

Legal and Financial Frequently Asked Questions

Having a plan in place for financial and legal needs eases worry for seniors and caregivers. The following answers to frequently asked questions will get you started in the planning process.

What legal and financial documents are important to have in place?

Documents which can be invaluable tools in times of need include a Living Will, Durable Power of Attorney for Healthcare for Healthcare and Power of Attorney.

Other documents and papers are helpful when applying for services or assigning an agent to help with everyday business. It makes sense to locate and store the following in a safe and accessible place:

- Life insurance policies
- Health insurance policies
- List of checking and savings accounts
- List of credit cards
- Titles and deeds
- Safe deposit box location and key
- Car ownership records
- Birth Certificate
- Military/veteran papers
- Marriage certificate
- Divorce/separation papers
- Employment and Retirement papers
- Partnership agreements

Can I enroll my loved one in an Adult Day Service program without his or her consent?

The answer is "yes, but..." it is probably not necessary or advisable. Adult Day Services programs work best for people who want to be there. Often participants who are initially reluctant or even adamant that they don't want to try adult day services find that, after actually trying it out, they change their minds. Explore why someone is unwilling to consider this option, and what he or she think Adult Day Services are all about. You may want to show them this website, where they can see and read about programs at their own pace. You may want to enlist the help of the staff at an Adult Day center to encourage the person you're concerned about to actually visit a program to "see for themselves." See [Helpful Responses to Resistance](#) for more ideas.

What is a Will?

A will is a document that designates someone to manage the estate after a person dies, and names beneficiaries who will receive the estate. Most property left to beneficiaries in a will must go through probate before it can be distributed. Probate is the legal process by which a court oversees the distribution of property left by will. Probate can be time-consuming and costly, so many people minimize or avoid probate using methods such as living trusts, joint tenancy, informal bank account trusts and insurance. Even those who plan to use these probate-avoidance methods should prepare a will to back up these other methods.

What is a Living Will?

A living will tells doctors about the treatment a patient wants (and doesn't want) when the patient no longer can make or communicate decisions. Also called a "health care directive," a living will takes effect towards the end of life, when a patient cannot communicate wishes or direction. It spells out a dying patient's choices regarding use of respirators, other life-prolonging devices and "heroic measures." A living will clearly instructs doctors what they may do and what they must not do.

As a voice for the patient, a living will works in tandem with a Durable Power of Attorney for Healthcare answering caregivers' questions about what action to take and resolving family differences.

Every state has specific laws governing living wills, so it is critical that you follow your state's procedures to create a legally valid document.

What is a Power of Attorney?

A power of attorney is a legal document that ensures that everyday business will be taken care of even if you are out of commission. It authorizes an agent -- usually a trusted family member or friend -- to make legal decisions for you. A power of attorney can apply generally to all legal and financial decisions. It also can be written as a limited power of attorney restricted to specific tasks, such as paying bills.

A power of attorney can take effect immediately or at a future date. "Durable" means that it remains in effect after a person can no longer act on his or her own behalf.

What is a Durable Power of Attorney for Health Care?

A durable power of attorney for health care ensures that the person you choose is authorized to make medical decisions on your behalf. Also called a "medical power of attorney," this document appoints an agent, usually a caregiver, who will be empowered to speak for you in making choices regarding health care providers, medical treatment and end-of-life issues.

States have different laws covering medical power of attorney. In California, the agent is authorized to speak for the patient any time he or she is unable to make his or her own medical decisions, not just at the end of life.

What is Conservatorship?

Conservatorship, or "guardianship" is established by a court to protect an individual who cannot manage his financial affairs or make healthcare decisions. The court appoints a conservator only after conducting an investigation and holding hearings to determine if the individual is truly incapacitated and whether a conservatorship is justified. A conservator can handle financial and legal affairs, decisions regarding personal and health care, or both.

How can we pay for an Adult Day Service program?

Part of the answer to this question involves finding the right program to meet your needs, including your financial situation.

What about MediCare?

Medicare does not currently pay for Adult Day Services programs, with the exception of PACE (Programs of All-inclusive Care for the Elderly). Medicare does, however, help pay the cost of important medical services.

Medicare is the federal health insurance program which covers most Americans age 66 and older, as well as kidney dialysis or transplant patients and permanently disabled people. Medicare has two components: Part A is free to eligible individuals, and helps pay for hospital and skilled nursing facility stays; Part B is an option which requires a monthly premium payment, and helps pay for supplemental services like outpatient therapy, physician and lab costs.

Eligibility is based on an individual's number of years of Medicare-covered employment. A good rule of thumb is if an individual is eligible for or receiving Social Security or Railroad Retirement Board benefits, then they are eligible for Medicare.

What is MediGap?

Because Medicare requires co-payments and deductibles, Medigap private insurance is available to cover those costs.

Can Medicaid help?

Medicaid will pay for attendance at an Adult Day Health Care program. Medicaid also covers the cost of PACE (Programs of All-inclusive Care for the Elderly). The federally funded program is administered by individual states. In California it is known as Medi-Cal and is administered by the Department of Health Services. To qualify for Medi-Cal, a senior must have minimal cash assets and income (after certain expenses are deducted). Many seniors living on fixed incomes can qualify, and it makes sense to

check into it. Social workers at Adult Day Health Care programs can help investigate this option and help with the application process.

What is Social Security?

For many people, especially those who are retired, widowed or disabled, Social Security becomes an important source of income. Social Security benefits are allocated based on one's age and the number of years worked. To receive benefits, a retired individual applies to the Social Security Administration at age 66 or 67 (depending on whether their birth date was before or after 1969), or at age 62 (to begin receiving a reduced level of benefits). Seniors who delay retirement can increase the benefit amount received when they do apply. Disabled individuals should apply as soon as they become disabled; benefits begin after six months. Survivor's benefits should be applied for as soon as possible, as benefits may not be retroactive.

What is In Home Supportive Services (IHSS), and can it help me?

In California, the IHSS Program can help some people pay for services provided to them so that they can remain safely at home. To be eligible, you must be over 66 years of age, or disabled or blind. IHSS is considered an alternative to out-of-home care, such as nursing homes, Programs of All-inclusive Care for the Elderly (PACE), or board and care facilities. People in the IHSS program can also attend an Adult Day Service program.

The types of services which can be authorized through IHSS are housecleaning, meal preparation, laundry, grocery shopping, personal care services (such as bowel and bladder care, bathing, grooming and paramedical services), accompaniment to medical appointments, and protective supervision for the mentally impaired.

You may be eligible for IHSS if you are eligible for Supplemental Security Income/State Supplementary Payment (SSI/SSP); or you meet all the eligibility criteria for SSI/SSP except that your income is in excess of the SSI/SSP income level; or you are a Medi-Cal recipient who meets SSI/SSP disability criteria.

To apply for IHSS, complete an application and submit it to the local IHSS office at the county welfare department. To find your local office, look for the closest county welfare department office listed under the County Government Section in the telephone book.

