costs and rules.
- If you cosign or guarantee a note for a relative or a friend, the lender may enforce the note against you. If the note is not paid, the lender may attempt to take your house. This is especially true if you have, by means of a deed of trust or mortgage, put up your house as security for the other person's loan.
- If you are 55 years of age or over and you have lived in your house for two of the last five years, up to \$250,000 (\$500,000 for couples) of the profit from the sale of the house may be excluded from the calculation of your income for federal income tax purposes. Because the rules and calculations are technical, you should check with your tax advisor before selling your house.

You should consult an attorney or someone knowledgeable in real estate before you do anything that may affect your interest in your house or other real property.]

Probate and Estate Administration

Probate

When someone dies, the estate is settled through a process known as **probate**. Assets are gathered and applied to pay debts, taxes, and the expenses of estate administration. The remaining assets are then distributed to beneficiaries.

Probate Assets include generally those assets which are owned solely in the decedent's name or jointly with another and which are not transferred to another at death by contract or operation of law. Non-Probate Assets include such assets as life insurance payable to another, pensions and IRAs payable to another, accounts payable or death to another and any property owned with another with survivorship rights. Real estate located outside of Virginia is not a Virginia probate asset.

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There are probate assets which can be transferred to beneficiaries outside of the probate procedure. Examples are automobiles and most tangible personal property such as household furnishings and personal effects. The overall costs of probate in Virginia are not nearly as great as in many other states. Often there are sound reasons probate should not be avoided. You should consult an attorney about probate costs as part of your estate planning.

Supervised Administration is a method in which the court plays an active role in approving each transaction.

Independent Administration is a method in which the court's role is diminished or eliminated; it often requires the consent of all beneficiaries.

Small Estate Administration involves no court supervision. This procedure may be used for estates with probate assets of less than \$10,000.

Estate Planning

The term "estate planning" refers to the ordering of your affairs so that your property, called your **estate**, passes as you wish to your family and loved ones after your death. It involves a coordinated effort by you and your professional advisors (lawyer, accountant, insurance agent, financial planner and others) to minimize the state and federal death taxes and the expenses of death. Estate planning devices include wills, trusts, and other methods of providing the orderly transfer of assets after death.

Wills

A will is a written document stating your directions for the distribution of your assets after your death. Generally, a will lists your individual beneficiaries and what part of your estate you wish to give each of them. Your will also should name an executor, the person who will be responsible for administering your estate.

A will allows you to personalize the distribution of your property. If you do not make a will, your estate will be distributed by a court-appointed administrator according to state-law rules, which run contrary to some people's intentions. For example, some items may have significance for certain members of your family, or perhaps you have a child with special needs. A will can make estate administration proceed more quickly and smoothly. For larger estates, a properly drafted will can significantly reduce estate taxes.

Preparation of Your Will

With some minimal advance planning, a will is relatively simple and inexpensive to have prepared. If you are at least 18 years old and of sound mind, you can make a will. Virginia law allows you to prepare your own handwritten will, but it must be either in your own handwriting, or typed and witnessed by at least two people. It is recommended that you consult an attorney to help you prepare your will because improper will planning can cause needless expense.

The following steps will help you in the preparation of your will, prior to meeting with a lawyer:

1. List the family, friends and/or organizations to whom you wish to leave property. The list should include the full names and possibly addresses of each recipient.
2. List all the property you own and how it is titled. Make the list according to categories of property:
 - a. Real property, such as land or a home.

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- b. Tangible personal property, specific items you can see, such as jewelry, cars and art.
 - c. Intangible personal property, such as bank accounts, stocks and bonds.
3. Decide how your property will be divided among the recipients. For example, you may want to have your property split equally among your children. You should consider alternative recipients in case you outlive your first choice. For example, you might name your grandchildren as alternates in the event your child does not survive you.
 4. Choose an executor to administer your estate and distribute your assets. You may choose your surviving spouse, or in the event that your spouse is not alive or able, then one or more of your children, or perhaps the trust department of your bank. Banks can help in the estate planning process when they serve as executors. You should consider a will provision which provides a mechanism for removal of an executor and the naming of a successor.

Note: Some of your property may not be distributed by will. Items such as insurance proceeds, pension and IRA benefits, and annuity funds typically have beneficiary designations. When you set up an account such as these, you choose the beneficiary. You can name or change a beneficiary by contacting the company in charge of your account.

Changing Your Will

You should review your will from time to time, especially if your circumstances change significantly. For example, you may need to change your will if you move to a new state or get married, remarried or divorced.

You can change your will by making a new will or signing an amendment, known as a codicil, to your existing will. If you wish to revoke your previous will, you should destroy it after execution of the new one in order to avoid the confusion produced by the existence of more than one will.

Generally, divorce or annulment of your marriage does not entirely revoke your will. It only revokes those provisions pertaining to your former spouse. However, it is still a good idea to reconsider the terms of your will in this situation.

Writing on your will, erasing, or marking through parts of it may invalidate the entire will or have other undesirable consequences. If you need to amend the will, use a codicil or have a new will written.

There Are Restrictions In Changing or Preparing Your Will. You cannot disinherit your surviving spouse unless you have a valid marital agreement allowing you to do so. When a will exists, the surviving spouse can “elect an augmented share,” which results in the spouse receiving a share of the estate in an amount determined by Virginia law. A surviving spouse may elect for up to one half of the deceased spouse’s augmented estate where the decedent has no surviving descendants and one third where the decedent has surviving descendants.

Dying Without A Will

If you die without a will, you are said to have died **intestate**. If you have not left a valid will or trust, or have not transferred your property in some other way, state law will determine how your property will be distributed. An administrator will be appointed to collect your assets, pay debts collectible against you, pay your funeral and burial expenses, and then distribute the remainder of your possessions to persons specified under fixed rules of state law. If the decedent is survived by both a spouse, and one or more descendants who are not also descendants of the surviving spouse, then the surviving spouse is entitled to one-third of the estate, and all descendants are entitled to the balance. If the decedent is survived by the surviving spouse only, or by

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both the surviving spouse and descendants who are also descendants of the surviving spouse, then the surviving spouse is entitled to the whole estate.

A common misconception is that married couples don't need to make wills. When one spouse dies, the property he or she jointly owns with the other spouse passes to that person, outside of probate. But when the surviving spouse dies, problems arise because there is no longer a joint owner of the property. In the absence of a will, this property is distributed according to the state law rules.

Wills and Life Insurance

Life insurance policies in no way take the place of having a will. If your policy is payable to your estate after death, the proceeds will be distributed according to your will. If the policy benefits are payable to a beneficiary other than your estate, such as your spouse or another relative, your will has no effect on the distribution.

Living Trusts and Living Wills

Living wills and living trusts are often discussed at the same time as wills, but they are quite different legal instruments. A living will is a written statement to your family and physicians of your choices about the use of particular life sustaining medical treatments. A living will is also known as an Advance Medical Directive and is discussed below.

A living trust is similar to a will in that it is a method for distributing property after death. It may also help with asset management during your lifetime if you become incapacitated. A living trust is an arrangement whereby a trustee manages property for the benefit of a beneficiary. This type of trust is set up during the lifetime of the property owner (or grantor). The grantor transfers all or part of his or her property into the trust prior to death. Living trusts may also be created jointly by a husband and wife.

Many people prefer living trusts because the trust's terms do not become public at the grantor's death, and the assets held in the living trust do not pass through probate. Irrevocable living trusts are promoted as devices which allow federal tax savings. However, unless your estate exceeds a certain amount (\$650,000 in 1999 and progressively higher in later years), your estate will not be subject to federal estate tax and the living trust will not provide any extra savings. If you are interested in a living trust, you should seek the advice of your attorney in order to draft a trust instrument that best suits your particular needs and circumstances.

Joint Ownership As A Will Replacement

Because property in joint ownership with survivorship does not pass through probate, some people may be tempted to use joint ownership with survivorship to distribute their estates with the idea of sparing their family the expense and delay of probate court proceedings. However, joint ownership can complicate your affairs while you are still living since your control over jointly held property is limited. Joint ownership gives another person equal control over whatever property you decide to place under that arrangement. Adding names to a title or deed may also negatively affect your eligibility for tax credits and government benefits. Also, it may contradict your plan for division at death. If you are considering joint ownership as a will replacement, it would be wise to contact your attorney for advice and assistance.

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Advance Directives

Introduction

It is important to think about the care and treatment you would or would not like to receive in the event that you become incompetent or terminally ill. It is equally important to discuss these thoughts with your family, loved ones, and health care providers. Many people do not want life-sustaining treatment, such as a respirator, while others prefer all available treatments. Discussing your ideas will help you clarify them and ensure that your family and loved ones understand your preferences and can communicate them to your physician if you are unable to do so. In addition, it may be helpful to make an advance medical directive.

An advance directive is a way to communicate your wishes about the use of life-sustaining treatment. It can be used to authorize or refuse certain treatments and to designate another person to make medical decisions for you. *Written* advance directives may be made at any time and oral advance directives may be made after a person has been diagnosed with a terminal condition. *Oral* advance directives are generally reserved for people who are incapacitated and unable to make a written document. Advance directives may be revoked at any time.

Types of Advance Directives

There are two types of advance directives: the living will and the health care power of attorney.

Living Will

A living will is a written statement to your family and physicians of your choice about the use of particular life sustaining medical treatments. It allows you to put into writing any kind of medical care you want to receive or avoid if you are expected to die soon. Essentially, the living will is a guide for your doctors if you become so sick you cannot communicate. The living will is **NOT** the same as a last will and testament, and has nothing to do with what happens to your belongings after you die.

Health Care Power of Attorney

The health care power of attorney (or health care proxy) tells your physicians that you have designated someone else to express your medical care wishes when you are unable to do so. The person you designate should be someone you can trust to convey your wishes to the doctor.

Preparing an Advance Directive

You have the right to choose a living will, health care power of attorney, both or neither. An attorney may be helpful but is not required when preparing your advance directive.

Many advance directive forms are available for your use, but you may choose to personalize the form to effectively communicate your wishes.

