NCEA National Center on Elder Abuse

ISSUE BRIEF

Elder Abuse Multidisciplinary Teams: Decision Supports for Older Adults

Introduction

Adult maltreatment multidisciplinary teams (MDTs) review and provide recommendations to address complicated cases of elder mistreatment. Cases involve multiple harms, with adults often experiencing legal, social, medical, physical, financial, and familial injuries. Given the complexities and nuances of elder mistreatment, effective resolution requires multi-agency input. Through comprehensive and coordinated case review, MDTs offer the shared expertise of professionals across disciplines to identify opportunities for intervention. The goal is to prevent elder mistreatment and optimize outcomes for older adults. The challenge is often balancing an adult's safety while also respecting their self-determination.

Though older adults are not present during MDT review, it is important that the team consider their goals and reflect these goals in options for resolution. All individuals have fundamental rights, such as the right to be treated with dignity and respect, to be safe, to exercise freedom of religion, and to have access to justice.[1] These foundational rights are not ceded because of advanced age or lived abuse. Cognitive decline does not deprive older adults of the ability to participate in decision-making or assert their preferences in addressing maltreatment.

FOUNDATIONAL RIGHTS


Dignity and respect


Safety


Freedom of religion


Access to justice

MDT Case Review and Older Adults with a Range of Decisional Abilities

All MDTs regularly review matters involving adults with a range of decisional abilities. Older adults with cognitive impairment may experience mild, moderate, or severe deficits, and have varying degrees of capacity. Capacity is the ability to do a specific task or make a specific decision. It includes both functional and decisional abilities. The degree of deficit may differ by task, time of day, and context. Adults may have the capacity to do or decide one thing, but not another. Decisional ability may wax and wane over time. It may also improve with medical treatment, cognitive training, rehabilitation, and/or support. Each person is unique and must be viewed independently.

MDT members should strive to integrate the older adult's voice in case review, safety planning, and options for resolution. In a client-driven framework, remedies proposed by MDTs should reflect the adult's goals, preferences, values, cultural traditions, and family context.

Individualized evaluation examines what is important *to* the person, not just what may be important *for* them.

This approach aligns with federal regulations for Adult Protective Services (APS)[2] that promote an older adult's decision-making and self-determination in responding to maltreatment, when possible and practicable.[3] Tailored strategies may also yield better outcomes, recovery, and wellbeing for older adults.

Elder abuse MDT members should be familiar with the full range of decision supports.

The Range of Decision Supports

Voluntary decision supports can be informal options or formal legal tools. Often a creative combination of both will best help an adult in need. Informal supports may include relying on family members or trusted friends for help with decision-making. Informal supports could also include the use of technology, as well as home and community-based services. Formal legal arrangements use tools such as financial powers of attorney and health care advance directives. To put these legal tools in place often requires advance planning. The adult must have the capacity to understand what the tools and related documents mean and what authority they are delegating. MDTs can suggest specific tools if they find the individual is able and willing to execute the documents.

MDT agencies may help to engage clients in advance planning and strengthen community awareness about planning tools.

Tailored Approaches

Two decisional approaches are directly rooted in client voice and preferences about both health care and finances: supported decision-making and the use of service advocates *(also known as elder advocates)*. In both cases, older adults receive the support they need in articulating and implementing their own goals and objectives. Other decision supports instead rely on someone else besides the adult to make decisions on their behalf, and generally fall into two related but distinct categories of health/personal decisions and financial decisions.

Supported decision-making: Supported decision-making is a voluntary decision support through which an adult makes and communicates their own decisions with the assistance of a trusted person they choose, rather than assigning someone else as a surrogate to make decisions for them (*as with a power of attorney or advance health care directive*).[4] Supporters can be family members, friends, colleagues, and past or present providers. They help the individual understand the choices, risks, benefits, and consequences of proposed decisions. Supported decision-making arrangements can be formalized in written agreements.

Service advocates: Service advocates[5] are retained by MDTs or APS agencies to work with older adults to help implement safety plans that prioritize the older person's wellbeing and values while reducing environmental harm.[6] In a gradual process over the course of months, the older adult's preferences guide their path and timeline to harm reduction and goal attainment. Advocates report the older adult's progress to MDT and APS colleagues in a concerted effort to help the elder reach safety and self-directed improved wellbeing.

