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## Guide to financial decisions : implementing an end-of-life plan

American Institute of Certified Public Accountants. Personal Financial Planning Division

360 Degrees of Financial Literacy

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# A Guide to Financial Decisions

Implementing an End-of-Life Plan





The material contained in this booklet is designed to introduce some fundamental topics related to managing the period leading up to the end of life. Because families often struggle with financial matters during an extended illness, it is important to plan beforehand. Doing so ensures family members can address issues quickly and efficiently.

This booklet provides the necessary background when working with a competent adviser, and explains the most important questions you should ask. It provides easy-to-understand definitions of key terms, advice for patients facing extended illness, and guidance for families of those who are ill or recently deceased. There is also a helpful list of resources and a glossary of important terms.

After you read this document, the best advice we can offer is to consult with a competent adviser, such as a Certified Public Accountant or Personal Financial Specialist (CPA/PFS), for assistance in addressing these challenging financial issues.

*Disclaimer:* This guide is intended as a basic resource guide for end of life issues. This guide should not be construed as providing financial or legal advice and it is not intended to replace the advice and expertise of a qualified professional in the accounting, legal, or financial planning professions. Working with a qualified professional is strongly recommended. The points covered herein are merely introductory, and therefore the content of this guide should not be presumed to be exhaustive. Applicable tax rules, laws and regulations change frequently and may have changed since the publication date of this guide. The material in this guide should be verified against the specific laws within your state.



# Acknowledgements

The American Institute of Certified Public Accountants (AICPA) wishes to acknowledge the contributions and assistance of many organizations in the completion of this resource guide. This book is the result of a vision brought to the AICPA by Hospice of Michigan and the Michigan Association of Certified Public Accountants.

## **The Michigan Association of Certified Public Accountants (MACPA)**

Recognizing there was no resource available to those in the end of life, the MACPA formed a task force specifically to address this issue and develop the End of Life Resource Manual. In partnership with Hospice of Michigan, MACPA members spent hours discussing, diagramming and creating this product to ensure its success with patients and the community at large. Their unwavering support and generous donation of time and talent have been valuable gifts.

## **Hospice of Michigan**

We appreciate the staff of Hospice of Michigan and their work with patients and their families at an extremely difficult and vulnerable time. Every day they see the consequences of financial turmoil on persons with life-limiting illness, and the suffering of families that lasts far beyond the death of their loved one when financial planning was neglected. The staff's desire to provide patients with practical financial information and their commitment in reviewing and contributing to the guide from the beginning reflect their dedication to their profession and patients.

## **The AICPA's Personal Financial Planning Executive Committee**

The volunteer members of this committee continue to provide leadership and guidance on financial planning initiatives. Their support and input for this guide have been instrumental in its completion and distribution. [aicpa.org/PFP](http://aicpa.org/PFP)

## **The PrimePlus/Eldercare Task Force**

This joint task force between the AICPA and the Canadian Institute of Chartered Accountants (CICA) provided both content and reviews for the Guide. We appreciate their support and passion for meeting the needs of a maturing population.

## **AICPA's 360 Degrees of Financial Literacy**

Financial literacy is a concern for all ages, and the AICPA's Financial Literacy Commission's contributions to this product have demonstrated its belief that a person is never too young or old to take control of their financial situation.

This guide reflects the passion and dedication of our members – it's another example of how CPAs, CPA financial planners and PFS Credential holders are making a difference in the community.

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# Personal Reflections *of a* CPA Financial Planner



Seventeen years ago, July 14, 1992, to be exact, my dad died. Before that time, he posed many questions to me including when to begin Social Security, which pension option to elect, and various issues regarding IRA contribution and withdrawal rules. These questions and a myriad of others were my inspiration to go beyond my CPA education and expand into financial planning. Fifteen years later, almost to the day, July 15, 2007, my mom passed away. My sister Barbara, the eldest of us four children, had been assisting our mom for two or three years prior to her death. At first her assistance was in the form of companionship, financial budgeting and paying bills. Later it expanded into food preparation, arranging meal programs and finding community support assistance. Eventually my sister was involved in obtaining home health care for our mother, and, four months before Mom's death, admission to a skilled nursing care facility. Throughout all of this, my sister would call and ask our opinion as to whether she was taking the proper course of action for our mother. There is information everywhere on the Internet, but it was important for her to have a personal connection to the source of information due to the sensitivity of the issue.

A month prior to my mom's death, June of 2007, the AICPA's PrimePlus/Eldercare Task Force had been introduced to a guide developed by the Michigan State Society of CPAs along with Hospice Association of Michigan on end of life issues. What a great idea! Much of the information in this guide would apply to my mom and reassure my sister that she was doing everything she could to make our mom's life comfortable. We, the AICPA PrimePlus/Eldercare Task Force, along with staff of the AICPA, the AICPA PFP Executive Committee, various writers, graphic artists and others, have worked to diligently bring you the guide that follows this letter. The concept was to develop a national guide that gives average, non-financial people a basic understanding of issues that can arise as a person ages beyond retirement to the inevitable. I believe we achieved that.

The following guide is filled not only with information and references but also with the care, understanding, love and dedication that all volunteers and staff put into it over the past two years. We hope that all who use this guide will find it to be a beneficial tool. CPA financial planners can use it to enhance relationships with their clients and related professionals that work with people making difficult decisions. Our overriding goal for this guide is that it be compassionately shared with the public to provide an educational foundation as individuals plan for future financial decision.