Your advance directive may express your wishes regarding the following:

- state or levels of functioning in which you would want or not want life-sustaining treatment,
- types of life-sustaining treatment you may want or not want and under what conditions,

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- the use of artificial nutrition and hydration,
- instructions about any other specific medical procedure that may be expected, in light of your personal and family medical history,
 - organ donation wishes,
 - preferences regarding pain control and comfort care,
 - preferences regarding other aspects of end-of-life care, such as your place of care and environmental wishes.

The **Patient Self-Determination Act** is a federal law that requires most hospitals, nursing homes, home health agencies, and HMO's to provide information on advance directives at the time of admission. Advance directive forms are available in both official state law forms and in unofficial forms created by state medical and bar associations and national organizations such as the AARP , American Bar Association, and the American Medical Association.

Power of Attorney and Durable Power of Attorney

At some point you may find it difficult or inconvenient to conduct some personal business that may easily be handled by a trusted friend or relative. For example, you may be temporarily ill and confined at home or in the hospital, or be without good transportation. Bank withdrawals and deposits, signing of deeds for sale of real estate, and other business affairs may be handled for you by another if you make a power of attorney or a durable power of attorney.

Both a power of attorney and a durable power of attorney are written documents that allow one person (the maker) to give another (the holder) certain rights to handle the money, real estate, and personal property of the maker. A **power of attorney** is only good so long as the maker is capable of handling his own affairs. If he becomes incapacitated or disabled, the power of attorney generally becomes ineffective. However, a "**durable**" **power of attorney** will remain effective even if you become disabled or incapacitated.

A durable power of attorney is especially useful to save you, your family and loved ones from court proceedings to appoint a guardian or conservator for you if you become incapacitated. See Guardianship. As a practical matter, most attorneys recommend the use of a durable power of attorney more than a power of attorney because the durable power of attorney is long-lasting.

Both the power of attorney and durable power of attorney are created using specific language, and the advice of an attorney should be sought in preparing them. Care should be taken to ensure you make these documents as specific as possible in order to protect your rights and property. You should be sure that the person granted your power of attorney is an individual whom you trust completely to use the power as you would direct if you were capable of doing so. The same is true for those whom you name as a co-signator in a bank account. Under Virginia law, family members and others who are concerned about your welfare may demand an accounting and petition the court to force your attorney, holder or co-signator to disclose information and records regarding actions taken on your behalf.

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Guardianship

Introduction

A legal guardian is a person who is given the legal right to care for another person and/or person's property. Generally, guardianship involves the appointment of a person by the court to have care and custody of another person (the "ward") who is unable, because of illness, accident, or advanced age, to care for himself or herself. **Conservatorship** involves the appointment of a person to manage only the estate and financial resources of an incapacitated person. The guardian and conservator may or may not be the same person. The guardian and conservator should consider the incapacitated person's express wishes and personal values when making decisions for them. In general, guardians and conservators should preserve the incapacitated person's autonomy as much as possible.

Procedures for Establishment of Guardianship

Under Virginia law any adult person can petition the city or county Circuit Court to obtain guardianship of another person. The person filing the petition is not necessarily the person who will be appointed the guardian. The individual for whom guardianship is sought has the right to a notice of the proceeding and a right to a hearing or jury trial on the question of his or her capability. The Court will appoint a **guardian ad litem** to represent the interests of the alleged incompetent in the proceeding. The guardian ad litem must visit the alleged incompetent, advise him or her of their specific legal rights, and recommend whether the alleged incompetent should have independent counsel. Also, the report of a physician and investigation by the social services of the community will be a part of the hearing. If the Court finds the person incapacitated, it will appoint a guardian for medical reasons and proof of functional disability. The alleged incompetent has the right to appeal this decision to a higher court. In some cases, the Court may appoint a "limited" guardian for a person who suffers from only a mild disability or partial incapacity. This appointment can preserve many of the person's legal rights.

Who Needs a Guardian?

Guardianships deprive the incapacitated or disabled person of many civil rights. Thus, before you begin guardianship proceedings, you should be certain such steps are absolutely necessary. You should carefully consider whether the proposed ward is able to make decisions concerning his or her personal or business affairs. Under Virginia law, if the evidence demonstrates that a person cannot meet the essential requirements for his or her safety or health needs, then a guardian may be appointed. Specifically, someone may need a guardian when he or she is:

- (a) incapable of receiving and evaluating information effectively, OR
- (b) incapable of responding to people, events or environments to such an extent that the individual lacks the capacity to:
 - (i) meet the essential requirement for his/her health, safety, care, or therapeutic needs without the assistance or protection of a guardian or

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- (ii) manage property or financial affairs or provide for his or her support or the support of dependents without the assistance or protection of a conservator.

For more information on guardianship, contact your local Area Agency on Aging or local Legal Aid Office, as listed in the back of this handbook.

Funeral Services

By statute and regulations, the federal government and state of Virginia have set up procedures to be followed by providers of funeral services. For example, itemized price information must be given over the telephone and confirmed in writing if requested. The required written confirmation is quite detailed and should be requested. The legal requirements governing cemeteries and crematoriums vary and the funeral director is obligated by law to give you the correct information about your particular case. For example, embalming is not required by law, but the funeral director can require that, if it is not desired, the casket be kept closed. If cremation is desired, a casket is not required. You do not have to purchase any goods or services you do not want. Any questions or complaints should be directed to the Board of Funeral Directors and Embalmers, (804) 6629907. Their offices are at 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Planning Ahead

Planning before the time of need or before the funeral has many advantages. Your wishes concerning your funeral can be specified to eliminate confusion and differences of opinion among survivors. The funeral expenses can be paid in advance, either in full or in installments, to eliminate financial burden at the time of need. Many funeral homes will agree to furnish goods and services at a set price, no matter when you die. These arrangements can be funded through a trust or by specially designed insurance policies. Cemetery property can be purchased in advance and an appropriate monument can be secured. Any directions regarding the use of your body for medical research or for organ donations can be given to the funeral establishment of your choice. Individuals who will be responsible for arrangements should be made aware that you have completed these details. If arrangements have been made with a particular funeral home, they can be transferred to another on request. You can always change or cancel the arrangements.

Consumer Guide

Be aware of pre-arranged funeral plans which do not specify exactly what you will receive. A Federal Trade Commission Funeral Rule and laws in some states enable you to get the information you need to make decisions. You have the right to information regarding the costs of individual items and services, and if you inquire in person, the funeral home must provide a written price list of goods and services. Be sure to shop around and note whether or not the various plans guarantee a fixed price.

Be aware of claims delivered by dishonest salespersons. Especially be aware of salespersons who claim that the decedent ordered additional goods/items that you must now pay for. Always insist on proof that the decedent did order the goods.

PLANNING FOR THE FUTURE

Planning at Time of Need

When making funeral arrangements at the time of need, your funeral director will need certain information, such as the following:

Full Name

Date of Birth

Place of Birth

Social Security Number

Occupation

Father's Name

Mother's Maiden Name

Marital Status

Education Level

Attending Physician

Newspapers for Obituary Insert

Place Service is to be Held

Minister to Officiate

Church Affiliation

Cemetery Plot Information

Military Discharge Information and Serial or Service Number

Pallbearers

Services and Merchandise to be Furnished

Be sure that this information is also given to those people who will make the arrangements and/or the funeral home of your choice.

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Benefits

Social Security

Claims by your executor or heirs should be filed as soon as possible with your nearest Social Security office. You should inquire about the following items:

Lump sum benefit death payment for surviving spouse.

Life pension to widow over 60 years of age.

Pension to widow with dependent children.

Widows, widowers, divorced wives, and divorced husbands age 50 and older, if they are disabled.

Pension to decedent's minor children.

Medicare.

Social Security ceases at death so checks should be returned to your local office or to the return address on the envelope in which the check is sent explaining the situation. Be sure to keep a copy of the check and forwarding letter. If direct deposit is being used, the bank will, upon notification, take care of the problem.

Veterans

Anyone who was a member of the military at the time of death or honorably discharged from the military is eligible for benefits. You should inquire about the following items:

Pension to widow or minor children.

Burial in National Cemetery.

Burial flag to drape casket.

Grave marker to mark grave of a veteran. (After 1980, a veteran must have served at least 24 months of active service or have been a Persian Gulf War veteran to be eligible for a marker.)

Miscellaneous

Other benefits such as retirement and life insurance will vary. Information on such items should be obtained directly from the source paying the retirement or insurance benefits. Be sure to check with the decedent's employer for any death benefits that may be available.

PROTECTION OF LEGAL RIGHTS

When Do You Need a Lawyer?

Older persons may face problems with Social Security, SSI, Medicare, Medicaid, pensions, housing, consumer issues, guardianship, age discrimination, wills and probate, and long term care. They also may need assistance with planning through advance directives and durable powers of attorney. An attorney may be most valuable in providing help with such problems. Because early consultation with an attorney can prevent serious problems later on, you should consider consulting a lawyer for the following situations:

Before signing a contract to buy, sell or rent a home or other real estate;

Making a will;

Signing written contracts with major financial consequences;

When planning your estate;

When you are sued or want to sue someone;

When accidents occur involving personal injury or property damage;

When you have problems accessing government benefits to which you believe you are entitled.

An attorney can also provide valuable help with problems involving landlord-tenant disputes, divorce, and child custody.

How to Find a Lawyer

If you do not have a family lawyer, you may wish to consult friends and relatives for recommendations. The lists in the Helpful Contents section at the back of this handbook may be useful in your area. Otherwise, you can also check with the following local agencies and support groups:

Area Agency on Aging

State or Local Bar Association

Membership organizations such as the American Association of Retired Persons

Alzheimer's Association

If you cannot afford an attorney, state and local bar associations may have information about pro bono programs, which operate for the good of the public and do not charge lawyer's fees. Some states operate toll-free legal hotlines for seniors. Legal advice for simple matters is provided directly over the phone. For those matters which cannot be resolved by phone, referrals are made to local attorneys.

Consumer Guide

Introduction

Consumers of all ages, particularly senior citizens, are vulnerable to the fast pitch and hard sell of the professional salesperson. Today, we also face the impersonal, but no less effective pitch of the television or radio advertiser. With such pressures being exerted against us, it is very difficult to make intelligent buying decisions.

