



Stopping Financial Exploitation While Protecting Rights: APS and Commerce Partnership

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Agenda

- Adult Protection Role in Safe Senior Financial Protection Act
- Safe Senior Financial Protection Act – Commerce Authority
- Commerce and Adult Protection Coordination
- Best Practices: Balancing Rights and Protection
- Case Study

Vulnerable Adult Act (VAA) – Criteria

An Adult Age 18+

- Participating in services licensed by DHS or Minnesota Dept. Health;

OR

- Impairment/Diagnosis +

Need for assistance with ADL's or IADL's +

Impaired ability to protect self from maltreatment

Financial Exploitation: Vulnerable Adult Act

- Fiduciary – violating duty by stealing, or using assets for someone other than the adult, or failing to use their resources to maintain health and safety of adult who is vulnerable
- Non-fiduciary –acquiring, holding, or spending assets of an adult who is vulnerable using undue influence, theft, fraud, coercion, harassment, or scam.
- Fiduciary/Non-Fiduciary – compelling the adult to perform services for profit of another

APS Mission Statement

Adults who are vulnerable and those who support them receive the assistance they need to identify, prevent, report, stop, and minimize the risk for abuse, neglect, and exploitation through tribal, state, and county partnerships.

Minnesota APS Core Operating Principles

Sometimes adults need support

****Choice and values are balanced with safety***

Respect for the cultural identity and dignity of all involved guides protective services while we balance the choices and values of the person who is vulnerable with support for them to be safe from abuse, neglect, and exploitation.

Focus on outcomes

Adults Referred to APS by Minnesota Adult Abuse Reporting Center (MAARC)

Calendar Year	Fiduciary Financial Exploitation	Non-Fiduciary Financial Exploitation	Total Financial Exploitation	Change Prior Year
2019	3,140	8,044	11,184	N/A
2020	2,643	6,719	9,362	-16%
2021	2,683	6,954	9,637	+3%
2022	3,142	8,422	11,564	+20%

APS Coordination Assessment and Service Engagement

Support Person(s) for the adult

Providers

Tribal Agencies

Law enforcement (Commerce!)

State and Federal Agencies (Commerce!)

Licensing Boards

Ombudsman

Multi-Disciplinary Team (MDT's)

APS Assessment Activities

- Interviewing the adult and others with knowledge
- Assessment Safety, Strengths, Needs
- Consulting with support person(s)
- Communicating with providers, case managers, ombudsman, tribal, state and federal agencies
- Obtaining medical and financial records

Adults Rights and Protection

- Autonomy in decisions including their own assets
- Make mistakes
- Choose relationships
- Communicate with persons of their choice
- Privacy
- Retain rights not removed by a court

APS Interventions to Stop Financial Exploitation

- Treatment or Counseling
- Education and Support for the Adult or Support person
- Financial Management Assistance - meeting with financial institution, money management
- Legal Services –Supported Decision Making (SDM), Power of Attorney (POA), Trustee, advocacy, asset recovery

APS Interventions (Continued)

- Move, change phone, change mail routing, or change financial institutions
- MDT Coordination
- Engaging a Support System
- Victim Services

