



July 2011

CHUBB REPORT

WHAT'S GOIN' ON BY WAYNE CHUBB

As Dad continues to slowly detach himself from day to day life, I've been conducting a mental check of the clues that I missed to his deteriorating mental condition. I guess that's so that the next time I have a Dad that develops Alzheimer's I'll pick up on it faster.

The earliest symptoms that manifested themselves were his responding, often with a check, to every solicitation –

phone, mail, email – that he received. That doesn't mean one or two a month, but rather 1, 2, five or more *a day*, every day. The photograph gives you an idea of what he was up against just from the US Postal Service. The pile of mail you see covers our 4'x7' kitchen table and represents about 3 weeks of junk that Dad received in his PO box – an address that is only known to me, Heather, and the USPS – or was.



One of the first brain functions that we lose as we age is the ability to reason, and the ability to see these scams and bogus charities for what they are. And these organizations – and even many legitimate ones – take advantage of seniors and this aspect of their declining mental faculties. They inundate them with calls, emails and mailings and sell the addresses to similar organizations. Before we caught on, after at least 9 months, Dad was sending nearly 1/3 of his income to them.

I guess my request from the soapbox this month would be to ask that you try to keep an eye open for any of the things we saw – lots of checks written to obscure groups, for example, or a sudden massive increase in their mail. You really aren't being a money grubbing kid – you're protecting them from a threat that they can no longer fight off.

But it's time to get out and have fun again, and take our minds off the economy and other headaches. July is a

month given over to some of the world's finest athletes, including the culmination of the only true world championship sporting event. I'm speaking, of course, about the **International Worm Races** in Clearlake on July 2nd. Dirk Wiggler, Lady Ghaaa – all the greats should be there, and for only a \$2 entry fee, you can add your sprinter worm to the mix. If you are looking for athletes that are, well, if not clean, certainly performance enhancer free, this is it. Dust off the passport, as the **FIFA Women's World Cup** (summer soccer thingy, apparently, but no vuvuzelas this time) is being played in Germany, and **Wimbledon** wraps up in early July as well. The **British Open** returns to Royal St. George's for its 151st playing, July 14-17. A bit more locally, the **Folsom Pro Rodeo** holds its 50th annual celebration June 30-July 3rd just down the road

The other big event this month is a change from past years. **The California State Fair** moves from August to July this year, running from July 14-31 to take advantage of summer vacations, and the theme this year is "The Fun Just Got Bigger". I'm guessing this refers to the contestants in the new Corn Dog Eating Contest, which should probably have gone in the athletic section above. Find your entry application online. The fried foods will be just as greasy, and the music lineup is eclectic but good. I am a closet Fair junkie, as are the boys, and I promise we'll be there.

The July 4th weekend brings a few other activities as well. Of course, the best way to spend the 4th is at small town parades and events (Try small towns like Mt. Shasta or Weaverville, which tend to have fairly cheap hotel rates and wonderful patriotic flavor). Head northwest to the **World's Largest Salmon Barbecue** in Noyo Harbor, a celebration that benefits the Wild Salmon Association and the improvement of our wild salmon fisheries. So, yes, we eat them to save them. If lakes are more your thing than oceans, try the **High Sierra Music Festival** on the shores of Lake Amador in Quincy, which features four days of blues to bluegrass, June 30-July 3. Of course, most communities still host fireworks – in fact, **Rancho Cordova** will be doing it twice, on July 3 and 4 – and you can still do your own in Sacramento County.

You Have Questions, I Have Answers BY HEATHER R. CHUBB

Over the last few months I've been asked a lot of questions about estate planning, life transitions planning and long-term care planning. I realized that if one person had a question there are probably many more that have the same question. So, I've gathered some of the best questions and answers and put them together for you. Enjoy!

My elderly parents may qualify for the A&A pension benefit. Who do you recommend we contact to help us with the application process and to navigate the Veterans Administration?

The VA's Aid & Attendance benefit is available to wartime veterans who need assistance with activities of daily living, such as bathing, feeding, dressing, or protection from the hazards of the daily environment. The assistance can be provided in the veteran's own home, in a board and care home (also referred to as a group home or RCFE (Retirement Care Facility for the Elderly)) or in an assisted living facility. This pension provides a married veteran \$1,949/month, single veteran \$1,644/month, or veteran's surviving spouse \$1,056/month tax-free income to help with care.

In addition to being a wartime veteran needing assistance there are also income and asset limitations to qualifying for the program.

The claims process can be very frustrating if you have not been trained and do not understand the law. You may be denied outright or your claim may take many more months to complete because of information requests and exchanges between you and the VA. I strongly recommend that you use the services of a VA accredited individual or organization, which includes state and county veterans service agencies.

