



Legal Assistance for Seniors  
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# the SENIOR leader

Newsletter for Legal Assistance for Seniors

## CASE BY CASE

Picture this: You are seven years-old. You are walking home from school. Home is a motel room and this is the third such home you've had in two months. When you get home, the place is completely torn apart and your parents are no where to be found.

What do you do? Well, if you are little Lindsay Nayer, you call your grandma, Diana Moiko. Diana knew that Lindsay's parents were often unemployed and that they both had drug abuse problems. In the past Lindsay had stayed with her when her parents were incarcerated.

Diana worried for Lindsay's safety as she was always moving and surrounded by drugs and criminals. This time it was Lindsay's father who was serving a two-year jail term. Lindsay's mother had no plans except to stay at the motel for as long as she could.

Diana approached Lindsay's mother about Lindsay coming to live with her to see how it worked out. Lindsay really enjoyed living with Diana, and her performance in school improved. Seeing Lindsay's improvement under her care and stability, Diana decided to seek permanent guardianship of her granddaughter, so that Lindsay wouldn't need to worry about being taken away by her parents. She contacted LAS, and our attorney helped her make the decisions that were best for her and Lindsay. Eventually, Lindsay's parents realized that she had a better life than they could provide and agreed to the guardianship and supervised visits.

Today Lindsay is a happy 8 year-old who continues to do well in school.



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of covered drugs. Prescription drug plans are supposed to provide at least a 30-day "transitional" supply of medication in these circumstances; however, this has not always been the case. HICAP staff and volunteers continue to work with the CMS hotline, the prescription drug plans, and the pharmacies to get the proper authorization for payment. CMS has since requested that all plans provide a 90 day transitional supply up to the end of March of this year and is considering making the 90 day transition a requirement for next year.

Fortunately, the number of new situations where beneficiaries are unable to get their prescriptions filled has lessened in recent weeks and many clients have reported satisfaction with the savings they will realize from the Medicare Part D benefit. However HICAP is now working to get reimbursements for those clients who overpaid for their medications. Some dual-eligible clients, who should not have to pay any

more than \$1 (generic) to \$3 dollars (brand-name) per covered medication, paid co-payments of \$30 to \$200 dollars when trying to fill their prescriptions. We are also prepared to help clients through the appeals process when the transitional provision and the emergency Medi-Cal payments end. Clients should also contact their plan for information on how to request an exception or file an appeal.

Beyond this, our HICAP counselors still remain at the forefront in explaining the Medicare Part D benefit to many individuals who still need to make a decision. The May 15th deadline for enrollment is coming soon. Dual-eligibles, however, are able to change their plans on a monthly basis throughout the year. Appointments with HICAP counselors are still being filled at a steady rate at over 30 locations throughout Alameda County and phone counseling is also available by calling 510-839-0393 or 1-800-434-0222.

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For more information or to schedule an appointment, please contact us at 1-800-393-0363

[www.lashicap.org](http://www.lashicap.org)

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*Our mission is to ensure the independence and dignity of seniors by protecting their legal rights through education, counseling, and advocacy.*

## What's Happening?

### Volunteers—Save the Date!

The Legal Assistance for Seniors and HICAP Volunteer Appreciation Luncheon will take place on Friday, May 19, 2006. Your invitation will arrive in mid-April. Let us say thank you for all your hard work!

## LAS in the News

LAS and HICAP have received a great deal of attention from the media lately. On November 24, 2005, the *Alameda Sun* ran an article about Medicare Part D. HICAP Program Manager Janet Van Deusen was interviewed along with Will Lahaie, an ex-HICAP counselor. Janet was joined by Sylvia Gagne, LAS Librarian, on the subject of Medicare Part D in an interview by KRON-TV Channel 4 on January 17, 2006.

The *East Bay Express* published an article about elder abuse on December 21, 2005, featuring LAS staff attorney Hong Chew, and on January 27, 2006, the *Oakland Tribune* Business section headlined an article about Elder Abuse featuring LAS Legal Director Anne Hightower and Hong Chew. Hong was once again featured when KTVU produced a segment on Judge Julie Conger's Elder Protection Court that aired on February 15, 2006.

We're always pleased to have the media pay attention to our staff members and their accomplishments. We're especially pleased to see elder issues receive an increasing amount of press coverage.

### How You Can Help

Your generosity will help in our ongoing effort to preserve the well-being and dignity of Alameda County's senior community. LAS is a nonprofit 501(c)(3) charitable organization. All contributions to LAS are tax-deductible to the fullest extent allowable by law.

To donate, please mail your check or money order payable to LAS in the enclosed envelope. To make a secure online donation with a credit card, please go to our website, [www.lashicap.org/donate.htm](http://www.lashicap.org/donate.htm). For additional donation information or to be added to our mailing list, please call (510) 832-3040 or toll free at (800) 393-0363.