APS Involuntary Interventions

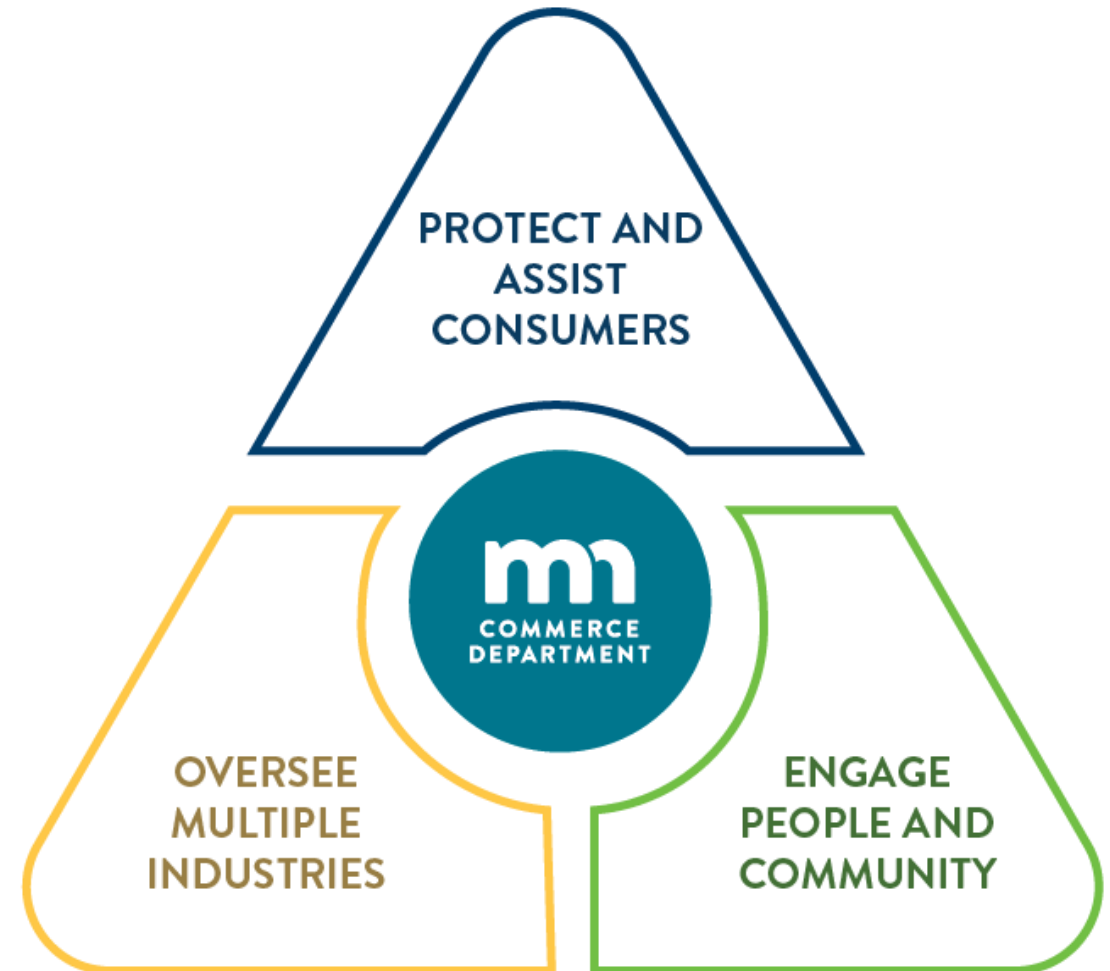
- Financial Fiduciary* – Representative Payee, Conservator
- Transaction Hold
- Consultation with Support Persons*
- Restraining Order*
- Law enforcement, or government agency coordination*