The VA recognizes three groups to assist veterans in the preparation, presentation and filing of claims. VA accredited attorneys, accredited Veterans Service Officers (VSO) and claims agents. You can find a list of these groups by city and state at the VA's Office of General Counsel's Accreditation search site <http://www.va.gov/ogc/apps/accreditation/index.asp>. It is against the law to charge for services to help prepare and file the claim.

Whomever you seek out for advice should understand not only the VA laws and rules, but also those for Medi-Cal and tax laws. These programs are very different and what may be acceptable under one program may have adverse consequences under the other programs. The right professional will help you develop the most appropriate planning to meet your specific needs.

I am accredited by the VA and available to help navigate long-term care issues, including VA and Medi-Cal benefits, and make sure their ducks are in a row.

My 80 year old mom, who is in relatively good health, just filled out an Advance Healthcare Directive at her doctor's office and named me as her agent. Now what do I do?

I'm pleased to hear that your mother's doctor is being proactive and discussing the importance of an Advance Directive with her. If your mom's health continues to be



good you may not need to do anything except keep in communication with her and stay on top of her medical needs. It may be valuable to both you and your mother if you accompany her to her doctor's appointments in order that you can develop a deeper understanding of your mom's medical conditions and needs.

An Advance Healthcare Directive (AHCD) is a legal document in which the creator, in this case your mom, hand selects a trusted person to make medical decisions for her and speak for her if she is incapacitated or otherwise unable to speak for herself. These decisions cover a wide variety of actions from making doctor's appointments to making end of life decisions (i.e., "pulling the plug").

However, just having this document is not enough and all AHCDs are not created equal. It is essential that as the decision-maker (aka "agent" in legal terms) you understand your rights under this document, as well as your mom's rights and healthcare wishes. Most of those rights are described right in the document so you and your mom need to really read and understand it.

Because it is impossible to include instructions for every situation within the AHCD, you need to have discussions with your mom about her healthcare wishes. This will not be a one-time discussion. Over the last few decades advances in medical technology have created an environment where people can be kept "alive" much longer. But there is a big difference between being "alive" and having a quality life. Discuss with your mom what quality of life means to her. If she's having difficulty describing quality of life or potential situations try going through the information in the POLST form. POLST stands for Physicians Orders for Life Sustaining Treatment and is used by doctors when patients are considered to be within 6 months of the end of their life. You can find the California POLST form at <http://finalchoices.org/polst.php>. Or you can take my Healthcare Quiz which you can find at <http://chubblawfirm.com/downloads/CLF-The-Health-Care-Quiz.pdf>. This discussion will help your mom avoid unwanted medical intervention and hospitalizations.

I've heard the term power of attorney, but I'm not sure what that is. Are there different types?

A power of attorney is a legal document that allows one person to give another person legal authority to do certain things. Most often a power of attorney is associated with managing financial actions, such as accessing bank accounts, paying bills, managing investments, or making sure income tax returns are filed.

There are several types of powers of attorney. A "limited power of attorney" gives authority for very specific items

and for a limited period of time. A good example would be a limited power of attorney for one spouse to complete a real estate transaction when the other spouse is out of the country. A "general power of attorney" contains very broad powers and may or may not be limited in time. Finally, a "durable power of attorney" is one whose powers continue to be effective even if the power giver becomes incapacitated. If the power of attorney is not "durable" the powers terminate on the incapacity of the power giver. All powers of attorney terminate when the power giver dies.

The Durable Power of Attorney is a powerful estate planning tool for making sure your wishes are carried out by your hand-selected helper if you become incapacitated.

Finally, the powers granted in the power of attorney can either become effective immediately when the document is signed or "spring" to life upon the happening of an event, such as the incapacity of the power giver.

My elderly, but healthy as of now, parents own a classic car collection with a value of approximately \$100,000. They also jointly own their house with a value of \$135,000. They have about \$150,000 in cash and retirement accounts worth \$125,000. What planning can be done now so that these assets may be retained by the family if my parents need to go into a nursing home in the future?

First, let me say that it is nice to see a family discussing planning in advance of the need for long-term skilled nursing care. By planning now a greater variety of options are available to meet your goals. I am going to presume that you are concerned about preserving assets if your parents need to rely on Medicaid (Medi-Cal in California) to pay the nursing home bills. The Medicaid rules vary somewhat for each state, but as a general principal to get the most preservation you will need to plan at least 5 years in advance of the need for care.

Any planning that is done must consider not only the rules for Medicaid eligibility but also the recovery (or pay-back) rules. For example, the home is an exempt asset for eligibility purposes and it can remain in your parents' name, but upon the death of the remaining spouse the state will want to be paid back for the care it provided to the ill spouse, which could result in the forced sale of the home.

Asset preservation will fall into 2 categories – converting assets from non-exempt to exempt and getting assets out of your parents' names, i.e., giving them away. Some examples of conversions include using funds to make repairs or improvements to the home, buying mom and dad a new car, purchasing a Medicaid compliant annuity or entering into a personal care contract.