**TED SARENSKI, CPA/PFS**

*AICPA Chair PrimePlus ElderCare Task Force*



# Table of Contents

1. Gathering & Organizing .....	1
<b>DOCUMENTS NEEDED</b> .....	2
2. Planning .....	5
<b>FOR YOURSELF</b> .....	6
Advance Directives .....	6
<b>FOR YOUR DEPENDENTS</b> .....	7
Care .....	7
Guardianship .....	8
Family Relationships .....	9
<b>FOR YOUR PROPERTY &amp; ASSETS</b> .....	10
Titles .....	10
Business Ownership .....	12
Retirement Accounts and Pensions .....	13
Insurances .....	14
Disability Insurance .....	14
Life Insurance .....	14
Long-Term Care Insurance .....	16
<b>FOR YOUR ESTATE</b> .....	17
Estate Planning .....	17
Wills .....	17
Living Trusts .....	19
Irrevocable Trusts .....	19
3. Meeting Financial Needs .....	21
<b>DEBT &amp; CREDIT MANAGEMENT</b> .....	22
<b>YOUR INCOME</b> .....	23
Retirement Accounts and Pensions .....	23

<b>YOUR EXPENSES</b> .....	<b>23</b>
Homeownership .....	23
Housing Alternatives .....	24
Tax Deductions and Credits .....	24
Funeral Costs, Services and Products .....	25
<b>GOVERNMENT PROGRAMS</b> .....	<b>30</b>
Social Security Disability Benefits .....	30
Medicare .....	31
Medicaid .....	31
Supplemental Security Income .....	32
Veterans Benefits .....	32
4. Survivor Issues.....	35
<b>TIMELINE AND CHECKLIST OF TASKS</b> .....	<b>36</b>
<b>SOCIAL SECURITY SURVIVORS BENEFITS</b> .....	<b>38</b>
<b>LIFE INSURANCE BENEFITS</b> .....	<b>39</b>
<b>RETIREMENT ACCOUNTS</b> .....	<b>39</b>
<b>OTHER BENEFITS</b> .....	<b>39</b>
<b>TAX STATUS</b> .....	<b>40</b>
5. Resources .....	41
<b>CPA</b> .....	<b>42</b>
<b>CPA FINANCIAL PLANNER</b> .....	<b>42</b>
<b>ATTORNEY</b> .....	<b>43</b>
6. Glossary.....	45
7. Index.....	55



# Gathering And Organizing

✎ At any stage in life, it is important to have easy access to important documents. For example, for your own planning and decision-making purposes, you'll want to be able to easily determine your assets (what you own) and your liabilities (what you owe). You will also need to know where key papers and documents are located. Once you have the documents you need, it is a good idea to store them in a safe deposit box or fireproof home safe.



## DOCUMENTS NEEDED

When putting together a big-picture view of your financial situation, there are many places to turn for information, including:

- ☛ Family members
- ☛ Your accountant, lawyer, executor, banker, or financial planner
- ☛ Your auto and home insurance agents
- ☛ Bank accounts, investment statements (mutual funds, 401(k), brokerage) and credit card statements
- ☛ Documents that detail any business ownership interests
- ☛ Military records
- ☛ Membership cards
- ☛ Credit reports
- ☛ Deeds and titles to property
- ☛ Life, health, long-term care and disability insurance policies
- ☛ Beneficiary designations for IRAs and 401(k)s, etc.

*Are your documents up-to-date?*

You may also want to contact a local bank to determine whether there is a safe deposit box.

For further information, visit [360 Degrees of Financial Literacy \(360financialliteracy.org\)](http://360financialliteracy.org), an educational program sponsored by the AICPA.

## After Death

Identifying information after a death may involve a significant amount of investigation. For example, insurance companies are not obliged to notify survivors about an existing policy. Typically, it will be necessary to send the insurance company a death benefit claim to receive the proceeds of a policy.

It will also be important to determine if the deceased had any unclaimed property. Unclaimed property is money and other assets that are considered lost or abandoned after an owner cannot be located for a specific period of time. Several states allow you to search their databases online, but the best place to start researching is at the National Association of Unclaimed Property Administrators located at [unclaimed.org](http://unclaimed.org) or [missingmoney.org](http://missingmoney.org).

*Can you quickly locate them in an emergency?*

### **Additional Documents**

While you may not often need these documents, it is important to know where they are located:

- ☛ Birth certificate
- ☛ Death certificate
- ☛ Marriage certificate
- ☛ Titles to motor vehicles, deed to home, etc.
- ☛ Bank books
- ☛ Tax returns from the last three years
- ☛ Latest financial statements (personal or business)
- ☛ Veterans Affairs file number

Knowing in advance where these documents are kept will serve to reduce the stress of locating them at a time when your attention is needed in other areas.





# Planning

☛ To help you in your planning, it is a good idea to seek the help of a Certified Public Accountant (CPA), attorney, financial planner or insurance agent who has specific knowledge and experience in the topics for which you are requesting advice. CPAs can help individuals with a variety of financial issues, including tax assistance, financial planning, management consulting and valuation services for businesses. Many CPAs also have expertise in PrimePlus/ElderCare services, which include designing, implementing and monitoring financial strategies for maturing individuals and families to assist them in maintaining and enjoying their personal independence. And CPAs who have achieved the Personal Financial Specialist (PFS) Credential have considerable experience and skill in advising clients on their personal finance needs. To find a PFS professional, go to [findaPFS.org](http://findaPFS.org).





