

October 2026

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PROTECTING YOURSELF FROM SCAMS: PREVENTION TIPS AND RESOURCES FOR VICTIMS BY BETH A. MCDANIEL, JD, CELA

Scams are a growing problem, particularly for older adults. According to the Federal Trade Commission, in 2024, older adults lost more than \$2.4 billion to scams, up from \$600..

Cont. on pages 5-7

MS. MCDANIEL GOES TO WASHINGTON BY BETH A. MCDANIEL, JD, CELA



I had the pleasure of spending the afternoon of Thursday, September 24, 2026, on Capitol Hill in Washinton DC. I was there on behalf of the board of directors of the National

Attorneys (NAELA). While on the hill, I met with staffers for both of our state's US senators, and staffers in the offices of senators Ted Cruz (R-TX) and Martin Heinrich (D-NM). The purpose of the meetings was to request the senators' support on several legislative matters affecting older adults:

Cont. on pages 2-4

IRA BENEFICIARIES AND REQUIRED MINIMUM DISTRIBUTIONS BY BETH A. MCDANIEL, JD, CELA

On Thursday, September 17, 2026, I had the pleasure of hearing Natalie Choate speak at a conference in Denver, Colorado. Ms. Choate is 85 years young...

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Home and Community Based Services (HCBS).

HCBS, primarily paid by Medicaid, allows older adults who require substantial assistance with the activities of daily living to live in places like their own home, assisted living facilities, or adult family homes versus skilled nursing facilities (AKA institutionalized care). These services first became available in 1984 when Congress added a section to the Social Security Act allowing states to apply for waivers to run HCBS programs. State participation in HCBS is voluntary and many states have long waiting lists. HCBS are often the first services cut when states need to reduce Medicaid spending.

There are two provisions of HCBS that are set to expire on September 30, 2027. The first is Money Follows the Person (MFP). MFP was first authorized by the Deficit Reduction

Act of 2005, which had strong bipartisan support. MFP has allowed more than 127,000 people who require long-term services and supports to receive assistance outside of a skilled nursing facility.

The second provision of HCBS set to expire on September 30, 2027, is spousal impoverishment protections which allow spouses to remain together in their home, even though one spouse requires a higher level of care. The Affordable Care Act of 2010 extended spousal protections to when one spouse receives care through HCBS. Protections are already permanent which allow a spouse to remain in their home when the other spouse requires care in a skilled nursing facility.

Ultimately, it is less expensive for individuals to be in a community setting versus a skilled nursing facility. NAELA requests the HCBS

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spousal protections be extended or made permanent.

Medicaid Estate Recovery.

Medicaid Recovery is the process by which states seek to reclaim money upon a Medicaid recipient's death by going after their most valuable asset, their home. Under the Omnibus Budget Protection Act of 1993, states are required to make such collection efforts. States vary in the level of aggressiveness they take. Medicaid Estate Recovery can only be waived only in certain cases. On average, the amount of money a state recovers from an estate is less than 1% of the incurred cost of care.

Medicaid Estate Recovery hurts individuals of all economic backgrounds who have exhausted their financial resources towards medical care and services. Every week I talk to clients who are afraid they will lose their homes. For many,

homes represent generational wealth.

NAELA would like to eliminate Medicaid Estate Recovery; or, alternatively, make Medicaid Estate Recovery optional to the states.

Legislation to Protect and Help Victims and Potential Victims of Scams.

The Guarding Unprotected Aging Retirees from Deception Act (GUARD Act of 2026) (H.R. 2978) allows state, local, and tribal enforcement agencies and grantees to receive funds from certain law enforcement grant programs to use towards investigating general financial fraud, elder financial fraud, relationship scams, phishing, and fraudulent investment offers. The bill requires the Department of the Treasury and the Financial Crimes Enforcement Network (FinCEN) to report to Congress on their efforts and to

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make recommendations relating to such frauds and scams in the United States. On September 15, 2026, this bill passed the House by a margin of 414 to 7. The companion bill in the Senate is S. 2544.

The House has also passed the Tax Relief for Victims Act (H.R. 9500), by a margin of 408 to 117. This bill restores tax relief for many financial fraud-related losses, including allowing taxpayers to elect to treat a theft loss as sustained in the year the loss occurred, rather than in just the year it was discovered. It also waives penalties for withdrawals from retirement accounts due to fraud related losses and makes relief available for losses sustained since January 1, 2021. The bill is currently pending in the Senate's Committee on Finance. Senator Cantwell is a senior member of this committee.

Strategy for Combatting Scams Act (S. 3355), which requires the FBI to develop a coordinated national strategy to combat scams, incorporating input from scam victims, seniors, law enforcement, nonprofits, and businesses. The bill was recently introduced to the Senate's Committee on the Judiciary.