PROTECTION OF LEGAL RIGHTS

Even though consumer protection legislation and court decisions in favor of consumer rights are on the increase, your best protection is for you to be a well-informed, careful buyer. Smart consumers know their legal rights, are cautious of product exaggerations, and are unafraid to demand satisfaction for the price of their purchase. This section is designed to help you be an alert consumer who is less likely to be taken advantage of by fast-talking salespeople or misleading advertising.

Contracts and Credit Buying

Almost every purchase that you make as a consumer involves making a contract between you, the buyer, and a merchant, the seller. If you have ever bought a car, hired a workman to do repairs, or purchased a pair of shoes using a credit card, you have entered into a contract.

Contracts most often come into the picture for consumers when the seller extends credit for purchase of an item or service, with payment delayed or spread out over a period of time. This arrangement is commonly known as “buying on time” or “buying on credit”. In effect, the store, dealer or company from which you are buying extends a loan in the amount needed to purchase the item or service. You, in turn, agree to pay back that money plus a finance charge of some kind.

Whenever you buy on credit, make sure that you know how much your total cost will be. Know how long you will have to make payments and be sure you can meet them. The **Federal Truth-in-Lending Act** requires persons and businesses who extend credit to tell consumers what that credit will cost in the long run. When you buy on credit, the seller must tell you the finance charge (the price you must pay for the privilege of paying over time in installments, which is added to the cash price) and the annual percentage rate of interest on the purchase you wish to make. Lenders who fail to disclose this information may be sued by their customers for twice the amount of the finance charge - from a minimum of \$100 to a maximum of \$1,000 - plus court costs and attorney’s fees. If lenders are convicted of willfully or knowingly disobeying the law, they can be fined up to \$5,000 or be imprisoned for one year, or both.

Federal Truth-in-Lending laws also grant the right to cancel any contract in writing within three days, if the contract requires that the consumer’s home be used as collateral or if a lien on the home could result from the contract, as in a home improvement or home repair agreement.

Before signing any sales contract, ask these questions:

Do I know what I’m buying?

Do I understand to my satisfaction what the contract says and what my obligations will be under it?

Can I get just about the same item elsewhere at a better price?

If the purchase is for credit, am I satisfied with the price I’m paying for the loan?

What kind of protection do I have in the way of guarantees and warranties? (Buying something “as is” means no warranty or guarantee about the product at all.)

Basic Contract Do’s and Don’ts

DO insist that the salesperson let you take home a copy of the contract before you sign it.

DO show the contract to a friend or a lawyer if you have any questions about any provision of the contract

PROTECTION OF LEGAL RIGHTS

DO insist that all promises (guarantees and warranties) be put in writing; otherwise, they will not be enforceable.

DO keep copies of all contracts, payment records, and complaint letters in a safe place.

DO ask your agent or the seller to include the following provision in the document if you have any questions about contract terms:

“This contract is contingent upon the approval of my attorney and the contingency shall continue in effect until ____ (DATE) ____.”

DON'T deal with any salesperson who refuses to let you take home a filled-in contract before you sign it.

DON'T sign anything unless you have had time to read it carefully or have it read to you, and you fully understand what it says.

DON'T ever sign a contract with blank spaces that are to be filled in later by the salesperson.

Credit Card Finance Charges

If you have a credit card from a department store, bank or oil company or financial institution, you are normally required to pay a monthly finance charge based on the unpaid balance of your account. The effective annual percentage rate for credit card transactions is not limited by Virginia law and may be imposed at the rate set by the issuer of the card and agreed to by you. All issuers of credit cards give a period of time within which, if they receive payment in full, no finance charge will apply (unless used for a cash advance). If charges are not paid in full before the due date, interest charges may be assessed on new purchases as well as the last balance due amount.

Unsolicited Credit Cards

It is illegal for a card issuer to send you a credit card unless you ask or apply for one. However, a card issuer may send you an application for a card or a new card to replace an expired one without your request.

Lost or Stolen Credit Cards

The most you will have to pay for unauthorized charges is \$50 on each card, even if someone runs up several hundred dollars' worth of charges before you report a card missing. In any event, your risk on lost or stolen credit cards is limited. You do not have to pay for any unauthorized charges made after you notify the card company of loss or theft of your card. So keep a list of your credit card numbers and notify card issuers immediately if a card is lost or stolen.

Bad Credit Ratings

If you learned that your credit has been damaged, you are authorized under the **Fair Credit Reporting Act** to request from the credit reporting agency an accurate report showing any information transmitted about your credit standing. If you challenge the information, the agency must re-investigate, and if it still is not

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resolved, you may file a protest which will remain in the report. You are entitled to sue for damages, attorney's fees, and investigation costs if the agency does not comply.

Error in Billing

If you think your bill is wrong or want more information about it, notify the creditor in writing within 60 days after the bill was mailed. Be sure to include:

Your name and account number.

A statement that you believe the bill contains an error and an explanation of why you believe there is an error.

The suspected amount of the error.

While you are waiting for an answer, you do not have to pay the disputed amount or any minimum payments or finance charges that apply to it. You are still obligated to pay all parts of the bill that are not in dispute.

The creditor must acknowledge your letter within 30 days unless your bill is corrected before then. Within two billing periods, but in no case more than 90 days, the creditor must correct your account or explain why the bill is correct.

If the creditor made a mistake, you do not have to pay any finance charges on the disputed amount. The creditor must credit your account for the full amount in dispute, or partially correct your account and explain what you still owe. You then have the time usually allowed on the account to pay any balance. If no error is found, the creditor must promptly send you a statement of what you owe. In this situation, the creditor may include any accumulated finance charges and any minimum payments you missed while you were questioning the bill.

If you still are not satisfied, you should notify the creditor within the time you have to pay your bill. However, the creditor's obligations have now been fulfilled, except for requirements regarding your credit rating.

Once you have written about a possible error, the creditor may not give out information to other creditors or credit bureaus or threaten to damage your credit rating. Before answering your letter, the creditor may not take any collection action on the disputed amount or restrict your account because of the dispute. A creditor can, however, apply the disputed amount against your credit limit.

After your bill has been explained, and if you still disagree in writing within the time allowed for payment but do not pay, the creditor can report your account as delinquent and begin collection proceedings. If this is done, the creditor must also report that you have challenged your bill, and must provide you in writing the name and address of each person and/or organization to whom your credit information has been given. When the matter is settled, the creditor must advise each person or organization given credit information of the outcome.

The federal law applies to personal, family, and household debts - such as money owed for the purchase of a car, for medical care, or for charge accounts.

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Collection Agencies

When you are paying for a product or service on time and get behind on your payments, the loan company or bank may refer your debt to a collection agency.

Federal law prohibits abusive, deceptive, and unfair debt collection practices, and its purpose is to insure fairness. The law does not, however, cancel legitimate debts. A debt collector is anyone other than the creditor and his employees, and is usually a collection agency. A debt collector may contact you in person or by mail, telephone or telegram but must not contact you at inconvenient or unusual places or times, such as before 8:00 a.m. or after 9:00 p.m., unless you agree otherwise. Furthermore, a debt collector may not contact you at work if your employer disapproves.

Within five (5) days after you are first contacted, the debt collector must send you a written notice telling you:

- the amount of money you owe,
- the name of the creditor to whom you owe the money, and
- what to do if you feel you do not owe the money.

If you believe you do not owe the money, you should send a letter to the creditor within 30 days after you are first contacted saying you do not owe the money. A debt collector may begin collection activities again only if you are sent proof of the debt.

You may stop a debt collector from contacting you by requesting it in writing. Once you tell a debt collector not to contact you, the debt collector can no longer do so, except to tell you that there will be no further contact. The creditor, however, may continue to contact you. The debt collector may notify you that some specific action may be taken but only if the debt collector or the creditor normally takes such action.

A debt collector, in an effort to locate you, may contact any person; however, the debt collector must only tell people that the purpose is to try to contact you. Once a debt collector knows you have an attorney, the debt collector may only contact your attorney.

The debt collector must not:

- tell anybody else that you owe money;
- in most cases, talk to any person more than once;
- use a postcard to notify you that you owe money; or
- put anything on an envelope or in a letter that identifies the writer as a debt collector.

Door-to-Door Sales

How many times have you heard the old warning, “Beware of the door-to-door salesman!”? Even the most strong-willed customer occasionally falls prey to an enterprising door-to-door salesperson. But if the “magic spell” cast by the salesperson wears off as soon as he is away from your door with your money or a sales contract, there is something you can do about it.

Virginia law and Federal Trade Commission (FTC) rule allow you a three day cooling off period to decide whether to cancel your purchase of goods or services. If you do decide to cancel the sale or rescind the con-

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tract, you must send or deliver a written notice to the company or business before midnight of the third business day after the date of the transaction. Virginia law does not require you to follow any particular format in sending your notice to cancel your purchase of goods or services. The FTC rule requires you to sign and date one copy of a Notice of Cancellation form which you should receive from the salesperson along with copies of the sales contract or receipt of sale. You should consider sending the Notice of Cancellation or written letter of cancellation by certified mail with a return receipt requested. Keep a copy of the notice for your records and proof that you sent it.

Once the merchant receives the notice letter of cancellation, he or she has 10 days to refund any money received, return any documents that you have signed, return any goods or property that you've traded in, and inform you whether he or she will pick up or let you keep any items that were left with you. Products left with you must be available to the seller in the same condition as you received them. It is not your responsibility, though, to ship the items back to the dealer or pay postage expenses for such shipping. The seller must either pick up items left with you or, if you agree to ship them, the seller must pay the return postage expenses. If the seller fails to demand possession of the items within 20 days after cancellation or revocation, the goods become the property of the buyer without any obligation to pay for them.

Virginia law and the FTC rule do not cover cash purchases under \$25.