## PLANNING...FOR YOURSELF

### Advance Directives

*(Health, Medical and Financial Decision Making)*

During an illness, it can be difficult or impossible to communicate your wishes about what kinds of health-care decisions you would like made on your behalf. Advance care planning enables you to state your wishes before you become ill.

### Treatment Directives

These documents allow you to outline the treatments you wish to receive or to avoid. The most common example is a living will. A living will is written between a patient and his or her physician.

*Advance directives take the “crisis mode” out of decision-making*

### Proxy Directives

With these documents, you name a spokesperson who will share your wishes should you become unable to communicate. This spokesperson may be referred to as a proxy, surrogate or advocate who can be given general or durable powers of attorney.

- ☛ A general power of attorney is a legal document that allows one person to act on behalf of another. It is typically used for financial decisions. This designated person, sometimes referred to as an agent or an attorney-in-fact, can be authorized to do things such as pay bills, sign checks and tax returns, enter into contracts, buy or sell real estate, deposit or withdraw funds or run a business. A power of attorney can be broad (general), or limited to a specific purpose. An agent cannot do anything beyond what is described in the power of attorney document. A general power of attorney ends when its purpose is fulfilled, or at the incapacity or death of the person who enacted it.
- ☛ A durable power of attorney serves the same function as a general power of attorney, but it remains in effect even if the person becomes incapacitated. This allows someone to continue to manage your financial affairs, provide for family needs and perhaps reduce the risk of financial loss.

Many financial institutions and other businesses have their own special power of attorney forms. It is a good idea to show your power of attorney documents to third parties who may be dealing with your named attorney-in-fact to ensure that your documents are acceptable to them.

General and durable powers of attorney may also include provisions that allow someone to make medical decisions on your behalf. In other cases, the courts may name a legal guardian who can make decisions for you if you are unable to do so.

### Do Not Resuscitate (DNR)

A do not resuscitate (DNR) order instructs medical personnel not to perform life-saving cardiopulmonary resuscitation (CPR) or other procedures to restart the heart or breathing once they have ceased. By law, health care providers must offer you the option of having a DNR order. The physician can write an order after discussing the issue beforehand with the patient (if possible) or his/her proxy or family. Be certain that your physician and the person named as your health care proxy are aware of a DNR if you have one. In this situation, a physician should communicate with patient, family and hospice staff to establish a treatment plan.



## PLANNING...FOR YOUR DEPENDENTS

### Care

A CPA can help you plan for the financial needs of your dependents, and an attorney can draft the proper estate-planning documents to ensure your wishes are followed. Those who may need to be considered include:

- ☛ **Spouse:** In the event of your illness or death, it is important to ensure that a spouse continues to have access to your shared assets. To ensure proper titling of assets, individuals are advised to seek a competent adviser.
- ☛ **Former Spouse:** Your adviser can help you arrange an automatic transfer arrangement to ensure alimony continues during your illness. Alimony generally ends upon the death of the spouse who pays it, although it is possible to provide for a former spouse if desired.
- ☛ **Child Support:** Generally, child support also ends upon the death of the parent who pays it. Death benefits provided through Social Security can replace this loss of support to your minor children. Since each family's situation is different, it's best to seek advice from a competent planner.
- ☛ **Children with Special Needs:** A child, even a grown one, with physical or mental disabilities can require special planning.
- ☛ **Other Dependents:** You will likely have to make special arrangements if you wish to provide for your parents or other family members during an illness or after your death.

**Note:** These individuals might also qualify for payments from Social Security upon the death of a spouse or former spouse. Please see the section on Social Security on page 30.

## Guardianship

The guardianship of your children is an important matter to consider during an incapacitating illness or after your death. Guardianship issues related to minors depend on the parents' marital status and their custodial rights over the child.

For example:

- ☛ If spouses share legal custody, the surviving spouse will continue to be the custodial parent in the event of one parent's death. You can name a guardian by creating a will or trust that makes your wishes known in case your spouse dies or becomes incapacitated.
- ☛ If you are not married to the other parent and have sole custody, the other parent will not automatically become the child's guardian. As a result, it's best for you to name a guardian in a legally executed will or trust.
- ☛ If you are not married to the other parent but share legal custody, it is likely that the other parent would continue as sole custodial parent. However, a will or trust can name another guardian in the event something should happen to the other parent.

## Naming a Guardian for Minor Children

Choosing the person who will care for your child if you are unable to do so is an extremely important decision. Some issues to consider:

- ☛ It is best to name the guardian in your will or trust
- ☛ Some parents name one guardian to care for children and a different guardian to oversee the children's assets and finances
- ☛ Single parents may choose to name the child's other parent, even if he or she does not have legal custody
- ☛ The court has the final authority, but the judge will hold a deceased parent's selection in high regard

## Items to consider when choosing a guardian:

- ☛ Who loves and cares about the children?
- ☛ Who do the children love and respect?
- ☛ Who do you trust?
- ☛ Who is financially and emotionally able to take on added responsibilities?
- ☛ Who is willing to take on the guardianship responsibility?
- ☛ Who is honest and dependable?

