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Who Should Be Paying the Bills and Managing the Finances?

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When a senior starts slipping in their ability to manage their own money and pay bills, families often find themselves in the middle of a struggle. They may be in the process of identifying a neurological diagnosis for their loved one, or they are merely seeing the beginning phases of declining capabilities. Moreover, the family may be in a disagreement as to how to solve the problem. As professionals, we know all too well that money is a hotspot in many families as members often have competing agendas or are vying for power. In addition, a senior may worry about losing control and, in many cases, rightfully so. Conversations around finances are often fraught with emotional tension, and, sometimes, suspicion.

Therefore, it makes sense that many family members want to shift the burden off themselves when handling this topic with Mom or Dad. An Aging Life Care Professional (ALCP) may seem like a perfect "neutral" person, someone the elder can trust. At the same time, the family may think they are buying more decision-making time or avoiding competency issues which may extend into legal decision making.

Who will pay the bills and manage the finances?

It has become more common these days for Aging Life Care Management practices to offer concierge services that include care management in conjunction with bill paying services. However, it is important to examine both the

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CASE STUDY: "Dan"

"Dan" was a very youthful, athletic 72-year- old who had recently suffered a stroke (CVA) and heart attack. Just three months prior to his CVA, Dan was living independently in a small beach town. Unmarried, Dan spent most of his days riding his bike and nights drinking at the local bar. He was lonely but by no means considered incompetent.

Dan's prior occupation was in the entertainment industry which included a "fast" lifestyle. Despite his lifelong problem with alcohol, he had become quite successful playing the stock market and had a comfortable portfolio.

Dan initially presented with full range of speech, but he could no longer do his instrumental activities of daily living, such as medication management, driving, cooking, and paying bills. Shortly after his CVA, Dan went into alcohol rehab at the local hospital, but was soon discharged and living in an apartment with 24-hour supervision. Spending the daytime as a mentor to the residents of a local board and care facility where he initially resided after his CVA and evenings at his apartment with his caregivers seemed like the perfect compromise for Dan. Being in control of his money was important to him and although his memory was now impaired, he understood where his money was (at the local bank) and how much he had.

Due to his family's urging, Dan had recently completed his estate planning, designating his cousin "Dotty" as his power of attorney for finances and health care. Dotty was making the financial decisions about his investments in conjunction with Dan, but she lived 600 miles away. There was another major problem; she traveled most of the time and claimed she just was "not good about paying bills." Shortly thereafter, the family suffered great tragedies; Dotty's husband died suddenly, and months later, her daughter got cancer and passed away. It was a terrible and emotional time for the family. I offered to assist Dan in paying his bills during this transition time; but this soon became part of my regular monitoring visits in conjunction with the medical care coordination services I was offering him.

In the beginning of our relationship, Dan was aware of what he was signing and what services he was paying for. I bought a safe Dan could keep in his room which stored his valuables and items like his checkbooks, social security card, brain scans, and health care IDs. I even helped him prepare his expense sheet for his accountant each year and met with his broker when we needed to go over his budget. For accountability, it was important for me to update his family by email.

After a few years passed, it became clear that Dan's memory was declining further. Pretty soon he had no idea of who he was paying when signing the checks and even less aware of the dollar amount. Dan's brother approached me after a family funeral, concerned that Dan would outlive his assets he asked, "Who is helping Dan manage his finances and pay bills?" His brother's wife even expressed concern about Dan's assets. I knew they were direct beneficiaries of Dan's estate and while appeared to have good intentions, I could not be sure.

As an ALCP I knew I was getting myself into dangerous territory, and that it was time to alert the family that I no longer felt comfortable in this role. Questions started to enter my mind, "Why did I continue to help pay bills as long as I did?" "What if Dan had been a victim of identity theft? How would I have protected myself?" "Who would have been accountable?"

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services ALCPs are qualified to provide and the inherent risks involved with providing those services. This case study is an attempt to educate other ALCPs on how they can examine their current business model and how to make decisions about taking on additional roles. This article uses bill paying as an example of how taking on additional roles without close examination, analysis, and clear communication with the client can create conflicts for ALCPs.