Mail Order Merchandise

If you order merchandise by mail, federal regulations require the seller to ship the merchandise to you within the time limits stated in its ad or brochure, or within 30 days if the seller has not specified a delivery period. If the merchandise is not so shipped, e.g., because it is temporarily out of stock, you have the right to cancel your order and have your money refunded within 7 days of your cancellation. In a credit transaction, the seller has one billing cycle to adjust your account. IF the seller notifies you that he cannot ship the merchandise in the stated time or within 30 days, you may: (i) cancel the order and get your money back, (ii) agree to the new shipping date, or (iii) not answer, in which case the seller can assume you agree to the shipping delay. If you do not give your express consent to a shipping delay of more than 30 days, the seller must return your money at the end of the first 30 days of the delay. These regulation do not apply to magazine subscriptions, serial deliveries (except for the initial shipment), mail order seeds and growing plants or C.O.D. or credit orders for which your account is not charged prior to shipment.

Unordered Merchandise

You do not have to pay for merchandise that you have not ordered or otherwise requested and it is illegal for the sender to pressure you to return it or send you a bill. It is illegal for a merchant to send unordered merchandise other than free samples and merchandise mailed by charitable organizations requesting contributions.

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Any problems relating to mail order dealers or unordered merchandise should be referred in writing to your Postmaster (or local Postal Inspector) and to:

Director, Bureau of Consumer Protection
Federal Trade Commission
Washington, D.C. 20580

Telemarketing Sales

Just about everyone who owns a telephone has received calls promoting products, services, investment opportunities or contests. Although most telephone offers are legitimate, telemarketing fraud costs consumers billions of dollars a year. Federal rules and common sense can protect you from telephone scams and overly intrusive sales calls.

Under FTC rules, telemarketers may call only between 8 a.m. and 9 p.m. They must tell you immediately who they are and what they are selling - before they make their pitch. You can stop unwanted calls from telemarketers by telling them not to call back. If they do, they're breaking the law.

Before you pay anything, a telemarketer must tell you; (i) the total cost of the products or services offered and any restrictions on getting or using them; and (ii) whether a sale is final or non-refundable. A telemarketer may never withdraw money from your checking account without your express, verifiable authorization. It is also illegal for telemarketers to misrepresent information about whatever they are selling, including prize-promotion schemes.

Telephone scam artists may cold call individuals listed in a directory or on a mailing list. In more elaborate schemes, advertisements or direct mail pieces invite you to call a certain phone number to claim a prize or to make a purchase. Be skeptical of any deal that sounds too good to be true, and make sure sellers are trustworthy before you hand them your money.

Here are some ways to avoid being victimized by telephone fraud:

- Resist high pressure sales tactics. Legitimate businesses respect the fact the you're not interested.
- Don't send money--cash, check, or money order--to anyone who insists on immediate payment.
- Keep information about your bank accounts and credit cards to yourself unless you know who you're dealing with.
- Hang up if you're asked to pay for a prize. Free is free.
- Take your time. Ask for written information about the product, services, investment opportunity, or charity that's the subject of the call.
- Before you respond to a phone solicitation, talk to a friend, family member, or financial advisor. Your financial investments may have unexpected consequences for people you care about.

You can fight telephone fraud by reporting scam artists to the Virginia Attorney General's office at (804) 786-2071. You may also call the National Fraud Information Center (NFIC) at 1-800-876-7060, 9:00 a.m.-5:30 p.m., Monday through Friday. NFIC is a private, non-profit organization that operates a consumer hotline to provide services and assistance in filing complaints. NFIC also forwards appropriate complaints to the FTC for entry on its telemarketing fraud database.

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For more information about consumer protection under the Telemarketing Sales Rule, write:

Bureau of Consumer Protection
Federal Trade Commission
Public Reference - Room 130
Washington, D.C. 20580

Unscrupulous Practices

Unscrupulous dealers and businesses have many ways of getting you to part with your hard-earned cash. If you're not careful, you could find yourself paying unreasonably high interest rates for a credit purchase, or stuck with a piece of shoddy merchandise that you were told was "a steal" at the price you paid for it. Unfortunately, bargains and deals that sound too good to be true usually are, and unwary buyers can end up paying for a costly lesson in consumer education.

Scam artists use dozens of cons to fleece unsuspecting individuals. Some of these schemes involve products and services that are commonly purchased by senior citizens. The following are a couple of the more common schemes that you should guard against.

Bait and Switch

The store or business employing the bait and switch technique usually advertises some attractive bargain that is "available in limited quantities" to get you into the store. Once you are there, the sales people try to get you to buy a more expensive item in the same line of merchandise - often by downgrading the bargain model that drew you to the store in the first place. Frequently, the more expensive item is overpriced.

Pigeon Drop

The pigeon-drop is a technique used to rob people - particularly elderly persons - of their savings. Usually a pleasant person introduces himself or herself and says that he or she has recently found a large amount of money. The person offers to share the found money with you if you will put up some of your own money to show good faith. After you deliver the agreed upon amount in an envelope, the "nice" person then: (1) distracts you and switches the envelope containing your money with one containing paper, or (2) takes the envelope and promises to deliver your windfall "later" or "tomorrow." Tomorrow never comes. These cons sometimes sound believable, but they never are. When in doubt, call the police or the Better Business Bureau to see if they know of a scheme that is being used to victimized others in the community.

Home Repairs

Whenever you need to hire someone to work on your home, use caution and shop around. You do not have to hire the first contractor that you find. Get two or three estimates to see who is offering the best bargain. Also, check references before you hire. Inquire about past complaints or potential problems with a business by contacting the Better Business Bureau in your locality.

After you decide upon a contractor, insist that your agreement be put in writing. IF you don't get all the important things in writing, you're asking for trouble later on. Items such as price and guarantees of the work to be done should be on paper and signed so that you can avoid arguments after the work is completed. Agree in advance that full payment is not due until the work is completed. A good faith deposit is acceptable, but it should be a small percentage of the total.

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If you plan to pay for the work in installments and the contractor or loan company requires a deed of trust (mortgage) on your home as collateral, remember two things: you have three business days after you make the agreement in which to cancel it, if the work has not begun during that time; and if you get behind on your payments, the contractor or loan company can take your home from you by foreclosing on the deed of trust.

If the contractor is not paid after completion of his work, he can file a document known as a mechanic's lien. If you receive notice that a lien has been filed against you property, consult an attorney.

If you have a dispute with your contractor regarding payment for his work, be certain to obtain a release of all liens placed on your property before you make the final payment. If the contractor refuses, consult an attorney before making any further payments. If you don't have an attorney, the state and local bars can help through lawyer referral services or by directing you to the nearest Legal Aid office.

Health Quackery

If you have ever been tempted to spend money on products advertised as miracle cures, do not feel embarrassed. Each year, Americans spend billions of dollars on bogus health products and treatments. Tragically, some people are persuaded to buy the useless products rather than to seek effective, proven medical treatment. In order to avoid being a victim of "health quackery", beware of the following:

- Promises of a "quick and painless" cure.
- Extraordinary promises such as a claim that a single remedy will cure all diseases.
- Testimonials of "satisfied users" which lack any substantive medical support.
- Products which are described as "alternatives"; some alternative therapists and healers do not follow accepted scientific protocol.
- "Scientific breakthroughs" which the promoter claims have been overlooked by the medical community.

If medical science has not found a cure for an ailment, then you should not buy a product advertised to cure it. Remember, if it sounds too good to be true, it probably is.

Consumer Remedies

When something goes wrong with a product you've bought, or a repair job is poorly done (on a house, car, or anything else), you can seek satisfaction in a number of ways. A thoughtfully prepared complaint made either in person or in writing can be an extremely effective way of solving a consumer problem - especially when that complaint is made to the proper authority. You can successfully resolve many problems by this method alone.

Complaints are most effective when accompanied by receipts and other documents that help explain your case. If you are contacting the store or business by mail, send your complaint letter by certified or registered mail, return receipt requested, and keep a copy for your records. Never send originals of any receipt, contract, or documentation. If you are making your complaint in person, try to remain calm, but be firm and make sure what you are told makes sense to you.

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If taking your complaint directly to the store or business does not produce the satisfaction you are seeking, bring the matter to the attention of the Better Business Bureau in your community or contact the Office of Consumer Affairs.

In some areas, law schools and radio and television stations handle consumer complaints at no charge to you as a public service to the community. These services can be extremely helpful.

Consumer protection laws may give you additional remedies, such as the ability to cancel certain types of contracts on your own. In Virginia, General District Courts are also available to consumers who believe they have been treated unfairly when the amount does not exceed \$15,000.

Suits in General District Courts

If you feel that court action is necessary, you may wish to obtain the services of an attorney, although it is not required. One major reason to consult an attorney at this stage is that you may be subject to a counter-suit brought by the person you are suing. If you cannot afford an attorney, contact your local Legal Aid office for assistance. (See the list at the back of the Handbook.)

To file a suit in the General District Court, where a judge will decide your case without a jury, your claim must be for \$15,000 or less. To initiate the suit, go to the court clerk in the city or county where you believe the suit should be brought. If you have any doubts, a local clerk of the court will assist you.

The clerk will provide you with a fairly simple filing form to fill out and will help you complete it should you need assistance. You (the plaintiff) should have with you the exact name and address of the person or business whom you are suing (the defendant), along with the amount of the claim, the basis of the claim, and a stamped envelope addressed to the defendant.. The clerk will answer questions you may have about court procedures or the filing form, but it is not the clerk's duty to help you determine the amount for which you are going to sue.

When you fill out the form to file your case, the clerk will ask you to pay a filing fee of about \$18, and may require an additional service fee of about \$12 per defendant. The clerk will then deliver your pleading to the sheriff for service on the defendant.

When you leave the courthouse, be certain you know the RETURN DATE for your case. The return date is the day you are to appear in court. IT IS NOT NECESSARILY THE DATE YOUR CASE WILL BE DECIDED. If the defendant is represented by an attorney, he/she will be entitled to a period of time to prepare the case. Do not be disturbed if the trial date is set for several months after the return date. Court calendars are full, and a delay is not unusual.

If you know that your complaint will be contested, try to talk with the defendant or the defendant's attorney prior to the return date. You may be able to agree upon a trial date and save yourself at least one trip to the courthouse.

Here are some important points to remember when preparing a suit:

- Organize relevant materials (bills, receipts, letters, etc.) so that you can make a complete and orderly presentation of your case at the hearing.