## Talk with a prospective guardian about:

- ☛ The responsibility they are taking on in agreeing to care for your children
- ☛ Your wishes for their upbringing, including your religion, the education you would like them to receive, and other important matters
- ☛ Financial resources that will be available, including life insurance, disability insurance, savings, investments, etc.

Please note that guardianships could also involve incapacitated adults, or adults who are no longer able to make decisions on their own. The best approach to adult guardianship is for the adult to preselect a guardian before the need arises. When updating or creating personal legal documents, be sure you have selected a guardian of your choice. Otherwise the courts will choose one for you should the need arise. Your legal adviser can provide additional guidance.

### **Family Relationships**

During a parent's terminal illness, family relationships often become strained. Watching a parent first lose the ability to function normally and then finally watching them die is extremely difficult and highly emotional. The financial realities of death, including the reading of the will, will be a new experience. It is not uncommon for children to learn for the first time the full extent of their parent's intentions, and perhaps even the full extent of their parent's assets. Often, for the oldest generation alive today, the males have managed the finances. The females are often unaware of or not fully informed about the couple's financial affairs, yet they are often the survivors. As such, the children often have to step in to assist their mothers in settling the financial matters of the estate.

The potential always exists for disagreements, and even arguments, among siblings. In multiple sibling families, there will generally be one sibling that emerges as the leader. This person may or may not have any legal right to act on behalf of the deceased (i.e., may or may not be the executor). There may also be a "weak link" member of the family — the child who never quite measured up, for whatever reason.

The goal of every family estate settlement should be to disburse the assets in accordance with the will, while at the same time maintaining harmony within the family unit. An unhappy family situation while a parent is in the last stages of life is a tremendous burden for a parent to bear. Likewise, the comfort of knowing their children will be cooperating throughout the estate settlement process can be reassuring.

Parents should be advised, when developing or updating their wills, to choose their executor carefully. If it is going to be one of the children, it should be the person who will look out for the best interests of all the remaining siblings and of the goals of the estate.

*The Sandwich Generation: 44% of Americans aged 45-55 have both aging parents and children under 21*

-Family Caregivers Online

All family members, however, need to be heard and should not be ignored. No one, on the other hand, should be allowed to disrupt the efforts of the family to achieve an amicable settlement. Sometimes it is helpful for a family member to state their alternative position in the form of a letter, perhaps even delivered by a close friend or a lawyer. Given their arm's-length status, this representative needs to be someone who has the legal right to act on behalf of the family member and who has a better chance of keeping the emotional aspects of the situation in check. An alternative is for the entire family to go through a counseling session with an appropriately trained facilitator. Either way, the idea is to impress upon all family members the need to display harmony for the sake of the terminally ill parent.



## PLANNING...FOR YOUR PROPERTY AND ASSETS

### Titles

Choosing the person to be the listed owner, or “title holder,” to your various assets is an important decision. It can ensure that your wishes are known and respected, and can be crucial in providing for your dependents and loved ones.

*Do you know how your assets are titled?*

The most common ways to title assets are in one name alone, jointly with a spouse, jointly with someone other than your spouse, or in a trust. Titling assets can be complicated, which is why it is a good idea to consult a CPA/PFS or other competent adviser.

### Assets Titled in One Name Alone

Assets titled in your name only will be distributed after your death based on the directions in your will and/or trust. If you don't have a will, the courts or state laws will determine who receives your assets. Usually the law spells out precisely who will receive your assets after all debts and administration expenses are paid. Wills are filed with probate court, which has the authority to supervise the administration of your estate. The court will determine that the will is valid, and that the assets are distributed based on the deceased's intentions. It also confirms the appointment of the personal representative, someone who manages the legal affairs of another, such as an executor or administrator.

Assets that are titled in your name only but have a named beneficiary (that is, left to someone other than your estate) will be distributed directly to that beneficiary. Examples include Individual Retirement Accounts (IRAs) and life insurance policies that actually designate the beneficiary or beneficiaries. You should review your beneficiary choices regularly to ensure they are up-to-date, particularly if you have recently been widowed or divorced.

### Assets Titled with a Spouse

Assets owned jointly with a spouse can be titled two different ways: “tenancy by the entirety” or “joint tenancy.” In either case, your surviving spouse takes full title when you die. People sometimes think it is a good idea to use joint ownership to avoid probate, but this can be problematic if you and your spouse die at the same time or if you have been married more than once. Be careful to ensure that property does not unintentionally go to someone other than you intended.

### Common Property

Common property defines the ownership of property acquired during marriage, in which all earnings and property acquired during the marriage, as well as all debts, are considered community property. Community property laws exist in Arizona, California, Idaho, Nevada, New Mexico, Texas, Washington and Wisconsin. Those living in these states should check appropriate laws.

*Beneficiary choices should be reviewed regularly.*

### Assets Titled with a Non-Spouse

Assets owned with someone other than your spouse can be titled two different ways:

- ☛ **Joint with Rights of Survivorship:** When you title your property so that your survivor inherits a property, make certain the other owner(s) is the person(s) you wish to inherit it. This method is often used to avoid Probate Court, but it is not always reliable because lawsuits, liens or a divorce of the other owner(s) can affect the interests of all owners.
- ☛ **Tenancy in Common:** This is used most often if the owners have undivided interests in an asset. Here’s a simple example: Several individuals choose to buy some vacant land. They title it as tenancy in common so each person owns a percentage of the property as if it is in their sole name, which will pass to their heirs at death. The rules that apply are the same as for Assets Titled in One Name Alone, discussed previously.