Our US senators love to hear from their constituents regarding their positions on pending legislation. If you would like to let our senators know of your support for any of these legislative bills, Senator Patty Murray's contact information is found on her website, murray.senate.gov and Senator Maria Cantwell's contact information is found on her website, cantwell.senate.gov.

NAELA also supports the National

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CONT: PROTECTING YOURSELF FROM SCAMS: PREVENTION TIPS AND RESOURCES FOR VICTIMS

...million in 2020. Because so many scams go unreported, the actual loss during 2024 is estimated to be between \$10.1 billion and \$81.5 billion.

The National Institute of Aging and the FBI offer the following tips to help individuals avoid being scam victims:

- Do not give out sensitive information over the phone or in response to an email, social media post, or text message. Sensitive information includes your social security number, bank account information, credit card numbers, PINs, and passwords.
 - Check incoming bills for charges you do not recognize. Contact the utility provider, credit card company, or your bank if you see any charges you do not recognize.
 - Protect your electronic accounts by keeping the security software on your computer and smartphone up to date and by using multifactor authentication when possible.
 - Enable pop-up blockers to avoid accidentally clicking on a pop-up.
 - Be wary of email attachments. Never open an email attachment from someone you do not know. If the email attachment is from someone you know, but you are not expecting it, verify with the sender via a new communication prior to opening the attachment.
 - Do not transfer money to strangers or to someone over the phone. Similarly, do not buy a gift card to pay someone over the phone, send precious metals, or wire information to unverified people or businesses.
 - Know that if someone is trying to scam you, they may threaten or pressure you to act immediately.
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Scammers create a sense of urgency to produce fear and lure victims into immediate action. Slow down and think about what the person is saying. If you suspect it is a potential scam, end the call and talk to someone you trust.

- If a scammer gains access to your device or an account, immediately contact your financial institutions to place protections on your accounts. Monitor your accounts and personal information for suspicious activity.

I would add that you should consider not answering calls from unknown numbers. Know that scammers can make it appear in your caller ID that they are calling from a financial institution or law enforcement agency. Also, scammers may already have information about you like recent bank transactions or the last

four digits of your account number, hoping you will believe the call is legitimate. If you do answer a phone call and are told your bank account has been compromised, hang up and go to your closest bank branch to inquire further. If it is not possible for you to immediately go to your bank, hang up and call the customer service line on the back of your bank card.

Know too that scammers may falsely represent themselves as tech support, a relative, government employee, a charitable organization, or a sweepstakes company.

If you unfortunately become the victim of a scam, know you are not alone. The Washington State Bar recently recognized the Scam Justice Legal Clinic for professional excellence. The clinic was created by Seattle law firm Davis Wright

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Tremaine, LLP, Amazon, the Pro Bono Institute, and the Better Business Bureau Institute. The clinic is the first of its kind and offers pro-bono services to victims of online scams and frauds. To receive assistance, start by creating a personalized recovery plan through the Better Business Bureau Institute for Marketplace Trust, scamsurvivaltoolkit.bbbmarketplacetrust.org.

CONT: IRA BENEFICIARIES AND REQUIRED MINIMUM DISTRIBUTIONS

and is a nationally respected expert regarding IRAs. Ms. Choate's topic was 'Estate Planning for Retirement Benefits.' This article is Part One. Next month's article will focus on naming a trust as the beneficiary of a retirement account.

On December 20, 2019, legislation was signed which created the Secure Act, affecting the IRAs of participants (account owners) dying after January 1, 2020. The Secure Act (and now the Secure Act 2.0) significantly changed the IRS rules for retirement accounts. For example, lifetime expectancy payout for retirement beneficiaries was abolished and replaced by a 10-year post-death pay out for beneficiaries. Additionally, the rules for required minimum distributions (RMDs) became more complicated. Also, there are new classifications for beneficiaries.

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CONT: IRA BENEFICIARIES AND REQUIRED MINIMUM DISTRIBUTIONS

Designated Beneficiaries. A

‘designated beneficiary’ is any individual designated as a beneficiary by the account owner or the terms of a plan. If a charity is the sole beneficiary under a plan, there is ‘no designated beneficiary.’ An estate is another example of ‘no designated beneficiary.’ An account with ‘no designated beneficiary’ has a five year pay out. Of course, if a 501(c)(3) charity is the beneficiary of a traditional IRA, the full amount designated to the charity passes to the charity untaxed.

The Timing of the Account Owner’s Death Matters. How an IRA pays out to a beneficiary depends upon whether the account owner died before or after their required beginning date (RBD). An account owner’s RBD is April 1 of the year after the account owner turns 70 ½ to 75, depending upon the account

owner’s year of birth.