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- Think over and make some notes on what you want to say so that you can make a full — but brief — statement of the facts in your case.
- Determine what witnesses, if any, you need to testify for you at the trial. Witnesses important to the case may be subpoenaed (compelled) if they are reluctant to appear voluntarily.
- Check with the court before the hearing to find out whether the defendant has been served successfully with the summons. If no successful service has been made, the clerk can advise you of your options. For example, you may want to change the date of your hearing. You may seek one continuance (postponement) of the court date for this or a similar good reason.

If you appear in court by yourself, do not be disturbed if the business or person you are suing is represented by an attorney. The judge has a responsibility to make sure the proceedings remain informal, so your lack of legal knowledge will not work against you.

If you receive an unfavorable ruling by the court, you may either petition (ask) the court for a rehearing in General District Court or appeal the ruling to the Circuit Court. A rehearing must occur within 30 days of the court's ruling and may be granted if you have discovered new evidence which would change the result. An appeal to the Circuit Court must be granted if the amount involved in the dispute is more than \$50 and the appeal is made within 10 days of the court's ruling. If you want to pursue a dispute beyond the General District Court because you are dissatisfied with the decision, you will likely need the aid of an attorney.

If you win the amount that you were seeking, the next task is getting the defendant to pay you. If the defendant voluntarily agrees to pay you in a certain way — all at once or in installments — you're home free. Occasionally, a defendant who has lost in court won't pay the judgment that you received. Legal proceedings can be instituted to collect the judgment; however, you should seek the services of an attorney before proceeding further.

If you have a chance to settle the suit before the court hearing, try to do so by either receiving full payment or entering into a written agreement about payment. Inform the court if this occurs and be ready to have the case heard just in case your settlement offer falls through.

Several communities in Virginia are currently experimenting with a "small claims" division within the General District Court (On or before July 1, 1999, each General District Court will have a small claims court.). Lawyers are not allowed to represent any party in small claims court. The small claims court may hear cases in which the plaintiff is seeking a money judgment of up to \$1,000 or recovery of personal property with a value of up to \$1,000. The defendant may request that the case be heard in General District Court where he or she may have an attorney present. For the small claims case, the return date is the date the case is decided. To find out whether your area currently has a small claims division, contact the clerk of the General District Court for your city or county. The clerk can provide you with a brochure giving more details about the operation of the small claims court.

The General District Court may also provide opportunities for your case to be mediated by an independent party (not a judge) with the possibility of an agreed settlement outside of the judicial system (i.e., a contractual compromise by the disputants).

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Age Discrimination

Introduction

There are federal laws prohibiting discrimination against anyone because of his or her age. The age discrimination laws cover employment, federal programs, and obtaining credit.

Employment

The **Age Discrimination in Employment Act** prohibits workplace age discrimination against individuals who are at least 40 years old. While there is generally no upper age limit, employers can set mandatory retirement policies for executives 65 and older who are entitled to pensions of \$44,000 or more.

Discrimination in employment can take many forms, e.g., termination, demotion, or denial of employment. If you believe you are being discriminated against because of your age, within 180 days of the alleged discrimination, you should contact the Equal Employment Opportunity Commission (EEOC), 1801 L Street, N.W., Washington, D.C. 20507, (202) 663-4900 (voice) or (202) 663-4494 for TDD. The matter will be investigated, then discussed and settled or, if necessary, a lawsuit may be filed. Federal employees should file complaints with the Office of Personnel Management.

Federal Programs

If you believe you are being discriminated against because of your age in any program receiving financial assistance from the United States Government, you must contact in person or complain in writing to the federal agency that is financing the program. This is an administrative proceeding, and the agency must reply in 180 days. If the agency does not reply within 180 days, you may bring suit in Federal Court to stop the prohibited action once you have given 30 days advance notice to the Secretary of Health and Human Services, the Attorney General of the U.S., and the person or party you are taking action against. It probably will be necessary to obtain assistance in making the complaint. These matters can be complicated, and thus you may wish to consult a person skilled in the field of age discrimination or an attorney who handles this type of case.

Credit

The **Equal Credit Opportunity Act** forbids discrimination against an applicant for credit, not only on the basis of age, but also on the basis of sex, marital status, receipt of public assistance benefits, race, color, national origin, or religion.

A creditor wants to make sure that you are both willing and able to repay your debt. Normal items of inquiry include your personal income, your expenses, outstanding debts, and credit history. A creditor may also ask your age, but the use of this information is controlled under the Equal Credit Opportunity Act. Your age may not be used as the basis for a decision to deny or decrease credit if you otherwise qualify. A creditor may ask you about your income, but continually denying credit to applicants without good cause or arbitrarily discounting income is forbidden.

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You have a right to know whether an application is accepted or rejected within 30 days of filing. If you have suffered adverse credit actions such as a denial or revocation of credit, a change in terms of an existing credit arrangement, or a refusal to grant credit in substantially the terms requested, you have 60 days from the time the creditor notifies you of adverse action to request the reason in writing. The creditor must give you a statement of reason within 30 days of the receipt of your request.

If credit has been denied either wholly or partly because of information contained in a consumer credit report, you may request a free copy in writing within 60 days of the initial action. Try to renegotiate the terms or otherwise solve the problem. If the problem has not been resolved to your satisfaction, and you believe the adverse action was taken for a non-permissible reason, you may bring suit to recover actual damages, attorney's fees, court costs, and punitive damages in an amount not greater than \$10,000.

If you believe you are being discriminated against on the basis of your age by denial of an application for credit in a loan or a purchase, or for more detailed information or help, you should contact the Federal Trade Commission, Division of Credit Practices, Consumer Response Center, Suite 240, 6th and Pennsylvania Ave., N.W., Washington, D.C. 20580, telephone (202) 326-2222 (voice only).

Discrimination Based on Disability

There are federal and state laws which prohibit discrimination against individuals based upon disability. Generally speaking, federal law defines an individual with a disability in three ways: 1) a person who "has" a physical or mental impairment that substantially limits one or more of the major life activities of that individual; 2) a person who "has a record" of a physical or mental impairment which substantially limits one or more of that individual's major life activities; or 3) a person who "is regarded as having" a physical or mental impairment that substantially limits one or more of the major life activities of the individual. A "major life activity" is broadly defined to include, but is not limited to, the ability to care for one's self and perform manual tasks such as walking, seeing, hearing, speaking, breathing, learning, and working.

To be considered a "qualified individual with a disability" under the **Americans with Disabilities Act** (ADA) with respect to employment activities, as well as possessing the skill, education, and experience requirements of the employment activities, you must possess the skill, education, and experience requirements of the employment position held or desired and be able, with or without reasonable accommodation, to perform the essential functions of the position. If you believe you have been discriminated against because of a disability, you should contact the Equal Employment Opportunity Commission (EEOC), 1801 L Street, N.W., Washington, D.C. 20507, (202) 663-4900 (voice) or (202) 663-4494 (TDD) or contact your local EEOC office.

There is an information kit issued by the EEOC that describes the rights of an individual with a disability. Contact the Publication Distribution Center at (800) 669-3362 (voice) or (800) 800-3302 (TDD) to request the kit.

A different part of the ADA relates to the rights of individuals with disabilities to have access to, and to enjoy the benefits, privileges and services of, the programs, activities, and buildings of public entities (state and local governments). If you have difficulties in this regard, you should contact the Department of Justice,

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Coordination and Review Section, P.O. Box 65808, Civil Rights Division, Washington, D.C. 20035-6118, (202) 514-4609.

In a third part, the ADA prohibits discrimination on the basis of disability by public accommodations (private persons or businesses that own, operate, lease or lease to a place of public accommodation) to full and equal enjoyment of goods, services, facilities, and accommodations (for example, hotels, restaurants, shopping centers, retail stores, doctor's offices, libraries, parks, theaters, and pharmacies). Removal of existing barriers for access to places of public accommodation is required unless removal is too expensive and difficult, in which case alternative means of enjoying and receiving the goods and services must be provided.

The above requirements of the ADA are also substantially required under Section 504 of the Rehabilitation Act of 1973 and are enforceable against any person or entity that receives federal financial assistance.

The Virginians with Disabilities Act (VDA) has many similar provisions to the ADA. Rights under the VDA are enforceable in a Virginia Circuit Court.

If you desire further information regarding any of the above laws or other laws protecting individuals with disabilities, you may contact the Department for Rights of Virginians with Disabilities (DRVD), a state agency that provides protection and advocacy services for individuals with disabilities. DRVD may be reached toll-free at (800) 552-3962 (in-state calls only), or write to the Department at 202 North 9th Street, 9th Floor, Richmond, VA 23219.]

Grandparent Rights to Visitation and Custody

Virginia law authorizes any party having a legitimate interest in a minor (including grandparents specifically) to file a petition in Juvenile Court seeking visitation or custody of the minor. The court has broad discretion as to whether to grant visitation or custody.

Your local area agency on aging or your local legal aid office may give you further assistance or referral on visitation and custody issues.

Elder Abuse

In 1997 there were almost 10,00 reports of adult abuse in Virginia, and investigations proved about 60% were meritorious. Often, however, elderly persons are reluctant to report abuse. The problem is complicated because elder abuse, neglect, and exploitation are sometimes hidden problems which are difficult to address.

What is Elder Abuse?

The term "abuse" is used to describe the act of intentionally hurting someone. Elder Abuse can take many forms. It may be sexual abuse, financial exploitation, emotional abuse or confinement. Elder Abuse may involve physical violence against an older person. It may also involve the deliberate neglect by a caregiver of the medical, health, and nutritional needs of a vulnerable older person.

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Signs of Elder Abuse

Elder abuse is often made evident by the following signs:

- unusual or unexplained bruises and injuries
- signs of confinement
- poor hygiene
- dehydration
- fear
- withdrawal
- anxiety
- hesitation to talk openly

Additionally, the following caregiver behaviors may indicate that a person is abusing or neglecting an older person:

- not permitting seniors to speak for themselves, indifference or anger toward an older person;
- previous history of alcohol or drug problems;
- threatening or insulting the older person.