Health Care and Personal Surrogate Decisions

Informal help and services: Friends and family can help with decision-making. For example, a family member might help find medical providers and home care, help supervise a home caregiver, drive an adult to appointments, and attend medical appointments to provide medical history and make a doctor's advice more understandable. Technology, such as telemedicine, wearable monitors, and smart phone apps can connect people to a range of services.

Supports funded by the Older Americans Act could include transportation, home-delivered meals, and chore services. Some localities have additional government-funded supports such as intensive case management. Other informal decision supports include connecting an adult with primary medical care or home health care, facilitating mental health and substance abuse treatment, and making referrals to legal services.

Medical power of attorney (also known as health care power of attorney): Individuals use a legal document to name a trusted person to make health care decisions if and when they are not able to do so.

Advance directive: Previously known as a living will, advance directive documents do two things: name a health care agent and give instructions to the agent on the person's health care preferences and choices.

Physician Orders for Life Sustaining Treatment (POLST, also called POST, MOLST, MOST, or other terms in various states and regions): Patients with serious or advanced illness discuss with doctors or other authorized health care providers various treatment options for the end of life. The clinician records the patient's preferences on a form that is recognized as a medical order. These orders can help ensure that a seriously ill patient's wishes are honored, and give them more control over their care.

Default health care surrogates: Over 45 states have enacted default health care surrogate statutes providing a priority list of family members and others who can make certain health care decisions for an adult who: (1) is unable to make their own decisions; and (2) does not have a medical power of attorney or advance directive. States differ in the inclusiveness of the list and the kinds of decisions default surrogates can make. MDT agencies should be familiar with their state default health care surrogate law, and consider when it might help to further individualized care – yet be aware that default surrogate decisions may not always align with an individual's values and preferences.

Financial Surrogate Decisions

Informal supports through financial institutions and other providers: Adults can set up direct deposit of income payments, eliminating lost or stolen checks, trips to the bank, and the need to remember to make deposits. Automatic bill payment also makes financial management easier for most things that a person needs – utility bills, insurance payments, credit card bills, and rent or mortgage payments. Additionally, bill payer programs and daily money managers can help with paying bills. The bill payer does not make financial decisions, so the individual remains in control.

Authorized signers on financial accounts: Some banks allow a second person besides the primary account holder to make transactions. The second person does not own the funds in the account, and does not inherit them if the primary accountholder dies. These may be called convenience accounts and may not be available in all states.

Joint accounts: Joint accounts allow more than one person to own and manage an account and to withdraw funds. Joint accounts can be convenient because they allow the second person to pay bills and manage funds for the other accountholder. However, there are serious risks with joint accounts. The second person (who may not have contributed any of the funds) may misuse the money. Moreover, if the second person has debts, their creditors could seek to be paid from the account.

Financial power of attorney: A financial power of attorney is a document in which one person appoints someone (the agent) to make decisions about money and property for them if they are unable to do so. The power of attorney could grant broad powers or could be for a limited purpose. The agent is a fiduciary and should be someone trustworthy. The power of attorney must fit the individual's needs and circumstances, so it is generally a good idea for an attorney to draft it.

Revocable living trusts: An individual may set up a trust, in which a trustee holds property and manages funds for the benefit of named others. Trusts are complicated and usually are drafted by attorneys, typically when an individual has substantial funds or other property. Like agents under a power of attorney, trustees are fiduciaries with high duties of care and accountability.

Representative payees: When an individual receives benefits (such as Social Security, Supplemental Security Income, or veterans benefits) but cannot manage the payments independently, the agency that pays the benefits selects a payee to receive and manage the funds. The payee can only manage the person's public benefits and not any other money or property. Although the Social Security Administration (SSA) can appoint a payee without the consent of the beneficiary, SSA now permits beneficiaries to make an Advance Designation naming up to three people they recommend for appointment if they are later unable to manage their own benefits.

