



Health Care, Legal and Financial Issues for Caregivers

If you are caring for an older loved one, you may need to help him or her organize their personal, legal or financial affairs. Though discussing these issues can be difficult, it is imperative that you do so, particularly while your loved one is still healthy. Many legal documents cannot be executed unless your loved one is mentally alert. Legal and financial planning, in particular, will help ensure that your loved one gets the appropriate care—and will be able to pay for it. Additionally, if you are helping to pay for some of the cost of your loved one's care, you may be eligible for certain tax deductions or cost-saving programs through your workplace or the government. This guide provides helpful information on health care, legal and financial issues that may arise when caring for a loved one, but be sure to seek the advice of the appropriate professional where you deem necessary.

Health Insurance and Government Programs for Older Adults

Although the cost of health care can be high, government-sponsored programs such as Social Security, Medicare or Medicaid may help pay for some of the costs. Private insurance may also provide some level of coverage, depending on the policy. Following is a brief overview of government programs and private insurance.

Social Security is a government-sponsored program originally designed to help cover life and health care costs for people aged 65 or older (although exceptions apply, for example, if you are considered disabled you can be eligible at an earlier age). Typically, you can sign up for benefits a few months before you turn 65; however, you can choose to receive retirement benefits at a reduced rate as early as age 62.

If your loved one has a chronic debilitating illness or is unable to manage his or her Social Security benefits, you can apply to be his or her representative payee—a person or organization authorized to manage Social Security income on a beneficiary's behalf. To become a representative payee, contact the Social Security Administration (SSA) for information on the application process. Keep in mind that if you are selected as the representative payee, you will have certain responsibilities as outlined by the SSA. For example, you will be responsible for deciding how the benefits can best be used to provide for your loved one's personal care and well-being, including food, shelter, clothing, medical needs, recreation and other expenses. Any left over money must be put in a savings account or in U.S. bonds in your loved one's name. Periodically, the Social Security Administration will also ask you to complete a form accounting for the funds you have received, so it is imperative that you keep accurate records.

Medicare is our country's basic health insurance program for people aged 65 and older (and for younger people with disabilities). It is administered by the Centers for Medicare & Medicaid Services (CMS), but you enroll through the Social Security Administration. Medicare was established in 1965 to help protect older Americans from the financial impact of health care costs. Although Medicare laws change frequently, in 2003, the Medicare Modernization Act was passed which added new prescription drug and preventive benefits, and provides extra help to people with low incomes.

To find out more about Medicare, contact the Centers for Medicare and Medicaid Services.

Medicaid is a federally and state funded health insurance program for low-income people. Although guidelines vary from state to state, and exceptions apply, Medicaid covers the majority of health care costs for those eligible, including some home care, assisted living facilities and extended nursing home care—as long as the provider and/or facility is Medicaid-certified (meaning it is set up to accept Medicaid reimbursement for services). Typically, a Medicaid recipient will be assigned a case manager who helps him or her find Medicaid providers. Medicaid rules can be complicated, so read as much as you can about it, or speak to a lawyer about eligibility requirements, policies and procedures. Keep in mind that even if your loved one does not qualify for Medicaid now, he or she may be eligible later. To find out more about Medicaid, contact your local social services or welfare office.

Private Medical Insurance and Long-Term Care Insurance cover some of the costs associated with long-term illnesses, but each individual policy will differ, so contact the insurance provider directly. If your loved one has a long-term care insurance policy, find

out exactly what services are covered. If your loved one does not, it may be cost-prohibitive or too late to purchase it, depending on your loved one's health and medical condition.

Please refer to the “Helpful Resources” section at the end of this guide for organizations that can provide information on government assistance programs and insurance issues.

Organizing Your Loved One's Legal Affairs

Have your loved one draft or update legal documents that allow him or her to document decisions about his or her future care and finances. A legal professional can help prepare these documents and ensure that your loved one's wishes and needs are met. The most important documents are Wills, Trusts and Advance Directives as outlined next.