Financial exploitation may be indicated by:

- unusual activity in bank accounts, such as the withdrawal of large sums of money;
- exploiter having a power of attorney, when the older person was not competent to have given one;
- a refusal by the exploiter to spend money on the older person for health or welfare;
- checks and other documents being signed, when the older person is unable to write;
- the loaning by the older person of a large sum of money without adequate documentation.

Preventing Abuse

Seniors can help protect themselves from abuse by taking the following precautions:

- Become aware of resources for seniors in your community.
- Don't be isolated; stay in touch with as wide a range of people as possible.
- Make regular visits to a trusted physician and let him or her know your concerns and desires regarding possible health or social problems.
- Consider using community resources rather than depending on individual caregivers if you feel vulnerable to exploitation.
- Put your wishes in writing regarding finances and personal care.
- Do not sign anything that you don't understand. Get help from a lawyer, social worker, or other adviser.

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Reporting Abuse

There are laws which protect the elderly from abuse. However, these laws are of little use if incidents of abuse remain unreported. If you are aware of any signs of abuse in a neighbor, friend or relative, or suspect abuse in a nursing home or long-term care facility, you should immediately contact your local Adult Protective Services office or the Virginia Coalition for the Prevention of Elder Abuse (VCPEA Hotline 1-888-832-3858). The Department of Social Services, Adult Protective Services, in Richmond may also be able to help, (804) 692-1260.

Alternative Dispute Resolution

When a legal dispute arises, the party who has been injured or damaged (the plaintiff) files his or her law suit against the alleged wrongdoer (the defendant) in a state court or in some more restricted instances, in one of the federal district courts. These lawsuits are tried in the ordinary course, which often means that the resolution of the dispute is delayed and, depending upon the facts involved, may be relatively expensive. Court dockets are often crowded and each suit has to wait its turn before trial occurs. Of course, each case has to be prepared and proper preparation can result in considerable delay and cost to the client. As a result, most federal district courts and many state trial courts have procedures to speed the resolution of law suits. These procedures are commonly referred to as “alternate dispute resolution” (ADR) methods. Two of the most popular ADR procedures are arbitration and mediation.

Arbitration

For many years, binding arbitration has been a recognized procedure for resolving disputes. It involves the selection of a single arbitrator or a panel of three arbitrators who hear and decide the case. Although not judges, they act as such since they decide which side wins and which side loses. The main advantage of arbitration is that delay and expense are often reduced. One of the principal disadvantages of binding arbitration is that an appeal from an arbitration award is very restricted and, as a practical matter, there is often no grounds for an appeal. Some criticize arbitration because of the difficulty of appealing the arbitrator’s decision.

Mediation

Mediation is a relatively new procedure which also reduces delay and expense but avoids the disadvantages of binding arbitration. The case is conducted by a neutral mediator whose task is to guide the parties and their attorneys to a mutually acceptable settlement of the case. The mediator is not a judge or arbitrator and has no power to decide who wins or loses. Mediation is thus entirely different from a trial or the hearing of a case by a judge or arbitrator(s). The parties are in control of their case inasmuch as they have the right to decide upon a mutually acceptable settlement or to refuse to settle. If the parties do not agree to a settlement, the case stays on the court’s docket for trial. Mediation is usually successful (i.e. a settlement results), but sometimes the parties reach an impasse results. The expense is usually considerably less than that of a trial and usually less than arbitration. Mediation has become popular, and approximately 75 percent of the cases which are mediated result in mutually acceptable settlements. It is confidential. It is informal. The various states which provide for mediation require mediators to undergo formal training, which is usually 40 hours

PROTECTION OF LEGAL RIGHTS

for a general civil mediator and some additional hours for a family mediator. Mediation of family disputes (i.e. divorce, child custody, etc.) is often more desirable than the trial of such cases. It is frequently used with success in other civil cases. The parties often mutually select the mediator. Information can be obtained from the office of your local bar association, the administrative office of your local state court system or the clerk's office of your local U.S. district federal court.

HELPFUL CONTACTS

Editor's Note: The following compilation is at best a partial listing of the numerous agencies and organizations in Virginia that provide services and programs for older citizens. If you cannot locate an agency or number you need, the Information and Referral Center nearest you can help.

Agencies on Aging

For information related to nutrition programs, transportation, day care, in home services, winterization, home repair, senior center activities, senior employment and volunteer programs, law-related services, senior discount programs and other community services for the elderly, contact your local Area Agency on Aging listed below.

Alexandria Agency on Aging

2525 Mount Vernon Avenue, Unit 5
Alexandria, VA 22301-1159
Phone: (703) 838-0920
City of Alexandria

Appalachian Agency for Senior Citizens, Inc.

P.O. Box 765
Cedar Bluff, VA 24609
Phone: (540) 964-4915

Arlington Agency on Aging

1801 North George Mason Drive
Arlington, VA 22207-1999
Phone: (703) 358-5030
County of Arlington.

Capital Area Agency on Aging, Inc.

24 East Cary Street
Richmond, VA 23219-3796
Phone: (804) 343-3000
Counties of Goochland, Powhatan, Henrico,
Chesterfield, Charles City, Hanover & New Kent,
City of Richmond.

Central Virginia Area Agency on Aging, Inc.

3225 Old Forest Road #25
Lynchburg, VA 24501
Phone: (804) 385-9070
Counties of Bedford, Amherst, Campbell &
Appomattox. Cities of Bedford & Lynchburg.

Chesapeake Bay Agency on Aging

P.O. Box 610
Urbanna, VA 23175
Phone: (804) 758-2386 or (800) 693-6109
Counties of Westmoreland, Northumberland,
Richmond, Lancaster, Essex, Middlesex, Mathews,
King & Queen, King William & Gloucester.

Crater District Area Agency on Aging

23 Seyler Drive
Petersburg, VA 23805
Phone: (804) 732-7020
Counties of Dinwiddie, Sussex, Greensville, Surry &
Prince George, Cities of Petersburg, Hopewell,
Emporia & Colonial Heights.

District Three Senior Services

4453 Lee Highway
Marion, VA 24354-4270
Phone: (703) 783-8158 or (800) 541-0933
Counties of Washington, Smyth, Wythe, Bland,
Grayson & Carroll. Cities of Galax, Bristol &
Abingdon.

Eastern Shore Area Agency on Aging Community Action Agency, Inc.

49 Market Street
P.O. Box 8
Onancock, VA 23417
Phone: (757) 787-3532 or (800) 452-5977
Counties of Accomack & Northampton.

Fairfax Area Agency on Aging

12011 Government Center Parkway, Suite 720
Fairfax, VA 22035-1104
Phone: (703) 324-5411

HELPFUL CONTACTS

County of Fairfax. Cities of Falls Church, Springfield, Annandale, Vienna & Reston.

Jefferson Area Board for Aging

674 Hillsdale Drive, Suite 9

Charlottesville, VA 22901

Phone: (804) 978-3644

Counties of Albemarle, Fluvanna, Greene, Louisa & Nelson. City of Charlottesville.

Lake Country Area Agency on Aging

1105 West Danville Street

South Hill, VA 23970-3501

Phone: (804) 447-7661 or (800) 252-4464

Counties of Halifax, Mecklenburg & Brunswick. Town of South Boston.

LOA Area Agency on Aging

P.O. Box 14205

Roanoke, VA 24016

Phone: (540) 345-0451

Counties of Roanoke, Craig, Botetourt & Alleghany. Cities of Salem, Roanoke, Clifton Forge & Covington.

Loudoun County Area Agency on Aging

102 Heritage Way, NE, Suite 102

Leesburg, VA 22075

Phone: (703) 777-0257

County of Loudoun. City of Leesburg.

Mountain Empire Older Citizens, Inc.

P.O. Box 888

Big Stone Gap, VA 24219

Phone: (540) 523-4202 or (800) 252-6362

Counties of Lee, Wise & Scott. City of Norton.

New River Valley Agency on Aging

14 East Main Street

Pulaski, VA 24301-4999

Phone: (540) 980-7720 or (540) 639-9677

Counties of Giles, Floyd, Pulaski & Montgomery. City of Radford.

Peninsula Agency on Aging, Inc.

739 Thimble Shoals Boulevard, Suite 1006

Newport News, VA 23606-3585

Phone: (757) 873-0541

Counties of James City & York. Cities of Williamsburg, Newport News, Hampton & Poquoson.

Piedmont Senior Resources Area Agency on Aging, Inc.

P.O. Box 398

Burkeville, VA 23922-0398

Phone: (804) 767-5588 or (800) 995-6918

Counties of Nottoway, Prince Edward, Charlotte, Lunenburg, Cumberland, Buckingham, Amelia, Arvonnia, Dillwyn, Farmville & Crewe.

Prince William Area Agency on Aging

7987 Ashton Avenue, Suite 231

Manassas, VA 20109-2885

Phone: (703) 792-6400

County of Prince William. Cities of Manassas. Manassas Park & Woodbridge.

Rappahannock Area Agency on Aging

Bowman Center, 1915 Main Street

Fredericksburg, VA 22408

Phone: (540) 371-3375 or (800) 262-4012

Counties of Caroline, Spotsylvania, Stafford & King George. City of Fredericksburg.

Rappahannock-Rapidan Community Services Board

P.O. Box 1568

15631 Bradford Road

Culpeper, VA 22701

Phone: (540) 825-3100

Counties of Orange, Madison, Culpeper, Rappahannock, Fauquier & Warrenton.

Shenandoah Area Agency on Aging, Inc.

207 Mosby Lane

Front Royal, VA 22630

Phone: (540) 635-7141 or (800) 883-4122

HELPFUL CONTACTS

Counties of Page, Shenandoah, Warren, Clarke & Frederick. Cities of Winchester & Woodstock.

Senior Services of Southeastern Virginia

7 Koger Executive Center, Suite 100
Norfolk, VA 23502-4121

Phone: (804) 461-9481

Counties of Southhampton & Isle of Wight. Cities of Franklin, Suffolk, Portsmouth, Chesapeake, Virginia Beach & Norfolk.

Southern Area Agency on Aging, Inc.

433 Commonwealth Boulevard
Martinsville, VA 24112-4228

Phone: (540) 632-6442 or 1-800-468-4571

Counties of Patrick, Henry, Franklin & Pittsylvania.
Cities of Martinsville & Danville.