- If the participant died before their RBD, a designated beneficiary subject to the 10-year rule does not have to take any RMDs in years 1-9 and can instead elect to take a 100% distribution in year ten. This also applies to Roth IRAs, where a beneficiary can take a 100% distribution in year ten, as Roth IRAs have no RBD.
- If the participant died on after their RBD, a designated beneficiary subject to the 10-year rule is required to take annual RMDs for years 1-10.

Eligible Designated Beneficiaries. The new regulations created a class of individual beneficiaries who qualify as ‘eligible designated beneficiaries’ (EDBs). EDBs include participants’ spouses, participants’ minor children, beneficiaries who are not more than ten years younger than the

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participant (and do not fit into any other EDB category), beneficiaries who are chronically ill, and beneficiaries who are disabled. A chronically ill individual is defined as an individual who is unable to perform at least two activities of daily living, without substantial assistance from another individual, for an indefinite period, which is reasonably expected to be lengthy in nature.

Aside from a participant's minor child, EDBs are required to take annual distributions over the shorter of their lifetime or life expectancy. Except for a surviving spouse (see below), the life expectancy of EDBs is calculated once, based upon the EDB's age on their birthday in the year following the participant's death.

If an EDB dies prior to the end of their

life expectancy, the subsequent beneficiary of the IRA receives RMDs based upon the shorter of the EDB's remaining life expectancy or ten years. Note: if the EDB's remaining life expectancy is longer than ten years, there will be a final lump distribution to the subsequent beneficiary in year ten.

Minor child payout. An inherited IRA for a child of a participant who has not reached their 21st birthday in the year following the participant's death will terminate in the year the child attains the age of 31. Under current regulations, a minor child includes not only the biological and legally adopted children of an account owner, but also the account owner's stepchildren and certain foster children. If a minor child is disabled or chronically ill, the child will receive RMDs over their life expectancy.

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CONT: IRA BENEFICIARIES AND REQUIRED MINIMUM DISTRIBUTIONS

Rules Related to Surviving Spouses. A surviving spouse's life expectancy is recalculated annually. The effect of this is to extend the surviving spouse's life expectancy. As 'real' life expectancy is not reduced by one year each year, the surviving spouse's life expectancy extends the longer they live. This annual recalculation continues until the surviving spouse reaches the age of 120, when the life expectancy finally drops one year or less. Thus, unlike other EDBs, the surviving spouse cannot outlive their own life expectancy – unless they live to age 120.

Under Secure 2.0, the life expectancy table of surviving spouse is calculated using the Uniform Lifetime Table versus the Single Life Table, effectively giving spouse the life expectancy of someone ten years younger.

Here are additional important rules related to surviving spouses:

- Surviving spouses who are the sole beneficiary of their deceased spouse's IRA can delay RMDs until the deceased spouse would have reached their RBD. This applies whether the surviving spouse is the sole named beneficiary or a conduit trust is named of which the surviving spouse is the sole lifetime beneficiary. A conduit trust is a trust which directs the Trustee to immediately disburse annual RMDs to the surviving spouse.
- A surviving spouse named as sole beneficiary can 'elect out' of the above by rolling over their deceased spouse's IRA into their own inherited IRA; however, leaving benefits in the deceased spouse's own account is good planning for older surviving spouses whose spouses died long

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CONT: OUR STATE'S PROTECTION – OR LACK OF PROTECTION -- OF VULNERABLE ADULTS

- before their RBD because it postpones the start of the RMDs. It is also a good deal for a surviving spouse who is younger than 59 ½ as they can make penalty-free withdrawals where their own IRA would be subject to the 10% early withdrawal penalty -- unless they qualify under another exemption. However, a much younger spouse should likely do a spousal rollover as that would delay the RMDs. This benefit also applies when a conduit trust for the lifetime benefit of the surviving spouse is the named beneficiary of the deceased spouse's IRA.
- Tax-wise, it is optimal for the surviving spouse to roll over a deceased spouse's Roth IRA into their own Roth IRA.
- As soon as possible following the deceased spouse's death, the surviving spouse should name a

designated beneficiary to inherit the IRA upon the surviving spouse's death.

It is important to consider your IRAs when doing estate planning to best ensure you are optimally planning for your beneficiaries. It is also important for beneficiaries, especially for eligible designated beneficiaries, like surviving spouses, to seek advice following the death of the account owner to assure they make optional decisions regarding any IRA accounts on which they are named as beneficiary.

If you have questions about anything in this newsletter, or would like to update your estate plan, please contact our client care specialist, Margo Passeau at 425-296-3121 or margo@bethmcdaniel.com.

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