Before choosing the best way to title an asset, consider:

- ☛ Will your choice result in the outcome you want?
- ☛ Is the co-owner the intended recipient?
- ☛ What happens if a co-owner is sued?
- ☛ What happens if a co-owner divorces?
- ☛ What happens if a co-owner dies first?

*Are your assets titled to produce the outcome you want?*

### Assets Titled in Trust

Assets titled by a trust generally are not included in the probate process and therefore go directly to the intended recipients on whatever schedule the trust directs. Trusts can also avoid the pitfalls of joint ownership because they:

- ☛ Generally avoid probate (court supervision)
- ☛ Maintain privacy (compared to wills, which are recorded with the court and open to the public)
- ☛ Provide for control of assets both during life and after death
- ☛ Allow tax benefits
- ☛ Can be structured to take care of your family after your death

### Business Ownership

If you own a business, it is important to give some thought to whom will inherit it and run it after your death. There are many ways to set up a business entity. Each one has advantages, disadvantages and provisions for more than one owner. Each choice also has specific estate-planning considerations.

Your choice of estate-planning tools used to transfer a business will often depend on whether you plan to retire from the business or keep it until your death. Business succession planning generally considers both the continuity of the business and the minimization of adverse tax consequences. As part of the process, you should consult a CPA/PFS professional and an estate-planning attorney.

A sole proprietorship is a legal extension of the owner. Sole proprietors are liable for all business debts and other obligations the business might incur, and the proprietor's personal assets can be subject to the claims of the business's creditors.

A corporation has two main advantages. Incorporating provides the greatest shield from individual liability, and is the easiest type of entity to use to raise capital and to transfer stock without restrictions. Corporations are, however, generally subject to federal income tax, so the distributed earnings of your incorporated business may be subject to both corporate and individual income taxes.

An S corporation also offers potential tax benefits unavailable to a C corporation. For federal income tax purposes, an S corporation's income, gains, deductions and losses are generally passed through to the shareholders. Shareholders report the S corporation's income, gains, deductions and losses on their individual federal income tax returns, in most circumstances eliminating the potential for double taxation of corporate earnings.

A limited liability company (LLC), like a corporation, provides limitation of liability for owners. However, state law generally provides much more flexibility in the structuring and governance of an LLC than it does a corporation. Most LLCs are also treated as partnerships for federal income tax purposes, thus providing LLC members with pass-through tax treatment. Moreover, LLCs are not subject to the same qualification requirements that apply to S corporations. It should be noted, however, that a corporation may be a better choice than an LLC if the business plans to have an initial public offering in the future.

In a general partnership, two or more people form a business for mutual profit. Either partner has the ability to act alone to pursue business objectives, which also means that each partner is personally liable for the acts of the others, and personally responsible for the debts and liabilities of the business.

A limited partnership differs from a general partnership in that it has more than one class of partners. A limited partnership must have at least one general partner (usually the managing partner), and one or more limited partners. The limited partner(s) does not participate in the day-to-day running of the business and has no personal liability beyond the amount of his or her agreed cash or other capital investment in the partnership.

*At any given time,  
40% of U.S. businesses  
face transfer of  
ownership issues.*

-U.S. Small Business  
Administration

A buy-sell agreement allows you to keep control of your interest in a business until a triggering event occurs, such as your retirement, divorce, disability or death. When the triggering event occurs, the buyer is obligated to buy your interest from you or your estate at the fair market value. The buyer can be a person, a group (such as co-owners) or the business itself. Price and sale terms are prearranged, which eliminates the need for a fire sale if you become ill or when you die.

### **Retirement Accounts And Pensions**

There are many different kinds of retirement accounts and pensions. As part of the process of gathering information and planning for the future, it's a good idea to get a sense of how many and which kind you have. Some are provided by an employer, so it is important to remember both current and past employers, including the military, when gathering documents on these accounts. Other types of retirement accounts are created by the individual.

The first important step is to identify all your possible accounts and resources, including accounts from which you are currently receiving payments.

**Employer provided:** If you have ever worked for an employer who has put money aside in a profit-sharing plan or a pension plan, you might be eligible for a pension from that employer. Determine whether you can name a beneficiary for your plan's assets or review your earlier beneficiary choice to make it reflect your current wishes. You may find answers to many questions by reviewing the benefits handbook of your current employer. Common retirement plans for individuals include IRAs (traditional, non-traditional and Roth), Keogh Plans, 401(k)s, Savings Incentive Match Plans for Employees (SIMPLE), Simplified Employee Pensions (SEPs) and 403(b) plans. Once you create a list of the ones you have, you can begin to consider some key questions. For example, what benefits are available in the event of disability, retirement or death? Have you chosen a beneficiary for each account? Does that choice need to be updated? How do your choices fit into your overall estate plan?

*What employee  
benefits do you  
have available  
for death or  
disability?*



Also determine whether you have an existing retirement account from a former employer. If you withdrew your plan's assets when you left a job or had the plan's assets transferred to another type of retirement plan, no additional steps are necessary. If there is still an account balance with a former employer's plan, follow the steps for a current employer.

*Previous employee benefits should be investigated.*

**Note:** You may need to search for these benefits. Review prior year tax returns (as far back as possible) and contact prior employers. Be aware that some of the companies where you worked could have since been absorbed by another business or gone bankrupt. In these cases, contact the Pension Benefit Guaranty Corporation, a government agency that takes over terminated pension plans. When applying for Social Security retirement benefits, the Social Security Administration may also be able to help you search for benefits. Other information might be available at the website of National Association of Unclaimed Property Administrators, which lists state offices for unclaimed property.