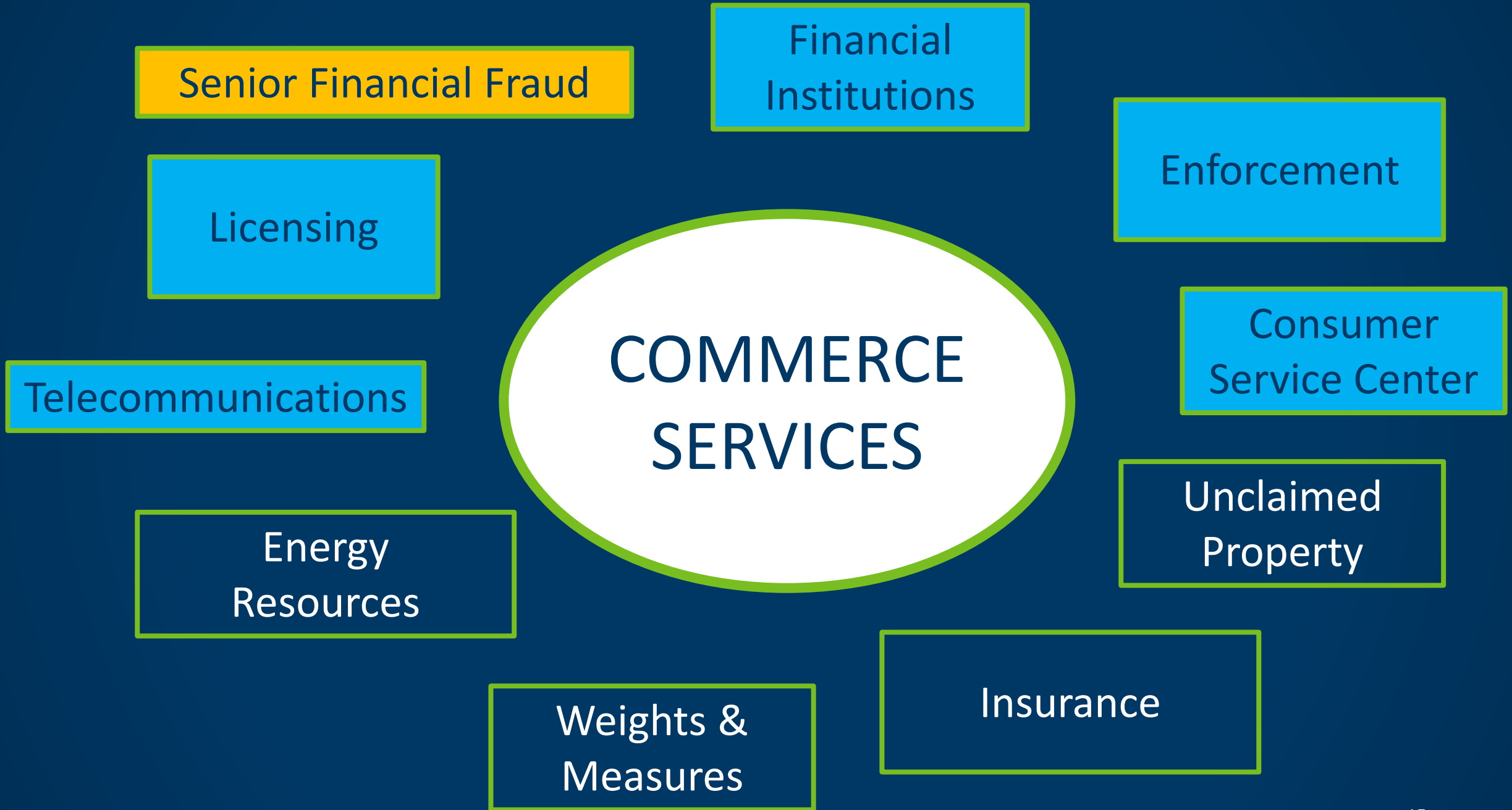
* *May be voluntary*

About the Minnesota Department of Commerce

Mission

- Protect and assist consumers
- Engagement with all communities
- Oversight of 40+ industry areas





Elder Financial Exploitation Defined

“The illegal or improper use of an [eligible] adult’s funds, property, or assets.”

- National Center on Elder Abuse

Senior Financial Protection Act – Chapter 45A

Purpose

Purpose:

- Prevents substantial financial loss by compelling financial services providers (banks, credit unions, brokerage firms) to place temporary holds on transactions or delay disbursements of funds of clients who are suspected victims of fraud or exploitation
- Does not prevent client from withdrawing funds to pay for daily living expenses, care and housing costs; only stops suspicious transactions
- Provides immunity to financial services providers for holding funds
- Protects *any* adult over age 65 and vulnerable adults 18+

More on Temporary Holds

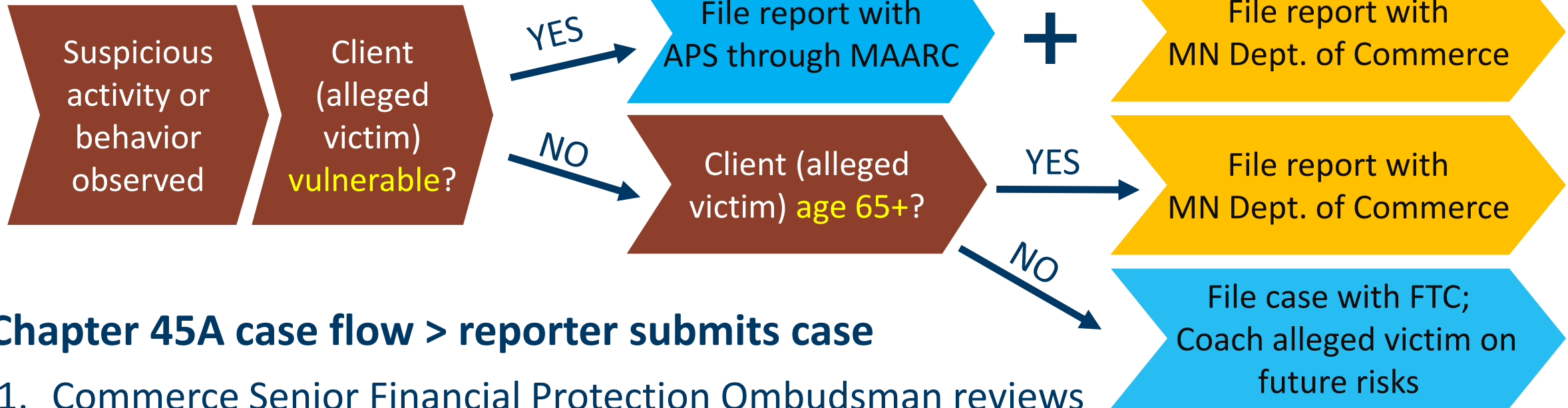
- Holds last 15 business days (3 weeks)
- Holds can be extended by 10 business days (2 weeks) by request from lead investigative agency, such as law enforcement, Commerce, prosecutors, and APS
- Account holder notified of the hold right away and has the right to appeal; decision from the commissioner is required within five days of the appeal
 - No clients have appealed so far; only a few have inquired about the process