A Will specifies how a person's estate will be distributed at his or her death and names an executor for the estate (the person who will manage the distribution of the assets). Wills should be periodically reviewed and updated every five years or any time a person undergoes a major life change, such as having children or getting divorced. Both Wills and Trusts (discussed below) require the person creating them to have the legal capacity to do so. If your loved one does not have a Will, he or she should draft one immediately. If one already exists, find out where it is located, and make sure it is up to date.

A Will should be kept in a safe, secure location and at least one other trusted person should know where to find it. A safe deposit box may not be the best place, since some states seal them upon the death of their owner until the estate can be settled.

A Trust details how a person's assets are to be used during his or her lifetime and how they are to be distributed after his or her death. Generally, the person setting up the Trust (the grantor) places assets, such as funds or property, into it. The assets are managed, administered and supervised by a person(s) of the grantor's choice (the trustee(s)). Trusts are set up for a variety of reasons, such as to control assets for the benefit of another, or for tax and distribution purposes. There are many different types of Trusts, so speak to an attorney about what options are best for your loved one.

Advance Directives are documents that allow people to make their wishes known about future care when they are no longer able to express themselves due to incapacity. These documents must be signed while a person is mentally competent, so speak to an attorney about these crucial documents as soon as possible.

- **A Health Care Proxy**, also called a durable Power of Attorney for Health Care, covers a wider range of situations than a living will, and is more specific. This document allows one person to appoint another person (the proxy) to make medical decisions on his or her behalf if he or she becomes mentally incapacitated. The proxy does not have to be a medical professional; this person simply ensures that the patient's medical wishes (expressed in the health care proxy, living will, or otherwise) are carried out by medical professionals. This document should include a list of specific instructions and the powers that are granted.
- **A Living Will** details how a person wishes future medical care decisions to be made in the event that he or she becomes incapacitated. It governs such things as the use of life-sustaining measures and medical treatments and procedures. Ask your attorney about limitations and laws governing Living Wills in your loved one's state.

A Power of Attorney document should be executed even if your loved one has a Trust.

- **A Power of Attorney** is a document that allows one person (the principal) to appoint another person (the agent or attorney-in-fact) to manage the principal's affairs. The principal can name anyone (it does not have to be an attorney) to act on his or her behalf (typically to sign certain documents and/or make financial, medical or property-related decisions, etc.). There are several types of Powers of Attorney, the most common being durable and non-durable. Under common law, Powers of Attorney were non-durable—that is, they were ineffective if the principal became incapacitated. However, most states now authorize a Durable Power of Attorney (DPA), which remains in effect even if the principal becomes incapacitated. A DPA can be general, giving the agent power to manage and control everything, or it can be specific, giving the agent power and control over selected assets or activities. The document should be prepared by a lawyer to suit the specific needs of the principal and the laws of the state.

In addition, refer to the "Helpful Resources" section for information about organizations that can help you with financial planning.

Guardianships/Conservatorships

If your loved one is no longer mentally capable of executing any of the important documents discussed, guardianship proceedings can be brought in state court, usually a probate court or surrogate's court. In court, a judge appoints a person (known as a guardian or conservator) to make decisions concerning personal or financial affairs on that person's behalf. For more information about guardianships/conservatorships, speak to your attorney.

If your loved one's estate includes a large amount of assets, he or she may be eligible to receive a tax break by establishing one or more Trusts. Talk to an attorney about possible tax benefits associated with a Trust.