Valley Program for Aging Services, Inc.

P.O. Box 817
Waynesboro, VA 22980-0603

Phone: (540) 949-7141 or 1-800-868-8727

Counties of Rockingham, Rockbridge, Augusta, Highland & Bath. Cities of Buena Vista, Lexington, Staunton, Waynesboro & Harrisonburg.

Virginia Association of Area Agencies on Aging

530 East Main Street, Suite 428
Richmond, VA 23219

Phone: (804) 644-2804

Information and Referral Centers

Central Region I&R of Central Virginia

1010 Miller Park Square
Lynchburg, VA 23219

Phone: (804) 845-8016 or (800) 230-6977

Northern Virginia Region Human Services Information Project

Northern Virginia Planning District Commission

7535 Little River Turnpike, Suite 100
Annandale, VA 22003

Phone: (703) 642-0700

Northwestern Region I&R Center

2560-D Ivy Road
Charlottesville, VA 22903

Phone: (804) 972-1703 or (800) 227-2053

Richmond Region I&R Center

Greater Richmond United Way

224 E. Broad Street
Richmond, VA 23241

Phone: (804) 275-2000 or (800) 544-2155

Southwestern Region I&R Center of Roanoke Valley

502 Campbell Avenue, S.W.
P.O. Box 598

Roanoke, VA 24004

Phone: (540) 982-2345 or 1-800-354-3388

Southeastern Virginia Information Services

The Planning Council

130 West Plume Street
Norfolk, VA 23510

Phone: (757) 625-4543 or (800) 223-2086

Legal Assistance

Alexandria Bar Association

520 King Street, Suite 202
Alexandria, VA 22314

Phone: (703) 548-1105

Blue Ridge Legal Services, Inc. (BLRS)

204 N. High Street
P.O. Box 551
Harrisonburg, VA 22801

Phone: (540) 433-1830

Central Virginia Legal Aid Society (CVLAS)

101 West Broad Street, Suite 101
P.O. Box 12206

Richmond, VA 23241

Phone: (804) 648-1012

HELPFUL CONTACTS

Charlottesville-Albemarle Legal Aid Society (CALAS)

105 4th Street, S.E., Suite A
P.O. Box 197
Charlottesville, VA 22902
Phone: (804) 977-0553

Client Centered Legal Services of Southwest Virginia, Inc. (CCLSSV)

P.O. Box 147
Castlewood, VA 24224
Phone: (540) 762-5501

Fairfax Bar Association

4110 Chain Bridge Road, Room 303
Fairfax, VA 22030
Phone: (703) 246-2740

Legal Aid Society of New River Valley, Inc. (LAS-NRV)

155 Arrowhead Trail
Christiansburg, VA 24073
Phone: (540) 382-6157 - Call on Mondays
or (800) 468-1366

Legal Aid Society of Roanoke Valley (LASRV)

416 Campbell Avenue, S.W.
Roanoke, VA 24016-3627
Phone: (540) 344-2088

Legal Services of Northern Virginia (LSNV)

Main Office
6400 Arlington Boulevard, Suite 630
Falls Church, VA 22042-2336
Phone: (703) 534-4343 or (703) 532-3733

Peninsula Legal Aid Center (PLAC)

1214 Kecoughtan Road
P.O. Box 1376
Hampton, VA 23661
Phone: (804) 247-6621

Rappahannock Legal Services, Inc. (RLS)

Second Floor
910 Princess Anne Street
Fredericksburg, VA 22401
Phone: (540) 371-1105

Southside Virginia Legal Services, Inc. (SVLS)

10A Bollingbrook Street
Petersburg, VA 23803-4549
Phone: (804) 862-1100

Southwest Virginia Legal Aid Society (SWVLAS)

227 West Cherry Street
Marion, VA 24354
Phone: (540) 783-8300

Tidewater Legal Aid Society (TLAS)

125 St. Pauls Boulevard, 4th Floor
Norfolk, VA 23510
Phone: (804) 627-5423

Virginia Legal Aid Society (VLAS)

513 Church Street
P.O. Box 6058
Lynchburg, VA 24505
Phone: (804) 528-4722

Local Hotlines

Gloucester Hotline

1-800-235-4745
(Local) 694-4782

HELPFUL CONTACTS

Statewide Organizations

Consumer Protection

Antitrust & Consumer Litigation Office of Consumer Affairs

900 East Main Street
Richmond, VA 23219
Phone: (804) 786-2116

Department of Agriculture & Consumer Services

1100 Bank Street, Suite 100
Richmond, VA 23219
Phone: (804) 786-2042 or (800) 552-9963

Note: For your local Office of Consumer Affairs or Better Business Bureau, consult the white pages of your telephone directory.

For employment discrimination problems, contact the local office of these federal government agencies: The U.S. Equal Employment Opportunity Commission and the U.S. Government Wage and Hour Division of the Department of Labor. For their main numbers, check the white pages of the telephone directory.

Employment Information

American Association of Retired Persons

Senior Community Service

Employment Program

1806 Chantilly Street, Suite 100
Richmond, VA 23230
Phone: (804) 355-3600

(For information concerning VEC programs for older workers)

Federal Job Information Center

200 Granby Mall
Norfolk, VA 23510
Phone: (804) 441-3355
(For Federal job listings)

Note: Virginia Employment Commission (Unemployment Office) offices are located throughout the state; consult the white pages of the telephone directory under “Virginia - Commonwealth of.”

For employment discrimination problems, contact the local office of these federal government agencies: The U.S. Equal Employment Opportunity Commission and the U.S. Government Wage and Hour Division of the Department of Labor. For their main numbers, check the white pages of the telephone directory.

Housing Information

USDA Rural Development

Culpeper Building, Suite 238
1606 Santa Rosa Road
Richmond, VA 23229
Phone: (804) 287-1550

(For information about rural housing programs)

U.S. Department of Housing & Urban Development

Virginia State Office
Mid Atlantic
The 3600 Centre
3600 West Broad Street
Richmond, VA 23230-0331
Phone: (804) 278-4506 or (804) 278-4569

Virginia Housing Development Authority

601 S. Belvidere Street
Richmond, VA 23220-6504
Phone: (804) 782-1986

Virginia Health Care Association

2112 West Laburnum Avenue, Suite 206
Richmond, VA 23227
Phone: (804) 353-9101

Note: For local housing authorities, consult the white pages of your telephone directory. Look under the city or county name and find “housing.”

HELPFUL CONTACTS

Health Care Information

Medical Society of Virginia

4205 Dover Road

Richmond, VA 23221

Phone: (804) 353-2721

(Has developed forms for executing living will and durable power of attorney for health care)

Medicare

Northern Virginia:

(800) 233-1124

Rest of State:

1-800-552-3423

The Medical Directive

P.O. Box 6100

Holliston, MA 01746-6100

(800) 214-4553

Virginia Association for Home Care

8100 Three Chopt Road, Suite 122

Richmond, VA 23229-4833

Phone: (804) 285-8636

Virginia Association for Hospices

P.O. Box 34765

Richmond, VA 23234

Phone: (804) 743-7644

Virginia Association of Nonprofit Homes for the Aging

4401 Dominion Boulevard, Suite 200

Glen Allen, VA 23060-3323

Phone: (804) 965-5500

Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services

P.O. Box 1797

Richmond, VA 23218

Phone: (804) 786-4837

Virginia Hospital Association

4200 Innslake Drive

Glen Allen, VA 23060

Phone: (804) 965-1249

Legal Information

Legal Services Corporation of Virginia

700 East Main Street, Suite 1504

Richmond, VA 23219

Phone: (804) 782-9438

Virginia Lawyer Referral Service

(Statewide Assistance)

Eighth & Main Building, 15th Floor

707 East Main Street

Richmond, VA 23219-2803

Phone: (804) 775-0808 or (800) 552-7977

Citizen Help Lines

Alcoholics Anonymous

(804) 355-1212

Consumer Protection Hotline

(800) 425-1525

General Assembly - Citizen Concerns

(800) 889-0229

Information & Referral Services of Virginia

(800) 544-2155

Medicare Home Health

(800) 552-3402

Medicare Hotline

(800) 638-6833

National Health Information Center

(800) 969-6642

National Mental Health Information Center

(800) 969-6642

HELPFUL CONTACTS

Railroad Medicare
(800) 833-4455

Small Business Administration
(800) 827-5722

Social Security
(800) 772-1213 or (800) 234-5772

Virginia Department for the Aging
(800) 552-3402

**Victims of Crime Compensation
Industrial Commission Division of Crime
Victims Compensation**
P.O. Box 5423
Richmond, VA 23220
Phone: (804) 367-8686

Note: Under a state program started in July 1977, a person who is the innocent victim of a crime can apply to the state for restitution. Compensable losses include lost wages and unreimbursable medical expenses only; loss of personal property is NOT reimbursable.

National Organizations

American Association of Retired Persons
601 East Street, N.W.
Washington, D.C. 20049
Phone: (800) 424-3410
(Can provide educational materials on advance directives and other health care and legal issues of interest to the elderly)

American Association of Suicidology
4201 Connecticut Avenue, N.W., Suite 310
Washington, D.C. 20008
Phone: (202) 237-2280

**American Bar Association Commission on
Legal Problems of the Elderly**
740 15th Street, N.W.
Washington, D.C. 20005
Phone: (202) 662-1000
(Can provide materials on medical care decision-making for the elderly)

American Hospital Association
1 North Franklin
Chicago, IL 60606
Phone: (312) 422-3000
(Has prepared Put It in Writing: A Guide to Promoting Advance Directives. Can provide materials and guidance for hospitals on issues related to ethics, death and dying and medical decision-making)

**Department of Health and Human Services -
Health Care Financing Administration**
7500 Security Boulevard
Baltimore, MD 21244
Phone: (410) 786-3000

**National Council on Alcoholism and Other
Drug Dependencies**
12 West 21st Street
New York, NY 10010
(212) 206-6770

National Council on the Aging
409 3rd Street, SW, Suite 200
Washington, DC 20024
(202) 479-1200

**Social Security Administration
Office of Public Inquiries**
6401 Security Blvd, Room 4-C-5 Annex
Baltimore, MD 21235
(800) 772-1213

HELPFUL CONTACTS

Choice in Dying

1035 30th Street, NW
Washington, DC 20007
Phone: (800) 989-9455
(Non-profit organization providing materials discussing issues of death and dying. Can provide state-specific information on advance directives).

