FAMILY CAREGIVING (/CAREGIVING/)

Financial and Legal

A Legal Checklist for Family Caregivers

6 steps to take to protect your loved ones and yourself

by Judi Hasson, **AARP (http://www.aarp.org)**, Updated January 21, 2022

En español (/espanol/recursos-para-el-cuidado/asuntos-legales-financieros/info-2020/control-de-documentos-personales-para-el-cuidador.html?intcmp=AE-CRC-TOSPA-TOGL-ES) | If you're a caregiver, part of your job may be to keep track of your loved one's legal affairs. And you probably know — or are learning — that it's a big responsibility.

"The ultimate goal is to make sure you have all the decision-making rights you need to manage your loved one's affairs," advises Charles Sabatino, director of the Commission on Law and Aging at the American Bar Association (ABA).

Sabatino has six tips on how to protect your relative's legal rights — and your own.

1. Have the right documents

In addition to a will, make sure your loved one has a durable power of attorney (/caregiving/financial-legal/info-2019/types-of-power-of-attorney.html) (POA) for both health care and financial affairs. These legal documents will allow an appointed person to make medical or fiscal decisions for a frail or incapacitated relative.

Your loved one needs to create these documents when he or she is still capable of making decisions. It's not necessary to hire an attorney to draft a health care power of attorney (though depending on your state, you may need two witnesses), but it's advisable to use a lawyer to draw up a financial POA because money issues can be complicated.

The health care POA is part of an advance directive. The other part is a living will (/caregiving/financial-legal/info-2019/what-is-a-living-will.html), which spells out your wishes for care if you have a serious illness — for example, whether and when life-sustaining treatment should be stopped.

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2. Make a family plan

Discuss caregiving matters with all involved members of your family. Put in writing who will be responsible for which caregiving roles — and have all parties sign.

This is not a legal document, but it will help keep peace within the family by making everyone's role clear. The biggest precursor of legal problems is bad communication, Sabatino says.

3. Organize important papers

Most people don't realize how many legal documents they already have, or how many they will need for matters that arise. Important ones include:

- birth certificate
- marriage certificate
- divorce decree
- citizenship papers
- death certificate of a spouse or parent
- power(s) of attorney
- deeds to property
- deeds to cemetery plots
- military discharge papers
- insurance policies
- pension benefits

Organize these documents into files that are easy to navigate.

4. Explore potential financial help

Investigate public benefits such as:

- Social Security Disability Insurance (/retirement/social-security/questions-answers/apply-for-ss-disability/) (SSDI), monthly payments for people unable to work due to a serious medical condition
- Supplemental Security Income (/retirement/social-security/questions-answers/what-is-ssi/) (SSI), a safety-net benefit for older, disabled and blind people with very limited income and assets

- Medicare (/health/medicare-qa-tool/current-long-term-nursing-home-coverage/), the federal health-care program for people age 65 and older
- Medicaid (/caregiving/financial-legal/info-2019/medicaid-nursing-home-coverage.html), the federal health-care program for low-income individuals and families
- Veterans benefits (/caregiving/financial-legal/info-2017/veterans-affairs-support-ag.html), including financial support for caregivers (/home-family/voices/veterans/info-2020/caregiver-benefits-expanded.html) of former service members
- Supplemental Nutrition Assistance Program (formerly known as food stamps)

Online tools like AARP Foundation's Local Assistance Directory (https://local.aarpfoundation.org/) and the National Council on Aging's Benefits Checkup (http://www.benefitscheckup.org/) can help you find local, state and federal programs you qualify for.

Also, examine your loved one's insurance and retirement plans, including (where applicable) life insurance, disability coverage, pension benefits, long-term care insurance (/caregiving/financial-legal/info-2019/when-to-buy-long-term-care-insurance.html) and workplace health insurance. See whether any of them cover home health visits (/caregiving/financial-legal/info-2017/afford-a-homecare-worker.html), skilled nursing (/caregiving/basics/info-2019/finding-a-nursing-home.html), mental health services, or physical therapy and other short-term assistance.