As Aging Life Care Professionals know far too well, deficits in the ability to manage money and pay bills are common especially with patients who suffer from Alzheimer's disease or related dementias. We also know that what starts as a big-hearted attempt to understand what the elder needs (and the family wants) often results into a trap of doing more than we should. The role of the ALCP encompasses many responsibilities related to patient care and oversight. This is why it is especially important not only to be clear with ourselves regarding what services we are willing to offer within our scope of work, but also to recognize when we are stepping outside of our area of expertise and exposing ourselves to unwanted liability.

If an ALCP chooses to offer bill paying services, it is vitally important that they make that decision carefully and consciously in order to protect themselves as well as their client. If an ALCP chooses to take on bill paying responsibilities, they should educate themselves about the potential risks, how to mitigate these risks, and how to ensure they are protected.

While the transition in an Aging Life Care Management practice from solely care managing to bill paying for our clients may seem like a natural progression of "one-stop shopping" and ease for the client, there are real ethical and legal challenges that must be considered before any ALCP takes on this endeavor.

If an ALCP is not sure of their legal and ethical boundaries, they should first check with the family to inquire if they have an estate plan. Estate planning documents, prepared by a client's attorney, allow a client to have control when life changes. Specific individuals are designated to take responsibility for decision making, and the resulting consequences, based on such written plans. In California, professionals who implement estate plans are California Licensed Professional Fiduciaries (www.Fiduciary.CA.gov).

Family members, banks and trust companies, and other professionals, such as CPAs and attorneys, may serve in these roles too. If the client already has estate planning documents, and someone designated to pay bills when the client can no longer do so, such as an Agent under the Power of Attorney for Finance, or a Successor Trustee, it may be wise to avoid the complications and liability, rather than trying to do it all.

Deciding to Provide Bill Paying

What are the issues an ALCP should consider when deciding whether to provide bill paying as an additional service?

First, consult an attorney. As Business and Professional Codes vary from state to state, you will want to be very familiar with these rules before taking on this responsibility. In addition, in some states, Daily Money Management may be a profession for which you will need additional licensure in order to provide.

Second, you and your attorney should review your letter of engagement. The language about bill paying services should be clear so clients know what to expect, especially if there are additional monthly or hourly charges for the service.

Third, the ALCP should consider whether their practice has sufficient bandwidth to cover the time and energy required to provide this service in addition to care management responsibilities.

How to Limit Liability

What steps should an ALCP take to limit their liability?

1. Talk with your errors and omissions, or general liability insurance carrier to see what coverage you already have and if bill paying or Daily Money Management is coverage that can be added. Determine the return on investment if this will be a significant cost to your practice.
2. If you are already providing Aging Life Care Management to a family, consider having a separate person on your team providing bill paying to differentiate the roles of the individuals and ensure proper attention goes to each.
3. Decide if you have someone on your team dedicated to accuracy, who has an accounting background or training.
4. Identify the financial decision-maker for the client. If the client has a Power of Attorney or Conservator, you will want to identify this person and interview them to make sure that your working together on finances makes sense.
5. Be thoughtful about how you will handle the issue of paying your own bill. This can create a serious ethical conflict of interest. Decide how you will set up clear communication and transparency about this with your client and/or their family/responsible party.

Consult with the ALCA Standards Committee in order to gain some mentoring regarding your decision to bill pay. Talking it through may help you come to the right decision for yourself and the client.

Ethical Considerations

According to the ALCA Standards or Practice and Code of Ethics, bill paying presents several ethical dilemmas for ALCPs.

First, if the ALCP will be providing both care management and bill paying services, this will create a "dual relationship" with the client. This is an especially risky situation for both the client and the ALCP as it is likely the medical/health advice and financial management may come in conflict.

Second, providing both services will require the ALCP to pay their own bill. Again, this creates a conflict of interest for the ALCP that puts them and their clients at risk.

Third, in general, the ALCA Standards of Practice and Code of Ethics discourage ACLPs from taking on additional roles due to the potential liability and ethical dilemmas they create.

When to Say "No" to Bill Paying Services

The safest, least risky alternative for ALCPs is to not provide bill paying services. However, if an ALCP does decide to take on this additional role, there are several situations where the ALCP should *absolutely not* take on this additional role.