Because giving assets away means a loss of control over the asset, your parents need to be part of the plan. If they are "young" healthy elderly they may not be ready to give up control. Flexibility in the plan will be important as will giving assets away in the right way.

Oftentimes assets are given directly to a child with the

thought that the child will use the funds for the parents later when the need arises. But what if the child divorces, is sued or is just not good with money? Mom and dad's hard earned assets may be taken away forever. Included in the definition of "giving away" is adding a child's name to the house deed or bank accounts. Therefore giving assets away in the right way is critical. Special irrevocable trusts work nicely to provide the protections your parents need.

A final word of warning when giving assets away; if mom or dad needs care prematurely i.e., within 5 years of the gift, a penalty period or period of ineligibility for Medicaid will result. This period will not begin to run until mom or dad applies for Medicaid.

When it comes to Medicaid and asset protection planning timing and knowledge are everything and it is not a do-it-yourself project. An elder law attorney in your state will be able to guide and educate your parents about the Medicaid rules applicable in your state and which preservation techniques will suit them best.

If you have questions about life transitions planning, Medi-Cal, Veterans Aid and Attendance, estate planning, health-care directives, trusts or wills, etc. feel free to drop me an email at heather@chubblawfirm.com.

Written by Heather R. Chubb, Life Transition Lawyer, speaker, mom and Sandwich Generation Kid. Heather makes it easy for your family to talk about and plan for tough subjects like money, death and taxes, and other life transitions. Visit her online at www.chubblawfirm.com.

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If you want to DIY, stop by the **BSA Troop 310 Fireworks Stand** on the corner of Hazel and Sunset in Fair Oaks, and we'll set ya up right.

Moving past the 4th, **The Mendocino Music Festival** hosts 10 days of classical, chamber and jazz music from July 8-23, and offers a great excuse to escape to the coast and eat crab and salmon. July 15 is also the opening of the **Lake Tahoe Shakespeare Festival** at Sand Harbor, which this year features **Twelfth Night**, a "return to classic Shakespeare" for the festival. Also classic Shakespeare is the fact that the play opens with a shipwreck and the death of one of the lead characters, yet is a comedy (through Aug 21). July 10th brings **A Taste of Reno Tahoe** to the National Auto Museum (formerly the Harrah's Auto Collection), sample great food and drinks while ogling some of the most incredible cars ever built.

Since you'll already be in Mendocino, check out their **Summer Arts and Crafts Festival**, with over 60 local artists showing off their work on July 16-17. Then head over the Trinity Alps to the town of Weed and their **Weed Carnevale**, July 6-8. Okay, this was simply an excuse to mention the town of Weed, California's funniest town name. The **Mammoth Lakes Jazz Jubilee** brings live music to the Eastern Sierra July 14-17, and this year there will be plenty of water (and likely snow), so bring your fly rods. Finish the month with music – and I use the term loosely here – by heading to Mt. Shasta on July 30 for **Shastayama**. This is a chance for you to climb up Mt. Shasta and reward yourself with a day of listening to...some of the country's top Taiko drummers! Enjoy the climb, and the occasional avalanche.



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We have been working our tails off getting Hal's house cleaned out and fixed up to sell. It has been a much bigger task than we could have ever imagined. The house had not seen even routine maintenance for about the last 3 years and that led to dry rot in the master bathroom due to a leaking shower, which led to removing the entire shower surround, pan and flooring in the entire bathroom. There was siding on the back of the house that had worn through and needed replacement as well.

The closets, cabinets and every drawer of every piece of furniture in the entire house were stuffed to overflowing with stuff, most of it good quality, some of it pretty dated—orange butterfly pantsuit from the 60s anyone? And the garage. . . one entire wall of the garage is lined with cabinets, which I had never taken much notice of. When I finally felt brave enough to take a peek I was overwhelmed. . . more Christmas stuff, more serving dishes, more things from Wayne's and Holly's childhood, more, more, more, and the Boeke family silver carefully wrapped in newsprint and stuffed into a cardboard box. I rescued the silver, closed the doors and will let the estate liquidation professionals we hired take care of the rest. The estate sale is set for July 9 and 10 and we finally feel like there is light at the end of the tunnel. We're hopeful that all the remaining work on the house—scraping the popcorn ceilings, the master bath tile work, patching and painting will be complete shortly after we return from our Maine vacation where I'll be attending my high school reunion for the first time. The kids are really excited to see their Grammy and Grampy and go to the ocean.

In honor of Independence Day and after months of hard work, I am excited to unveil to you to my latest labor of love, <http://www.protectyourindependence.com> ! At this site you will find a variety of educational resources for seniors and their families to use to get their ducks in a row. Please check it out, share it with your friends and family, and let me know what you think. All my best,

Heather

Guiding You and Your Loved Ones Through All of Life's TransitionsSM

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