## INSURANCE

### Disability Insurance

Everyone who works and earns a living probably needs disability insurance. At any age before 65, you are more likely to be disabled (defined as at least 90 days out of work) than you are to die prematurely. More people lose their homes because of disability than they do because of sudden death. If you became disabled and were unable to work, could you still meet your financial obligations? Could you get by without having to use savings or borrow from relatives? If not, you will want to make certain that you have adequate disability insurance coverage designed to pay your expenses while you are disabled and cannot work.

*70% of private sector workforce have no long-term disability insurance.*

- Social Security Administration, 2007

Because you have to meet a strict definition of disability to qualify for benefits from government programs (e.g., Social Security), you should not rely on them as your only source of income in the event you become disabled. Instead, find out if you have group disability insurance through your employer. It may be paid for by the company, or you may pay part of the premium. If disability coverage is not available at work or if you are self-employed, consider purchasing an individual policy from a private insurer. Most policies pay between 50 and 70% of your gross income for anywhere from a couple of months to age 65.

### Life Insurance

One of the most common reasons for buying life insurance is to replace the loss of income that would occur in the event of your death. When you die and your paychecks stop, your family may be left with extremely limited resources. Proceeds from a life insurance policy make cash available to support your family almost immediately upon your death.

**Common types of life insurance policies are:**

- ☛ **Term.** Term policies provide life insurance protection for a specific period of time. If you die during the coverage period, your beneficiary receives the policy death benefit. If you live to the end of the term, the policy simply terminates, unless it automatically renews for a new period.
- ☛ **Whole life.** With this policy, you generally make equal premium payments for life. The death benefit and cash value are predetermined and guaranteed. The policy owner's only action after purchase of the policy is to pay the fixed premium.
- ☛ **Universal life.** With these policies, you may pay premiums at any time, in any amount (subject to certain limits and annual premium minimums), as long as policy expenses and the cost of insurance coverage are met. The amount of insurance coverage can be changed, and the cash value will grow at a declared interest rate, which may vary over time.
- ☛ **Variable life.** Like other types of permanent life insurance, variable life insurance has a cash value, but it allows you to choose how your cash value account is invested. A variable life policy generally contains several investment options, known as subaccounts that are professionally managed to pursue a stated investment objective. Variable life insurance policies require a fixed annual premium for the life of the policy.

Once you have reviewed all beneficiary designations on insurance policies to ensure they are current and appropriate, there are other questions to consider.

**Are life insurance proceeds taxable?**

In general, life insurance proceeds are not taxable to the beneficiary. Proceeds may be taxable in limited cases if proceeds are paid in installments with interest, or if a policy is sold or transferred. Federal income tax rules also vary with benefits paid before the insured's death, such as cash withdrawals, policy loans or dividends.

*Does someone depend  
on your income?*



### How can life insurance be used to cover expenses related to a terminal illness?

It is best to consult a financial adviser before selling or surrendering part or all of a life insurance policy. Before taking any steps, consider your dependents' needs for the benefit after your death, and remember:

*56% of married parents believe their current life insurance protection is inadequate.*

- LIMRA International

☛ If a policy has accumulated a cash value over the years, you can borrow against it. Borrowed amounts must be paid back. If they are not, the amounts plus interest are subtracted from the death benefit.

☛ The policy owner may surrender a policy and receive a check for the cash value, ending all life insurance coverage thereafter.

☛ If there is an accelerated benefits rider, it can be used for someone who has less than one year to live. The insurance company pays a portion of the benefit to the patient. At death, any remaining balance is paid to the beneficiary, less any administrative fee due.

A viatical settlement is a financial transaction in which the owner sells a life insurance policy for cash while still alive. The new owner, typically a viatical settlement broker, resumes premium payments and becomes the beneficiary. Companies usually offer about 60% of the face value of the policy, depending on the health of the patient.

### What happens if illness prevents you from paying premiums?

If there is a waiver-of-premium benefit, life insurance premiums do not have to be paid during a period of disability. Some life insurance contracts automatically provide this waiver; with most it is optional. Even if the benefit is provided, there is usually a waiting period of six months during which premiums must be paid. If the waiting period ends and disability continues, premiums are waived retroactively.

*70% of people over age 65 will require some long-term services & the % increases as you age.*

- longtermcare.gov

### Long-Term Care Insurance

Although you may never need long-term care, you'll want to be prepared, because skilled nursing facilities are often very expensive. Medicaid can cover some long-term care costs, but it has strict financial eligibility requirements, so you would have to exhaust a large portion of your life savings to become eligible. HMOs, Medicare and Medigap do not pay for most long-term care expenses, which have become extremely expensive. A long-term care insurance (LTCI) policy is not for

everyone, however. Whether you should buy it depends on factors such as your age and financial circumstances. Consider purchasing an LTCI policy if:

- ☛ You are between the ages of 40 and 84
- ☛ You have significant assets that you would like to protect

- ☛ You can afford to pay the premiums now and in the future
- ☛ You are insurable

A number of states have passed Long-Term Care partnership laws that allow individuals who purchase qualified LTCI policies to protect a larger portion of their estate should they need to rely on Medicaid at some point for their long-term care. Check with a CPA/PFS professional or long-term care specialist in your area to see if your state has met the federal guidelines to participate in the partnership program. These laws may allow you to obtain coverage at a lower cost.

