CEASE

Coalition to End Elder Financial Abuse

AAIA
American Association for International Aging
505.875.0875

CANHR
California Advocates for Nursing Home Reform
www.canhr.org

NAPSA
National Adult Protective Services Association
www.apsnetwork.org

WISER
Women's Institute for a Secure Retirement
www.wiserwomen.org

December 12, 2007

The Honorable Senator Claire McCaskill, Chair
Senate Special Committee on Aging
Dirksen Senate Office Building, Room 628
United States Senate
Washington, D.C. 20510

Dear Senator McCaskill and Committee Members:

On behalf of CEASE, a national Coalition to End Elder Financial Abuse, I would like to express our appreciation for this opportunity to testify on some of the problems we are encountering in the emerging reverse mortgage market and request your consideration of the recommendations we put forth.

About the Coalition

The Coalition is composed of the American Association for International Aging, the California Advocates for Nursing Home Reform (CANHR), the National Adult Protective Services Association (NAPSA), and Women's Institute for a Secure Retirement (WISER). CANHR has 25 years of experience in elder abuse issues; is the sponsor of groundbreaking legislation on consumer protections and elder abuse; and received the California Attorney General's 2005 Distinguished Service Award for Elder Abuse Prevention by a Community-Based Organization. NAPSA is the national coordinating organization for state Adult Protective Service Agencies, the front line professionals preventing and protecting elder abuse. WISER is a nationally recognized leader in developing and disseminating information on a wide range of financial issues for women. The American Association for International Aging (AAIA) is a key networking and research organization in aging and long-term care circles.

Our concern today is to represent seniors who are being pressured by unscrupulous financial salespeople whose only goal is to sell products-products that are generally inappropriate for seniors and sold under false pretenses. These seniors are not receiving information about what may be suitable for their particular needs. While reverse mortgages and certain annuity products may be advantageous for some seniors in certain circumstances, they are very complicated and should be purchased with careful consideration.

In this testimony, I will cover three specific reverse mortgage problem areas. First, CEASE is concerned with the impact of the Deficit Reduction Act of 2005 on low wealth seniors; second, the problem of reverse mortgages being used to finance deferred annuities, and third; the problem of ineffective reverse mortgage counseling.

1. Reverse Mortgages and the Deficit Reductions Act – Deceptive Advice

On January 8, 2006 President Bush signed into law the Deficit Reduction Act of 2005, or DRA. This Act dramatically changed many of the rules for qualifying for long-term care Medicaid benefits. One of the greatest impacts was the treatment of the prospective beneficiary's home. The DRA limits the level of equity an individual can have in his or her home and still qualify for Medicaid. The DRA specifically suggests that seniors take out reverse mortgages in order to deplete their excess home equity. It is a form of unwarranted commercial endorsement for reverse mortgages. Having this language in a federal law is unprecedented, and wrongfully encourages elders to encumber their homes with progressively expensive and unnecessary loans.

Encouraging Elder Financial Abuse

Section 6014 of the DRA tells seniors to reduce the equity level in their homes by using a reverse mortgage if they want to qualify for Medicaid. This statement is deceptive and misleading. In California, there are 3.6 million seniors, according to the Office of Statewide Health Planning and Development **less than 11% of seniors** who enter nursing homes stay for more than two years. Contrary to the DRA's suggestion that seniors take reverse mortgages to help them qualify for Medicaid, the reality is that most seniors won't be staying in nursing homes long enough to exhaust their equity and therefore, will never qualify for long-term care Medicaid. Because reverse mortgages are generally unsuitable for long-term care estate planning, the federal government should not be recommending them. This recommendation by the federal government has lead to another problem. Financial predators are using the government's endorsement of reverse mortgages as a means to promote unsuitable financial products. Ironically, the DRA is encouraging more elder financial abuse scams.

Reverse Mortgage Trap for Unmarried Seniors

Reverse mortgages are the wrong financial choice for any unmarried senior who may be bound for a nursing home – these are usually older women. Pulling out equity will not always qualify a senior for Medicaid. Equity removed from the home converts to assets that will be used to pay for the senior's stay in a nursing home. As long as the senior has assets that exceed the Medicaid limit, that senior will not qualify for Medicaid.

Once that senior has been in the facility for twelve months, the reverse mortgage loan will be due. Once the loan is due the senior will have to sell the house in order to pay off the lender. After the house is sold, the senior will receive the residue equity and the residue equity will be used to continue paying for the senior's stay in the nursing home.

In all likelihood, the senior will not outlive the residue, and therefore will never get onto the Medicaid program. This means that the whole reverse mortgage exercise was a waste of money. The senior would have been better off financially if she had never taken a reverse mortgage since these products chew up so much of the seniors' equity in interest and fee transaction costs. Seniors and their families need to be informed that it is unlikely that taking a reverse mortgage will ever lead to qualifying for Medicaid.

2. Deferred Annuities and Reverses Mortgages – Unsuitable Products

CEASE has major concerns about unscrupulous sales agents promoting reverse mortgages in order to generate funding to purchase annuity products. We are seeing an increase in sales agents who had been presenting "living trust seminars" now switching to "reverse mortgage seminars". These are the same agents who have perfected the technique of selling annuities by playing on the seniors' fears of going into nursing homes or outliving their assets. The DRA's treatment of the home has given these agents a hook to convince seniors that the government will force them to strip the equity out of their house if they go into nursing homes.