Organizing Important Documents

Help your loved one organize his or her personal, legal and financial affairs including the following important documents:

- Will, Trusts, Advance Directives (such as Power of Attorney documents)
 - Bankbooks, bank statements and canceled checks from the past three years
 - State and federal income tax returns from the past three years
 - Information about safe deposit boxes and keys
 - Information about pension plans, IRAs, Keogh plans or other employee benefit plans, as well as individual stock certificates, bonds, mutual funds, etc.
 - The names of accountants, lawyers, financial advisors, etc.
 - Life and health insurance information and policy numbers
 - Auto and homeowner's insurance policies
 - Information on property owned (know where titles are located), mortgages held (and coupon booklets), and payment of property taxes
 - Credit cards and account numbers
 - Information on consumer loans or other outstanding debts
- If your loved one cannot help you locate these documents, do some research on your own. Here are some places to begin your search:
- Ask family members or close friends if they know where key documents are stored.
 - Check your loved one's safe deposit box. (You may need to obtain his or her permission to access its contents.)
 - Check fire boxes, file cabinets, dresser drawers, attics, basements, etc. around your loved one's home.
 - Contact your loved one's attorney, accountant and/or financial advisor and ask if they have copies of important documents. (You may need to have power of attorney to obtain this information.)
 - Contact the Social Security Administration and inquire about your loved one's retirement and/or Medicare benefits. *Note*—The Social Security Administration cannot discuss your loved one's personal information with you unless you have written consent from your loved one, or you have been named the representative payee.
 - Ask your loved one's past employers about possible pension eligibility and insurance coverage.
 - Look at checkbook entries and insurance claim statements to find out the names of your loved one's medical providers.
 - Call your loved one's physician(s), other medical providers or social workers to obtain medical information.
 - Call the regional Veterans Administration (if applicable) for your loved one's military documents, benefits information, service dates and any records of service-related injury.

Once you have the necessary documentation, make sure it is up to date, and organize it so it is readily accessible. For your convenience, we have included a record-keeper at the end of this guide, which enables you to track where documents are kept.

Tax Information for Caregivers

Caring for an older adult often involves handling his or her financial affairs, including annual income tax returns, or paying for some of his or her care. Speak to a tax professional and your employer to find out if you or your loved one are eligible for any tax credits and deductions; the most common are detailed in this section.

Tax Credits for Elders

A tax credit is the amount you may subtract from what you owe on your federal income tax return. A credit is often more beneficial than a tax deduction since a credit is treated as a dollar-for-dollar reduction in taxes owed while a tax deduction merely reduces the base on which your tax is assessed. Depending on your loved one's income level and filing status, he or she may not have to file a return at all. (IRS filing requirements can be found in the instructions for forms 1040, 1040A and 1040EZ.) If filing is necessary, however, ask a tax professional if your loved one is eligible for the Credit for the Elderly or the Disabled.

Credit for the Elderly or the Disabled

To claim this credit on a federal income tax return, in general, a person must meet one of the following criteria:

1. Be age 65 or older at the end of the tax year,
or
2. Be under age 65 at the end of the tax year, and meet all of the following requirements:
 - Was permanently and totally disabled on the date he or she retired. *Note*—To be considered permanently and totally disabled by the IRS, a person must be unable to engage in any gainful employment because of a physical or mental impairment. In addition, a physician must certify that the disability has lasted or is expected to last for at least one year, or that it can lead to the person's death.
 - Received taxable disability income during the tax year.
 - Had not reached the mandatory retirement age, as set by his or her employer, by January 1st of the year.

Keep in mind that a number of income restrictions may affect the credit, which vary according to a person's filing status. For more information, call the IRS and request a copy of Publication 524, *Credit for the Elderly or the Disabled*, or download it from the IRS web site at www.irs.gov.

Tax Credits for Caregivers of Adult Loved Ones

The following section describes some credits you may be eligible for as a caregiver; speak to a tax professional about your specific situation.

Child and Dependent Care Credit (CDCC)

The CDCC is a tax benefit that may help caregivers pay for the care of a qualifying dependent in order to work or look for work. The following people qualify as dependents under the IRS rules for the CDCC:

1. Any child under the age of 13.
2. A spouse who is disabled and unable to care for him or herself.
3. Any other disabled person who is unable to provide self-care and whom you can claim as a dependent (see requirements described below). A person is considered disabled and incapable of self-care when he or she cannot perform such tasks as dressing, eating or bathing without assistance.