Important!

- Chapter 45A clients include **any** person age 65+ who is at risk of or experiencing financial exploitation or fraud
 - Evidence of vulnerability not required for a temporary hold
- Chapter 45A clients can also be younger than age 65 if they are categorized as vulnerable
- **Anyone** can report senior financial fraud: mn.gov/commerce/money
 - Financial institutions are often the ones reporting cases
 - APS workers, LE officers, family, and friends report too

Senior Financial Protection Act – Chapter 45A

Reporting process:



Chapter 45A case flow > reporter submits case

1. Commerce Senior Financial Protection Ombudsman reviews
2. Commerce investigates allegations to assess risk: contacts alleged victim, case reporter and third parties; searches law enforcement databases, gathers records
3. Commerce decides appropriate intervention: May request that financial institutions implement a 15-day hold on client's accounts; will discuss risky behaviors with client to help prevent further exploitation

What can Commerce do to help?

- Receive and investigate reports
- Discuss suspicious transactions with the alleged victim
- When scams occur, try to persuade the victim that they are being exploited
- Work with the victim's financial institutions to place temporary account holds
- Cross report to local and/or federal law enforcement

APS / Commerce Coordination

APS coordinates with Commerce when:

Financial exploitation is likely being perpetrated by a person, organization, or scam and the adult's resources in a bank, a credit union or investment account are at risk of being exploited

APS Coordination With Commerce

- Information, Advice and Referral for reporters or adults who do not meet APS eligibility criteria ex. Elder who is not vulnerable
- Assessment: Safety, risk, service planning
- Interventions to stop, reduce risk and prevent maltreatment
- Determination of Responsibility for Maltreatment: When necessary for Commerce to make hold decision

Commerce Coordination with APS

- MAARC reporting
- Scope of Safe Seniors program
- Records
- Transaction delays or holds; extensions
- As regulator and law enforcement agency

Temporary Transaction Delays: Balancing Rights with Protection

- Person Centered Approach – respectful engagement
- Using Consultation & Tools – olderadultnestegg.com
- Respecting Privacy in Data Sharing – if necessary, minimum necessary
- Voluntary Interventions – Least Restrictive
- Respecting Rights – statute and due process

APS Assessment Closure

Safe Senior Protection Act is temporary intervention

APS remains open and engagement with the adult and support continues until the adult is safe from reoccurrence of financial exploitation.

Balancing Rights and Protection from Financial Exploitation

The following is an example about balancing the adult's rights of choice versus protection from financial exploitation.

Key Issues:

- What else do you want to know?
- What is the least intrusive approach?
- Should a transaction delay be used?

Shirley – Safe Senior Protection Act?

Shirley's son says she receives 10 phone calls a day and is sending weekly gift cards to claim a prize she has been told she won. Shirley, an occasional casino customer, believes she has won the PCH 2nd chance drawing and needs to follow the company representative's directions to receive her winnings. She admits that she has paid \$1,000, but a quick review of her bank statements shows she has spent \$10,000 of the \$50,000 in her checking account at local stores and buying cryptocurrency in the past month. Shirley's son reported to MAARC. He has a power of attorney, but doesn't know how to prevent further exploitation.

QUESTIONS?

... about reporting a case to the MN Dept. of Commerce?

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Thank You!

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[MAARC / Minnesota Department of Human Services \(mn.gov\)](#)

[Safe Seniors Act / Minnesota Department of Commerce -
Money \(mn.gov\)](#)