If you need to take a leave of absence from your job to care for a loved one, you may be entitled to up to 12 weeks of unpaid leave under the federal Family and Medical Leave Act (/caregiving/financial-legal/info-2019/workers-family-medical-leave-act.html). Some employers offer paid family leave, and seven states (California, Connecticut Massachusetts, New Jersey, New York, Rhode Island and Washington) and the District of Columbia mandate paid leave for caregiving (/caregiving/financial-legal/info-2019/paid-family-leave-laws.html). Oregon and Colorado are set to follow suit in 2023 and 2024, respectively.

5. Look for tax breaks and life insurance deals

Your family member may be able to claim federal tax deductions (/caregiving/financial-legal/info-2017/tax-tips-family-caregivers.html) for many health care costs, including a hospital bed or wheelchair; out-of-pocket expenses not covered by health insurance; remodeling the home to make it accessible; and hiring a short-term or part-time home health aide (/caregiving/home-care/info-2019/home-health-aides.html) to provide respite (/caregiving/home-care/info-2019/respite-care.html) for the main caregiver. Save receipts for medical expenses.

Also, find out whether your loved one has a life insurance policy that makes accelerated death payments to help pay for long-term care.

6. Think beyond your loved one

If a parent passes away or becomes unable to take care of people who depended on them, you may need to take on additional caregiving roles. This includes assuming responsibility for adult children with special needs. Make sure that child gets every available benefit, such as SSDI, local and state disability, special education programs and transportation assistance.

You may also need to assume oversight of benefits of the surviving spouse, too, by making sure he or she is the beneficiary of your loved one's IRA, bank account, life insurance policy and pension benefits. Your loved one may have also made a plan for pets in their will and set aside money to pay for their care.

Editor's note: This article, published Oct. 23, 2020, has been updated with additional information on public benefit programs and new information on states with paid family leave policies.

Legal resources for caregivers

AARP Family Caregiving (/caregiving/): Find information and tips on financial and legal issues facing caregivers (/caregiving/financial-legal/) and download the advance directive form (/caregiving/financial-legal/free-printable-advance-directives/) for your state.

American Bar Association (https://www.americanbar.org/): The ABA's Commission on Law and Aging (https://www.americanbar.org/groups/law_aging/) offers legal advice for caregivers (https://www.americanbar.org/content/dam/aba/administrative/law_aging/caregiving a detailed tool kit for health care advance planning (https://www.americanbar.org/groups/law_aging/resources/health_care_decision_m

Ask a Lawyer (https://www.lawyers.com/ask-a-lawyer-question/): A service of Lawyers.com (an arm of legal publisher Martindale Hubbell) that provides free answers to legal questions on a wide variety of topics, including elder law, health care and Social Security (/retirement/social-security/).

Eldercare Locator (https://eldercare.acl.gov/Public/Index.aspx): Use this online directory of services maintained by the U.S. Administration on Aging (or call 800-677-1116) to find your local Area Agency on Aging and legal aid providers in your region. The website also offers articles and other resources on elder rights (https://eldercare.acl.gov/Public/Resources/LearnMoreAbout/Elder_Rights.aspx).

National Academy of Elder Law Attorneys (https://www.naela.org/): This member organization for lawyers who specialize in serving older and disabled clients has a searchable directory (https://www.naela.org/Web/Consumers_Tab/Consumer_Resources/Find_Lawyer.as help you find an elder-care lawyer and provides advice on hiring one (https://www.naela.org/Web/Consumers_Tab/Consumer_Resources/Questions_and

Learn More About Family Caregiving

- Jean Chatzky on the financial challenges of being a caregiver (/caregiving/financial-legal/info-2020/jean-chatzky-answers-caregivers-financial-questions.html)
- Having an estate plan can help split assets without dividing siblings (/caregiving/financial-legal/info-2020/dividing-assets-between-siblings.html)
- Caregiving doesn't end when the recipient dies (/caregiving/financial-legal/info-2020/when-care-recipient-dies.html)

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