For more information, call the IRS and request a copy of Publication 503, *Child and Dependent Care Expenses*, or call your tax professional.

Tax Exemptions for Dependents

Even if you are not eligible for any tax credits, you may be able to claim an exemption for your loved one. An exemption is an amount (specified each year by the IRS) that you can deduct from your taxable income for each dependent. There are two types of exemptions: personal exemptions and exemptions for dependents. Personal exemptions allow you to take one deduction for yourself and one for your spouse if you are married and filing a joint return. An exemption for a dependent allows you to take an additional deduction for each person who qualifies as your dependent.

To qualify as a dependent your loved one must meet all of the following tests:

- **Member of the Household or Relationship Test**—He or she must be a relative or have lived in your home for one year or more. Relatives include your children, stepchildren, adopted children, siblings, grandchildren, in-laws, parents, grandparents—and aunts, uncles, nephews and nieces who are blood relatives.

- **Citizenship Test**—The person must be a citizen or legal resident of the United States, Canada or Mexico.
- **Joint Return Test**—Generally, you cannot claim a married person as a dependent, especially if the person files a joint tax return with his or her spouse. However, exceptions are made for certain circumstances. To find out about these exceptions, contact the IRS and request a copy of Publication 501, *Exemptions, Standard Deduction and Filing Information*.
- **Gross Income Test**—The person's gross income cannot be more than a few thousand dollars (check with the IRS for specifics). This does not include nontaxable income such as welfare benefits or nontaxable Social Security benefits.
- **Support Test**—You must have provided over half of the person's total support. This can include food, shelter, clothing and medical and dental expenses.

Multiple Support Declaration

If you and other family members together provide over half of your loved one's support, one of you may be eligible for an exemption by claiming your loved one as a dependent using Form 2120, *Multiple Support Declaration*. One family member must be designated as the primary source of support, and your loved one must qualify as a dependent (as described previously). To be designated the primary source of support you must have provided over 10 percent of your loved one's total support for the year. If you claim the exemption, all other eligible family members (those who provided over 10 percent of the total support) must complete Form 2120 and give it to you. The IRS requires a separate declaration from each eligible family member not claiming the exemption. For more information, call the IRS and request a copy of Publication 501, *Exemptions, Standard Deduction and Filing Information*.

Deducting Medical and Dental Expenses

If you pay your loved one's medical bills, you can deduct these costs, provided you supplied over half of his or her total support for the tax year. These deductions must be reduced by the amount of any reimbursements received from medical or dental insurance. For a complete listing of deductible medical and dental expenses, call the IRS and request a copy of Publication 502, *Medical and Dental Expenses*. Please refer to the "Helpful Resources" for information on how to contact the IRS and other programs that offer free tax assistance and information.

Employer-Sponsored Dependent Care Assistance Plans (DCAPs)

Many employers offer dependent care assistance plans, also called flexible benefit or flexible spending plans, that allow employees to set aside a pre-determined amount of money from their salaries on a pre-tax basis to be used for dependent care expenses during the year. By doing so, caregivers can increase their "take home" income and increase their dependent care "buying power" since federal, state or Social Security taxes are not paid on the amount of money set aside. The maximum amount allowed to be set aside is \$5,000 per calendar year, or \$2,500 for those who are married and filing separately. (This may also affect yearly limits on your 401(k) contributions, so check with your benefits manager.) When an eligible expense is incurred, the employee presents a receipt and is reimbursed from the Dependent Care Assistance Plan. *Note*—Remember to plan ahead when paying dependent care bills since reimbursement time varies.

Keep in mind that this benefit may also reduce the amount that you may take as a dependent care tax credit, possibly to zero. Depending on your tax bracket, you may be able to save more money in taxes by using your employer's plan than by taking the credit on your tax return. To find out, calculate your savings using both methods and compare the results. Consult your tax advisor if you are still unsure which option is best for you.