A variation of long-term care insurance is Critical Care or critical illness insurance, whereby the insurer is contracted to make a lump-sum cash payment if the policyholder is diagnosed with one of the critical illnesses listed in the policy.



## **PLANNING...FOR YOUR ESTATE**

### **Estate-planning**

Estate-planning is a process designed to help you manage and preserve your assets while you are alive, and to conserve and control their distribution after your death according to your goals and objectives. Your age, health, wealth, lifestyle, life stage, goals and many other factors determine your particular estate-planning needs. For example, you may have a small estate and may be concerned only that certain people receive particular assets. In that case a simple will should suffice. Or you may have a large estate and minimizing any potential estate tax is your foremost goal. In this case you will likely need to use more sophisticated techniques, such as a trust.

Estate-planning is not only for the rich, however. It can be used by anyone to ensure that financial concerns and goals are addressed after death. That may include providing for dependents, avoiding probate or reducing estate taxes.

Estate-planning may be as simple as writing a will (the cornerstone of any estate plan) or as complex as executing trusts and exploring sophisticated tax or estate-planning techniques.

### **Special Circumstances**

Estate-planning may also be important if:

- ☛ There are minor or special-needs children
- ☛ Your spouse is uncomfortable handling financial matters
- ☛ You own property in more than one state
- ☛ You own special property, such as artwork or collectibles
- ☛ Your estate is taxable

### Probate Court

Many people assign a family member as the executor of their will. This person will be working with the probate court, which is charged with approving a decedent's will, supervising the administration of a decedent's estate, and ensuring that the terms of the will are properly executed. Proceedings are initiated by someone who petitions the court, usually the executor.

*Probate makes your will a public document.*

If there is a will, the petitioner must present it to the court, which then watches over the executor/personal representative while he or she settles the estate. If there is no valid will, the court appoints an administrator.

The probate process can take between three months and two years or longer if there is litigation. Probate also makes the will a public document. Probate court charges include court costs, publication costs for legal notices, attorney fees, executor fees, bond premiums and appraisal fees. Total costs for probating an estate can range from \$250 to \$10,000 (or more if there is litigation). The estate pays the probate costs, thereby reducing the amount of money going to the heirs.

### Wills

A will is a written and legally enforceable declaration of a person's wishes regarding matters to be attended to after his or her death. Matters to consider when drafting a will include:

- ☛ Minor children and/or children from a previous marriage
- ☛ Beneficiaries with special needs
- ☛ Ownership of significant assets and the desire to minimize estate taxes
- ☛ Goals such as controlling the management and distribution of property after death
- ☛ The chance that the will may be contested after death
- ☛ Desire for a specific asset (such as a collection) to go to a specific person
- ☛ Desire that heirs be disinherited
- ☛ Charitable donations

*55% of adult Americans do not have a will.*

- Harris Interactive

### How To Prepare A Will

Although not recommended, a will may legally be prepared without an attorney. It may be drafted with the help of a guide book or software, or by purchasing a preprinted form in an office supply store or online. As long as you are 18 years or older and mentally competent, and the will is executed properly, it is legally valid. Proper execution includes signing and acknowledging the will in the presence of adult witnesses who will not benefit by anything under the will. While drafting a will on your own will cost less, potential nuances and changes in state and federal laws should at least cause you to consider utilizing the services of an attorney who specializes in estate-planning matters.

### What if there is no will?

Without a will, there are no legal instructions about how property is to be distributed. In this case, the state steps in and dictates how property will be distributed, following intestacy laws. Laws vary among states, but typically half the property goes to a spouse and half is split equally among the children.

In the absence of a will, property will be distributed according to state laws rather than your wishes. Special matters, such as who settles an estate or who takes care of minor children, will also be decided by the state.

### Disinheritance

Disinheritance involves stating that someone is not entitled to inherit even though they would otherwise be a rightful heir. Typically heirs include a spouse, descendants and possibly other relatives. In most non-community property states, spouses who are disinherited may take legal action in an attempt to receive a portion of the estate. In community property states it is not possible to disinherit a surviving spouse because he or she legally owns one-half of the marital property. Remember too that leaving a child out of a will may not succeed in disinheriting that child. An experienced estate-planning attorney can help ensure that your intentions are clearly communicated to avoid complications after your death.

### Living Trusts

A living trust becomes operative during your lifetime, as opposed to one created by a will. You may use it to transfer property to a separate entity created to “own” that property, such as a house, boat, jewelry or mutual funds. You may name yourself as trustee and someone else as the successor trustee. Upon your incapacitation or death, the successor trustee steps in to manage the property according to the terms of the trust agreement.

A living trust is revocable; that is, it generally can be changed while you are alive. Property may be removed from the trust, beneficiaries may be changed or the trust can be dissolved altogether.

*A living trust  
can help  
avoid probate.*

A living trust:

- Allows the successor trustee to step in automatically at incapacitation as defined in the trust document
- Sets aside assets that are not included in your will or in the probate process
- Typically avoids a guardianship court hearing upon incapacitation as defined in the trust document
- May make it possible for assets to get to your beneficiaries faster
- Keeps the terms of the trust private
- Does not avoid estate tax
- Does not freeze the value of estate assets

### Irrevocable Trusts

You can also choose to establish an irrevocable trust, meaning it cannot be changed after it is created and assets are transferred. Irrevocable trusts can be used to minimize estate tax and can be very complex. If you are interested in this strategy, you should contact a competent CPA/PFS or other estate-tax adviser for additional information.