## Annual Conference

### 2nd Annual Elder Abuse Conference!

LAS will host its 2nd annual Elder Abuse Conference, "Let's Stop the Bleeding," at the Oakland Airport Hilton Hotel on May 1 and 2, 2006. The conference will be presented in partnership with the California Department of Aging, the Office of the State Long-

Term Care Ombudsman, Elder Financial Protection Network and the State Bar of California.

Monday, May 1, will open with a General Session entitled *CAPACITY: How Do You Know If It's There or Not?* Oakland attorney Priscilla Camp and Dr. Tessa ten Tusscher of the Institute on Aging in San Francisco will attempt to answer this question.

California Attorney General Bill Lockyer will offer the keynote speech at the luncheon on Monday, May 1. During his time in office, Lockyer has shown an intolerance towards crimes against the elderly and has been a strong advocate for elder abuse prevention.

At the luncheon on Tuesday, May 2, Judge Julie Conger of the Alameda County Superior Court will lead a judicial panel discussion about cutting edge, elder-friendly courts in California. Judge Conger has been Supervising Judge of the Elder Protection Court since its inception in 2000. As such, she has been instrumental in leading the fight against elder abuse.

In addition to these exciting speakers, attendees will be able to attend five educational workshops, chosen from a list of twenty-two separate topics.

As an adjunct activity, the Elder Financial Protection Network will offer training for financial institution representatives during the afternoon of Monday, May 1. *CONFRONTING ELDER FINANCIAL ABUSE: Tools and Solutions for Financial Institutions*, will consist of the following substantive segments:

- Understanding SB 1018 – The new Mandatory Reporting Law, Compliance, Requirements and Challenges
- Be Wise: Recognizing and Reporting Suspected Elder Financial Abuse – Implementing a Staff Training and Reporting Program (including a demonstration of EFPN's new online training program)
- Best practices in Financial Literacy/Fraud Prevention Programs for Elders and Maximizing Your Community Outreach and CRA Investment

Anyone interested in attending the conference or the financial training can find additional information—including online registration and fee payment in mid-March—on our website, [www.lashicap.org/events.htm](http://www.lashicap.org/events.htm). If you would like to be added to the conference mailing list, please contact Rosalie Paich at 510-832-3040, Ext. 323 or [rpaich@lashicap.org](mailto:rpaich@lashicap.org).



## Medicare Part D... Dealing with the Difficulties

The highly anticipated Medicare prescription drug benefit (Medicare Part D) began January 1st of this year and unfortunately got off to a very rocky start for many people. Many clients, mostly those with low incomes, were bewildered and upset when they were not able to fill their prescriptions or were charged high co-payments at the pharmacy. Pharmacists were overwhelmed by the difficulties in getting proper billing information for the different Part D plans, and the plans themselves along with 1-800-Medicare were overwhelmed by phone calls, resulting in waits of up to two hours for a customer service representative. In January, the HICAP lines at Legal Assistance for Seniors were averaging 75 calls per day.

Most of our cases have been from dual-eligible clients (those with Medicare and Medi-Cal) who were automatically transferred to a Part D plan starting January 1st. Many of these people found their enrollment had not been processed in time, so they had not received their identification card when they needed to fill their prescription at the pharmacy. Some did not bring their card with them or simply did not understand

that they could no longer use their Medi-Cal card to get their drugs. (People with Medi-Cal can still use their card for all other medical services.) Others had fallen through the cracks and were not assigned to a Part D plan. Furthermore, the electronic back-up system the government had put in place to assure payment to pharmacies was not working at first. As a result, many pharmacies were unable or unwilling to provide free prescription refills without assurance of reimbursement. In several cases, staff and volunteers had to refer clients to hospital emergency rooms to get needed medication. In less severe cases, we placed many calls to the Centers for Medicare and Medicaid Services' (CMS) emergency hotline and to the Part D companies to sort out which plans clients were enrolled in, how to get evidence of enrollment, what pharmacies they could go to, and how they could get their medications covered by their plan.

In January, California joined other states in passing emergency legislation, which authorized Medi-Cal to continue paying the prescriptions for low-income beneficiaries whose pharmacies could not get payment from the Part D plan. HICAP has worked with the Department of Health Services and many of these pharmacies to provide them with the proper instructions for billing the state. By the middle of February, California had spent over \$20 million on this safety net provision and joins the other states in pursuing reimbursement from the federal government. The legislation allows the Governor to authorize continued state payment in emergency situations through the middle of May.

Another problem clients have faced when trying to fill their prescriptions is finding out that the particular drug they need is not on their plan's formulary, or list

*Continued on back*

## GUARDIANSHIP: *when parents fail*

According to Census 2000, nearly two and a half million grandparents in the United States are heads of household with primary caregiving responsibility for more than four and a half million children under the age of eighteen. In California, where the number of children living in grandparent-headed households increased 49.8% between 1990 and 2000, seven percent of children under 18 live in a grandparent-headed household. In Alameda County in 2003, approximately 9,000 grandparents were raising their grandchildren, and 10.5% of those lived below the poverty level.