These are the same sales people who use misleading titles and designations to pass themselves off as financial experts or as trusted advisors. These agents are experts at using the seniors' lack of knowledge and fear of the Medicaid Program to double talk the senior into buying deferred annuities.

These sales agents present seminars and tell a room full of seniors that 50% of them will go into a nursing home and their average stay will be two and a half years. This is a false statement. Again, California's Office of

Statewide Health Planning and Development reports that within 90 days after admission, 70% of seniors who go into nursing homes will be discharged either because they go home, are sent to an assisted living facility, or die.

Fear is the financial predator's greatest tool. Misleading seniors or misrepresenting the facts is a way to panic them into purchasing unsuitable financial products such as annuities with funds from reverse mortgages. We have seen an increase in insurance brokers who are now actively seeking agents to promote reverse mortgages. Some brokers are even offering to help insurance agents become HUD certified counselors. They are instructing the insurance agents that they can "ethically" get the senior to pull out home equity in order to buy insurance products.

CEASE believes that it is always inappropriate to use proceeds from home equity to fund deferred annuities. Funds from reverse mortgages are very expensive due to loan fees and insurance requirements.

We provide an example that highlights the shortcomings of using home equity to purchase deferred annuities:

> Imagine a senior taking out a reverse mortgage on her home to finance a $100,000 ten-year deferred annuity. The real question is: What will the cost be for financing the deferred annuity through a reverse mortgage?
>
> Reverse mortgages now cost about 6%. Because of compounding, in ten years at 6% the senior will owe $183,000 on the $100,000 reverse mortgage loan. There will also be an additional $20,000 to $30,000 for the other fees and charges associated with the reverse mortgage loan. In ten years, the senior will have spent about $200,000 to purchase a $100,000 ten year deferred annuity. Ten year deferred annuities are currently only averaging 3%.

It is impossible for a deferred annuity to generate interest that would offset the true costs of the reverse mortgage. Furthermore, the deferred annuity places the senior's assets out of the senior's control for years with substantial penalties and feesfor early withdrawals.

There is no financial justification to use a reverse mortgage to fund a deferred annuity. This predatory practice must be stopped immediately!

3. Reverse Mortgage Counseling - Inadequate & Misleading

There is a misconception about the adequacy of reverse mortgage counseling. Currently, counseling is not focused on helping the senior to understand whether the loan may be a bad deal or totally inappropriate. Reverse mortgage counseling is only required to making sure the senior understands the terms of the loan contract. It is inadequate and "counseling" in name only.

Further, reverse mortgage counseling does not provide assistance with financial decision-making. The counselor does not ask what the senior intends to do with the money, nor do they work with the senior to explore any options to taking a reverse mortgage. Currently, such "counseling" is simply a procedure that must be completed before the senior is given the money.

Face to face "counseling" is not required. "Counseling" can be done over the phone. Sometimes the counselor will be in another state. The Fair Lending Project in Santa Clara, California is working with a client that was phone "counseled" by someone in Florida. The reason the Fair Lending Project happened to be working with this particular client in the first place was because that client had previously gotten into trouble with a series of predatory loans. A phone interviewer has only the briefest contact with the senior and has only a limited ability to assess the senior's ability to understand the gravity of the transaction. The phone counselor never really knows whom they are talking to.

CEASE recommends that the counseling system be expanded to include a suitability component whereby the counselor asks the senior a series of questions to learn why they are taking the loan. Just as it has been determined to be good public policy to have a suitability requirement for financial investors, so should there be a suitability standard set up for reverse mortgage counselors. It is more important for the government to act as a gatekeeper for low wealth seniors than to have the government promoting reverse mortgages. It is extremely important to prevent predatory practices rather than to indirectly encourage flawed financial products and decisions. The reverse "counselors" should be sufficiently qualified and knowledgeable to suggest alternatives; and a counselor should have the authority to recommend disapproving the loan if not satisfied with the responses.

Recommendations:

It is important for policymakers to take steps that will help prevent low wealth senior citizens from losing their home equity to financial predators. We hope that the Senate Special Committee on Aging would adopt the following three recommendations:

1. Remove the language from the Deficit Reduction Act recommending reverse mortgages for seniors.

2. Prohibit the predatory practice of using reverse mortgage equity to fund deferred annuities.

3. Require the reverse mortgage-counseling program to include suitability criteria. Counselors should be able to suggest alternatives to reverse mortgages, and to inquire as to what the senior intends to do with the funds. The suitability criteria should contain a set of inquiries whose responses would lead the counselor to disapprove a loan where appropriate.

Conclusion

Clearly, much needs to be done to protect seniors from financial abuse. The government should be urging caution and not be in the position of promoting the use of inappropriate reverse mortgages. Reverse mortgages are meant to be the seniors' lifeline, not a financial marketer's source of fees. Reverse mortgages are expensive loans and should only be used as a last resort. Where appropriate, counselors should help seniors find more suitable alternatives. Home equity truly is the seniors' nest egg and needs to be protected.
Thank you.

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