Involuntary Intervention

All of the above options are less restrictive than the involuntary intervention of guardianship.[7] Little is known about the extent to which MDTs recommend these voluntary support options in practice – and do so in light of the adult's priorities.[8] Some may too readily look to guardianship, as it shifts the burden from the MDT member agencies to the courts and court-appointed guardians.

Adult guardianship is considered a remedy of last resort because it may remove an individual's fundamental rights such as the right to vote, marry, make medical decisions, manage money and property, and sign legal documents. Importantly, guardianship is not a cure-all and cannot solve all of the issues raised in cases of elder abusee and reviewed by MDTs. For example, by itself guardianship will not keep someone off the streets if they want to live there, change family dynamics, cure mental illness, or produce affordable housing where none exists.

According to state law, courts must not impose guardianships when a less restrictive option (such as voluntary supports) would suffice.

CASE EXAMPLE

Max has mild cognitive impairment, but has clearly expressed that he wants to live in his old house, even though it is fraught with dangers due to lack of repairs and Max's hoarding. He wants to continue living with his son who is using his Social Security to buy drugs and pay his own debts.

MDT discussion should draw out:

- Why Max wants to remain in his house
- The nature and status of Max's relationship with his son
- The extent of "danger" to which Max is exposed, his awareness of the risks in the home, and his son's misconduct (for example, how much risk is Max willing to tolerate? Can the risks be mitigated? Is prosecution an appropriate remedy to address his son's exploitation or are less restrictive options available?)
- Max's alternatives to living with his son, and whether he has considered these options (for example, Would Max consider moving to a safer location? Are there other relatives, friends, or supports available?)
- Mechanisms (legal, restorative, or otherwise) available to prevent recurrent financial abuse and neglect (including power of attorney, Social Security representative payee)
- Which agencies have services and supports that can help (for example, home modification programs for Max, drug treatment and debt reduction programs for his son, service advocate)
- How to address the dynamic between Max and his son, given Max's preference to live with him (for example, mediation)

By making Max's priorities the central concern, the team can move toward a plan with multiple support options that best empowers yet protects Max.

Key MDT Practices to Promote Decision Supports

Solicit the adult's goals and preferred remedies in case review and recommendations

Assess the adult's cognitive abilities and need for decision supports

Identify, recommend, and exhaust all voluntary support options before resorting to involuntary remedies such as guardianship

Know the local resources and supports, including Area Agencies on Aging, faith-based supports, counseling, and community networks

Know the full range of legal and practical planning tools, and engage adults in advance planning when possible

Enlist service advocates to work with older adults to facilitate goal attainment and harm reduction

ENDNOTES

1 Bill of Rights for Adults Who Have a Guardian. (2022, November 10). https://www.guardianship.org/wp-content/uploads/NGA-Bill-of-Rights-rev-11-4-22.pdf

2 45 CFR Sec.1324.402(b)(1).

3 Adult Protective Services Programs and Grant Functions, 89 Fed. Reg. 39504 (final rule May 8, 2024) (to be codified at 45 CFR Part 1324).

4 Administration for Community Living, "Supported Decision-Making Program," https://acl.gov/programs/consumer-control/supported-decision-making-program

5 Many locations do not have service advocate programs.

6 Brummel-Smith, K. et al., "Person-Centered Care: A Definition and Essential Elements," Journal of the American Geriatrics Society, 64(1), 15-18 (2016), as referenced in Martinez, J., Homeier, D., Fowler, C., & Wilber, K. "Conceptualizing Person-Centered Care in Elder Mistreatment Intervention: Use of a Well-Being Framework," The Gerontologist, Vol. 63, No. 6, 973-982 (2022).

7 Guardianship terminology varies by state. In many states and a model law, "guardianship" refers to a court-appointed surrogate to make medical and personal decisions, and "conservatorship" refers to a court-appointed surrogate to make money and property decisions. But other states use different terms, such guardianship of the person and guardianship of the estate. In this brief, we use the general term "guardianship" to include court-appointed surrogates making both types of decisions.

8 Gassoumis, Z., Navarro, A. & Wilber, K., "Protecting Victims of Elder Financial Exploitation: The Role of an Elder Abuse Forensic Center in Referring Victims for Conservatorship," Aging & Mental Health, Vol. 19, No. 9, 790-798 (2015).

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