Many children begin living with their grandparents in an informal relationship occurring because of a sudden unfortunate event or set of circumstances involving the natural parents. These caregivers inevitably run into roadblocks because of the informal nature of the relationship such as being unable to enroll the children in school. Others find they are unable to obtain medical treatment for a child. Public benefits to help with the additional expenses associated with child rearing are unavailable to caregivers in informal relationships. And many grandparents live in fear of an unfit parent taking the child away. For many reasons, grandparents need guidance and representation to change their legal relationship to the grandchildren they are raising.

Legal Assistance for Seniors' Grandparent as Caregiver Advocacy Project (GCAP) is a unique service that encompasses generations to help bridge the gaps in families when parents fail. Our project helps grand-

parents access information and tools that can help them successfully become legal guardians, a necessary step in providing education, health care and public benefits to the children. During FY 2004/2005, LAS handled 186 guardianship cases, impacting the lives of more than 300 children.



LAS receives no governmental funding for The Grandparent as Caregiver Advocacy Project. Instead, we must rely on private foundations and private donors. For the current fiscal year we were fortunate to receive grants from the City of Oakland and the Y & H Soda Foundation to help maintain this vital program. Your tax-deductible donation in the enclosed envelope will be applied to GCAP if you check the box on the lower right hand corner of the envelope.



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## An Interview with Hong Chew



Hong Chew is a staff attorney at LAS, focusing on Elder Abuse.

**Q: When did you start working at LAS? Where did you go to school?**

**A:** I started work at LAS in July, 2004. I did my undergraduate at U.C. Berkeley with a B.A. major in Legal Studies. I worked for one year

before going into law school. I got my J.D. from New College of California School of Law. It's a very progressive law school with a public interest mission for all of its students.

**Q: How many cases do you handle per month?**

**A:** I handle an average of about 5 new cases a week. Given holidays and vacation time, it is 5 cases multiplied by 50 or 49 weeks totaling over 200 cases per year.

**Q: Why did you choose to focus on Elder Abuse?**

**A:** I think Elder Abuse chose me because I think it takes a certain personality to specialize in that field. You need to have thick skin and not be easily bothered by scumbags that beat up on their grandmothers. If they can do that, they will do worse to you.

**Q: You do a lot of work with Judge Julie Conger of the Alameda County Superior Court, to the benefit of many LAS clients. How did that relationship develop?**

**A:** When you appear before the same judge every week for over a year or two, that judge is going to know you and will know exactly what you're going to say or do in any particular case. Judge Conger knows

me for that same reason, and I think she likes how I operate in the courtroom and how I handle my cases.

**Q: Did you always want to be an attorney?**

**A:** No, I actually wanted to be a Jesuit priest at one time, a social worker at another time, then a teacher at yet another time. Law school and lawyering was always in the back of my mind, but I never wanted to be a lawyer for the fight, money, or prestige. Being a lawyer was just another way for me to make a living helping people.

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-Hong Chew, Staff Attorney at LAS

**Q: What do you find most satisfying about your job?**

**A:** The sense of empowerment that victims of elder abuse feel by having an attorney on their side, retained for any later purpose, just in case.

**Q: Hobbies, interests, free time activities?**

**A:** I babysit young-uns, tutor law students, and hang out with family and friends. If and when I find the time, I will have a black lab as a pet.

## Sabina Makarov: Contracts Compliance Officer

As the Contract Compliance Officer, Sabina maintains all of our government and foundation grants to ensure that all goals are met and that reports are delivered on time. Her native Russian is coming in handy, too. She's helped HICAP reach an under-served population of Russian-speaking seniors in Alameda County.

Sabina was born in Odessa, Ukraine on June 2, 1980. While going to school in the Ukraine, it was mandatory for her to study English as a second language. When she entered University, Sabina decided to continue studying English with the hopes of eventually becoming an English teacher.

In 1999, she came to the U.S. with her grandparents and younger sister in search of a better life. It's safe to say that all her English studies were well worth it. A year later, Sabina went to Diablo Valley College and then transferred to San Francisco State University, where she received her degree in International Relations. Sabina has an 18-month old daughter who stays with her grandparents during the day while she and her husband are at work. Sabina's grandparents

are an important part of her life. They helped raise Sabina and her sister and have offered a lot of support over the years. Sabina is very happy that they live nearby.

Sabina has always wanted to become an ambassador for the U.S. State Department. Even if she had to sit at a desk and stamp visas, she'd be perfectly happy. She likes being both efficient and busy and can often be heard helping clients in Russian. She'd like to say more but she has a report to finish up!



Sabina Makarov

*Sabina's native Russian is coming in handy, too. She's helped HICAP reach an under-served population of Russian-speaking seniors in Alameda County.*