Helpful Resources

Centers for Medicare and Medicaid Services

7500 Security Boulevard
Baltimore, MD 21244
877-267-2323
www.cms.hhs.gov

This is a federal agency within the Department of Health and Human Services that administers the Medicare and Medicaid programs. Call or visit its web site for information.

Internal Revenue Service (IRS)

800-829-1040
www.irs.gov

The IRS offers tax information, publications, tax forms, and access to representatives who can answer questions regarding filing taxes. Call toll-free or download information from its web site.

Medicare Rights Center

520 Eighth Ave.
North Wing, 3rd Floor
New York, NY 10018

110 Maryland Ave, NE, Suite 112
Washington, DC 20002
800-333-4114 (Consumer Hotline)
www.medicarerights.org

This nonprofit organization assists Medicare beneficiaries with general questions and concerns about coverage. It is sponsored by the New York City Office for the Aging but it is not exclusive to New York residents.

Medicare Online

800-633-4227 (800-MEDICARE)
www.medicare.gov

This web site provides information on Medicare, Medigap policies and Medicare Health Plan. The site's Nursing Home Compare section lists all Medicare certified facilities in the United States with up-to-date inspection and deficiency information.

**National Organization of Social Security
Claimants Representatives (NOSSCR)**

560 Sylvan Avenue
Englewood Cliffs, NJ 07632
800-431-2804 (Lawyer Referral Service)
www.nosscr.org

An association of over 3,900 attorneys and paralegals who represent Social Security and Supplemental Security Income claimants. It can provide information about Social Security laws as well as make referrals to attorneys who specialize in this type of law. NOSSCR is committed to providing high quality representation for claimants, maintaining a system of full and fair adjudication for every claimant, and advocating for beneficial change in the disability determination and adjudication process.

**Social Security Administration (SSA)
Office of Public Inquiries**

Windsor Park Building, 6401 Security Blvd.
Baltimore, MD 21235
800-772-1213
www.ssa.gov

This is the national office of the Social Security Administration. Call or visit its web site to locate the Social Security office in your area or to obtain information regarding Social Security, Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI), Medicare and Medicaid.

Record Keeper

Use this form to organize and document the location of your loved one's personal, financial and legal information. If the documents are kept in a safe, safe-deposit box, etc., make note of any necessary keys or combinations.

Personal Documents	Location/Key Information
Birth Certificate	
Military Records (service #, dates served, branch, wars)	
Educational Records	
Employment Records	
Religious Documents	
Other	
Legal Documents	Location/Key Information
Marriage License(s)	
Will and Codicils	
Divorce Paper(s)	
Advance Directives	
Trusts	
Passports/Naturalization Papers	
Property Deeds and Titles	
Other	
Financial Documents	Location/Key Information
Checking/Savings Accounts	
Bankbooks/Bank Statements and Cancelled Checks	

Financial Documents	Location/Key Information
Stock Certificates	
Savings Bonds	
Mortgage Statements(s)	
Real Estate Title(s)	
Automobile Title(s)	
CDs	
IRAs	
Mutual Funds	
Income Tax Records	
Property Tax Records	
Outstanding Loans	
Hospital Bills	
Medical Bills	
Utility Bills (gas, electric, phone)	
List of Credit Cards and Account Numbers	
Other	
Retirement Benefits	Location/Key Information
Pension Records	
Keogh Plan, 401(k) or other employee benefit plan	
Social Security Records	

Insurance Information	Location/Key Information
Auto	
Life	
Home	
Medical	
Medicare/Medicaid	
Long-Term Care	
Disability	

Other Important Information

Attorney _____

Name _____

Address _____

Telephone _____

Clergy _____

Name _____

Address _____

Telephone _____

Financial Advisor _____

Name _____

Address _____

Telephone _____

Accountant _____

Name _____

Address _____

Telephone _____

Safe Deposit Box and Keys (note location) _____

Other _____

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