If a client does not have a Power of Attorney or Conservator already designated, the ALCP should not agree to provide bill paying services. If the client is paying the ALCP independently and has no alternative decision maker, the ALCP could easily find themselves in a role where they did not have the proper authorization to provide bill paying services, putting themselves at great legal risk.

Additionally, if a client does not have a clear estate plan that designates the account(s) from which to pay bills, this would also present a serious risk for the ALCP. Rather, the ALCP should not agree to take on bill paying service for these clients unless or until they have alternate decision makers assigned and have a clear estate plan.

Further, if in your role as bill payer, it is not recommended that you sign contracts on behalf of the client, as it could present more than financial liability for an ALCP. An ALCP should always consult with an attorney and insurance provider regarding these issues.

Lastly, if you are already the client's legal decision-maker for health care decisions, also taking on the role of bill paying would pose an even greater risk to the ALCP for both legal and ethical issues.

How to Avoid Being Asked to Provide Bookkeeping Services

As mentioned at the beginning of this article and as demonstrated in the case study, the transition from care management to bill paying can be progressive. It may not be something the ALCP identifies at the beginning of the case but will become a need over time.

The following are suggestions on how an ALCP can avoid being asked to take on such roles in the future:

1. If client will be paying their own bill initially, have a third party set up to be responsible when a client can no longer do so independently. This could be a family member, power of attorney, conservator, or professional bookkeeper.
2. Seek out and identify local professionals who do the work you cannot do and create a list of resources to offer your clients as needed (bookkeeping service, fiduciary, power of attorney).
3. Identify clients that may need this service during the assessment process in order to refer early and have these services set up in advance. Make this discussion part of your intake process.
4. Consider refusing clients that do not have alternate decision makers or require a secondary guarantor of payment. Some practices have policies about not accepting such clients so that they can avoid this potential conflict in the future.

Summary

The overall recommendation of the authors and Aging Life Care Association is that ALCPs should consider saying "No" to handling funds. If an ALCP decides this is an important service to provide to their clients, they should move slowly and thoughtfully using the issues raised in this article as their guide for decision making.

Ideally, the team approach to managing a client's needs is always best. When a family can afford an attorney, fiduciary, and Aging Life Care Professional this is the best allocation of balancing risk. The best way to avoid being put in a position of being asked to provide bill paying services is to plan ahead. An ALCP may not be able to play every role for a client, and that is okay. As devoted professionals, ALCPs must take care of themselves while also looking after their clients.

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Jennifer started her career at the Alzheimer's Disease Research Center at the University of Southern California in Los Angeles in 1998, where she received her Master's degree in Gerontology. It was there she assisted in the implementation of a community outreach program for "at-risk seniors" with Dementia/Alzheimer's. This Memory Enhancement Seminar for Seniors (MESS) was a pilot program and screening tool which involved teaching at-risk seniors proactive strategies to keep their memory sharp, as well as educating them about the differences between normal versus abnormal memory changes.

She started her own practice in 2011, Geriatric Care Consultants LLC, which she could not have done without gaining the breadth of knowledge through her mentors, interning with one of the early pioneers in the field of geriatric care management, and later aligning herself with a well-respected neurologist affiliated with Los Robles Hospital in Thousand Oaks, California. As a consultant and employee of a medical practice, she furthered her understanding of how the medical, cognitive, and psychological challenges intersect and impact those who suffer from Alzheimer's Disease. Subsequently, she achieved certification (CMC) in care management—awarded by the National Academy of Certified Care Managers (NACCM). She currently authors articles related to caregiving and is interviewed for caregiver and family issues related to elder care.

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Since 2003, Ms. Lorenz has been a partner in Lorenz Fiduciary Services, Inc. (LFS), and has served on over 100 cases as Trustee, Executor, and Agent. She is the author of Ethics for Trustees. Ms. Lorenz started the Estate Planning Group Network (EPGN) in 2009 for all professionals who serve the same vulnerable client. She serves as an expert witness on criminal matters and is Vice-Chairman of the Independent Trustee Alliance. Ms. Lorenz is a member of PFAC (Professional Fiduciary Association of California), serving as President of PFAC-Inland Empire. Follow Ms. Lorenz on Twitter! @SanDiegoTrustee