VICAP Regional and Local Coordinators

(Area Agencies on Aging)

Donna Cornman

Arlington Agency on Aging
1801 North George Mason Drive
Arlington, VA 22207-1999
Phone: (703) 358-5030

Fancie Fox

Alexandria Agency on Aging
2525 Mount Vernon Avenue, Unit 5
Alexandria, VA 22301-1159
Phone: (703) 838-0920
Fax: (703) 838-0886
(Robert Eiffert, Director)

Appalachian Agency for Senior Citizens, Inc.

P.O. Box 765
Cedar Bluff, VA 24609
Phone: (540) 964-4915
Fax: 963-0130
(Diana Wallace, Executive Director)

Mary Jo Lowery

Capital Area Agency on Aging
24 Cary Street
Richmond, VA 23219-3796
Phone: (804) 343-3000
Fax: (804) 649-2258
(Mary C. Payne, Executive Director)

Sherri Robertson

Central Virginia Agency on Aging, Inc.
3225 Old Forest Road
Lynchburg, VA 24501
Phone: (804) 385-9070
Fax: (804) 981-1487
(Susan Williams, Executive Director)

Patti Whitt

Chesapeake Bay Agency on Aging, Inc.
P.O. Box 475
Gloucester, VA 23061
Gloucester Hotline: (800) 235-4745
(Mike Guy, Executive Director)

Margaret Roberson

District Three Senior Services
103 North Court Street
Abingdon, VA 24210
Phone: (540) 676-2148 or (800) 541-0933
(Mike Guy, Executive Director)

Diane Hall

Victoria Taylor
Eastern Shore Area Agency on Aging
Community Action Agency, Inc.
P.O. Box 8
49 Market Street
Onancock, VA 23417
Phone: (757) 787-3532
Fax: (757) 787-4230
(George V. Podelco, Executive Director)

Howard Houghton

Fairfax Area Agency on Aging
12011 Government Center Parkway
Suite 720
Fairfax, VA 22035-1104
Phone: (703) 324-5411
FAX (703) 449-9552
(Carla Pittman, Director)

HELPFUL CONTACTS

Wanda Cabell
Jefferson Area Board for Aging
674 Hillsdale Drive, Suite 9
Charlottesville, VA 22901
Phone: (804) 978-3644
Fax: (804) 978-3643
(Gordon Walker, Executive Director)

Linda Roberts
Lake Country Area Agency on Aging
1105 West Danville Street
South Hill, VA 23970-3501
Phone: (804) 447-7661 or (800) 252-4464
Fax: (804) 447-4074
(Gay Currie, Executive Director)

Shannon Abell
LOA Area Agency on Aging
P.O. Box 14205
Roanoke, VA 24038-4205
Phone: (540) 345-0451
Fax: (540) 981-1487
(Susan Williams, Executive Director)

Mary Lou Wilkins
Loudoun County Area Agency on Aging
102 Heritage Way, NE, Suite 102
Leesburg, VA 20177
Phone: (703) 777-0257
Fax: (703) 771-5161
(Anne Edwards, Administrator)

Wanda Tatum
Mountain Empire Older Citizens, Inc.
P.O. Box 888
Big Stone Gap, VA 24219
Phone: (540) 523-4202
Fax: (540) 523-4208
(Marilyn Maxwell, Executive Director)

Tom Hawley
New River Valley Agency on Aging
141 East Main Street
Pulaski, VA 24301
Phone: (540) 980-7720 or (540) 639-9677
Fax: (540) 980-7724
(Debbie Palmer, Executive Director)

Elizabeth Shaye-Pickell
Peninsula Agency on Aging, Inc.
739 Thimble Shoals Boulevard
Suite 1006
Newport News, VA 23606-3562
Phone: (757) 873-0541
Fax: (757) 873-1437
(William Massey, Executive Director)

Daphne Van Tiem
Prince William Area Agency on Aging
7987 Ashton Avenue, Suite 231
Manassas, VA 22110
Phone: (703) 792-6400
Fax: (703) 792-4734
(Lin Wagener, Director)

Nan Kiker
Rappahannock Area Agency on Aging
Bowman Center
11915 Main Street
Fredericksburg, VA 22408
Phone: (540) 371-3375
Fax: (540) 371-3384
(Carol Davis, Executive Director)

Carroll Glasker
Rappahannock-Rapidan Community Service Board
P.O. Box 1568
Culpeper, VA 22701
Phone: (540) 825-3100
Fax: (540) 825-6245
(Sallie Morgan, Director of Aging Programs)

HELPFUL CONTACTS

Roberta Lauder
Shenandoah Area Agency on Aging, Inc.
207 Mosby Lane
Front Royal, VA 22630-2611
Phone: (540) 635-7141 or 1-800-883-4122
Fax: (540) 635-7810
(Cathie Galvin, Executive Director)

Christine Stoneman
Southern Area Agency on Aging, Inc.
433 Commonwealth Boulevard
Martinsville, VA 24112-4228
Phone: (540) 632-6442 or 1-800-468-4571
Fax: (540) 632-6252
(Teresa Carter, Executive Director)

Mary Helen Brainard
Valley Program for Aging Services, Inc.
P.O. Box 817
Waynesboro, VA 22980-0603
Phone: (540) 949-7141
Fax: (540) 949-7143
(Ann Bender, Executive Director)

Other Helpful Contacts

Note: These addresses and telephone numbers are published elsewhere in the Senior Citizens Handbook, and are reprinted here for your convenience.

Age Discrimination

Division of Credit Practices
Att: ECOA
Federal Trade Commission
Washington, D.C. 20580
Phone: (202) 326-2222

Alzheimer's Association Chapters in Virginia

Blue Ridge of Virginia Chapter
P.O. Box 5014
Roanoke, VA 24012
Phone: (540) 563-1816 or (888) 563-1816

Central Virginia/Lynchburg Chapter
P.O. Box 823
Lynchburg, VA 24505
Phone: (804) 845-8540

Charlottesville/Piedmont Chapter
P.O. Box 4634
Charlottesville, VA 22905
Phone: (804) 973-6122 or (888) 755-1129

Hampton Roads Chapter
#20 The Koger Center, Suite 233
Norfolk, VA 23502
Phone: (804) 459-2405 or (800) 755-1129

Northern Virginia Chapter
10201 Lee Highway, Suite 210
Fairfax, VA 22030
Phone: (703) 359-4440 or (800) 207-8679

Greater Richmond Chapter
7124 Forest Hill Avenue, Suite B
Richmond, VA 23225
Phone: (804) 320-1101 or (800) 598-4673

Shenandoah Valley Chapter
284 East Water Street
Harrisonburg, VA 22801
Phone: (540) 432-9061 or (888) 432-9061

Southside Virginia Chapter
P.O. Box 310
South Hill, VA 23970
Phone: (804) 447-3963 or (800) 758-8318

HELPFUL CONTACTS

Consumer Guide

Director, Bureau of Consumer Protection (MO-P)
Federal Trade Commission
Washington, D.C. 20580
Phone: (202) 382-4357

Continuing Care Retirement Communities

American Association of Homes & Services
for the Aging
AAHSA Publications
901 E Street, NW, Suite 500
Washington, D.C. 20004-2011
Phone: (202) 783-2242

Discrimination Based on Disability

Equal Employment Opportunity Commission
(EEOC)
1801 L Street, N.W.
Washington, D.C. 20507
Phone: (202) 663-4900 (Voice)
800-800-3302 (TDD)
1-800-669-3362

U.S. Department of Justice Coordination and Review Section

P.O. Box 66560
Civil Rights Division
Washington, DC 20035-6118
Phone: (202) 514-4609

Department of Rights of Virginians with Disabilities (DRVD)

202 North 9th Street, 9th Floor
Richmond, VA 23219
Phone: (800) 552-3962

Funeral Services

Board of Funeral Directors and Embalmers
6606 West Broad Street, 4th Floor
Richmond, VA 23230-1717
Phone: (804) 662-9907

Veterans' Assistance Service

807 East Broad Street
Richmond, VA 23219
Phone: (804) 786-2261

Home Care

Virginia Hotline
Phone: (800) 955-1819

Long-Term Care Insurance

Bureau of Insurance
Phone: (804) 371-9741

Long-Term Care Ombudsman Program

Mark C. Miller, State Long-Term Care Ombudsman
Virginia Department for the Aging
Phone: (804) 662-9333 or (800) 552-3402

Nursing Homes, Homes for Adults & Adult Daycare

Long-Term Care Ombudsman Program
Virginia Association of ARea Agencies on Aging
Phone: (800) 552-3402

Capital Area Agency on Aging

Phone: (804) 343-3000 or (800) 989-2286

Complaint Coordinator

Office of Health Facilities Regulations
Virginia Department of Health
Phone (804) 367-2102

Virginia Department of Health Professions

Phone: (800) 533-1560

HELPFUL CONTACTS

Railroad Retirement Act Benefits

U.S. Railroad Retirement Board
Roanoke, Virginia District Office
210 First Street, Room 460
P.O. Box 270
Roanoke, VA 24002
Phone: (540) 857-2335

U.S. Railroad Retirement Board
Norfolk, Virginia Branch Office
700 Center Building
704 East Franklin, Room 232
Richmond, VA 23219-2313
Phone: (804) 441-3335 (Norfolk number)

U.S. Railroad Retirement Board
Richmond, Virginia Branch Office
700 Center Building
704 East Franklin, Room 232
Richmond, VA 23219-2313
Phone: (804) 771-2997

Social Security

Social Security Administration
Phone: (800) 772-1213

Veterans' Affairs

Benefits:
United States Department of Veterans Affairs
Richard H. Poff Federal Building
710 Franklin Road, S.W.
Roanoke, VA 24011
Phone: (800) 827-1000

Appellate Assistance:
Virginia Department of Veterans Affairs
Phone (540) 857-7101