# Meeting Financial Needs

☛ Many families experience a significant change in their financial situation as a result of someone's illness or death. Meeting short-term and long-term expenses and commitments and achieving a sense of security may become problematic. This section discusses the best way to access financial resources, manage your affairs and deal with funeral expenses in these circumstances. Some options may be more beneficial than others and the impact on the family's financial situation should be considered carefully.





## DEBT AND CREDIT MANAGEMENT

The introduction of terminal illness or death into a family system or household can cause many types of changes. Worries about medical expenses, loss of income and an uncertain future can combine to weigh heavily on you and your family.

- ☛ You charge purchases you don't really need
- ☛ You make only the minimum down payments on your credit card
- ☛ You take cash advances on credit cards
- ☛ You find yourself borrowing more and more money from family and friends
- ☛ You use your cash reserves to pay bills
- ☛ You receive new bills before old ones are paid
- ☛ You reach or exceed your credit limit

*79% of all credit reports contain errors.*

-Public Interest Research Group

### Repairing Poor Credit

The first step toward repairing poor credit is to understand your situation in full by obtaining a credit report from Annual Credit Report at [annualcreditreport.com](http://annualcreditreport.com). This site allows you to request a free credit file disclosure (credit report) once every 12 months from each of the nationwide consumer credit reporting companies. It will include all recorded outstanding debts, loans and mortgages. Check the report

for any errors, and make certain all the information is correct. You may also obtain a credit report, for a fee, by contacting these agencies:

- ☛ Equifax - [equifax.com](http://equifax.com)
- ☛ Experian - [experian.com](http://experian.com)
- ☛ TransUnion - [transunion.com](http://transunion.com)

If your credit problems are a result of circumstances that were beyond your control, such as hospitalization or medical expenses, and your account has been reconciled, credit agencies may be convinced to upgrade your rating.

If you are currently behind on your debts, your creditors may agree to let you pay them off over a period of time. Contact them and propose a reasonable repayment schedule. A final option if nothing else is feasible is to wait out credit problems. With some minor exceptions, bad credit will be purged from a credit report within seven years. If, however, you can show income stability and prompt payment patterns, your credit rating will improve within one to three years. Avoid incurring any more bad debts while trying to repair poor credit. If you do amass bad debts, the seven-year clock resets and starts ticking again.

In some cases, filing for bankruptcy may be appropriate. To investigate this option, consult a competent CPA/PFS or other competent professional adviser.

## YOUR INCOME

### Retirement Accounts And Pensions

Refer to the discussion beginning on page 13 for possible resources from retirement and pension accounts.

### Withdrawing Funds From An Individual Retirement Account (IRA)

Early withdrawal of funds from an IRA may appear to be a great source of funds during an emergency, but there are many restrictions. Normally, for example, there is a 10% penalty for withdrawal prior to age 59 ½, and there may also be tax on all or part of the distribution. In case of disability, however, or distributions taken to pay for qualifying medical expenses or health insurance premiums while unemployed, these penalties may not apply.

*You might be able to avoid the 10% penalty.*



## YOUR EXPENSES

### Homeownership

For homeowners, options for reducing expenses or tapping equity include:

- ☛ **Stay at home** and rent out rooms. This provides income and possible tax advantages.
- ☛ **Rent out your residence** and move to a relative's home or apartment. This option will also provide income, but the tax advantages and disadvantages should be weighed appropriately.
- ☛ **Sell the home** if it is declining in value or the neighborhood is unsafe.
- ☛ **Exchange room and board** for caregiving. If you do this, consult a competent adviser about issues such as depreciating the room you rent out for tax purposes, enforcing the caregiver's obligations, and proving to the Internal Revenue Service (IRS) that the care meets the requirements for health services.
- ☛ **Obtain a reverse equity mortgage**, although be aware that the upfront costs can be very high.
- ☛ **Enter a sale lease-back agreement** that allows you to sell the home but remain as a lifetime tenant. Drawbacks include the legal complexity of the arrangement, the possible impact on Medicaid eligibility and possible loss of any gain in property value over time.
- ☛ **Create a Personal Residence Trust**, which involves transferring your personal residence to a trust.

*Aging at home can provide dignity and independence.*

## Housing Alternatives

Despite a desire to live at home independently, there may be times when it is impractical or unsafe. Housing alternatives include:

### ☛ **While Living at Home**

A family member or friend can move in with you in order to assist with day-to-day activities and to provide companionship.

### ☛ **Moving in With Your Children**

As much as you may want to be independent and not be a burden to your children, sometimes both practicality and finances may dictate that moving in with your children is the best option. If your children work, then this option can be supplemented with adult day care, either in the home or in an off-site facility that will provide meals, socialization and assist with activities of daily living (ADLs).

### ☛ **Assisted Living**

For those who need more help, there are a broad range of options, from small private homes with few residents, to large institutional assisted living facilities. Generally, an assisted living arrangement will provide a room or apartment to the resident, as well as housekeeping and laundry services, meals, social activities and some assistance with ADLs.

### ☛ **Nursing Home**

Nursing homes typically provide three levels of service: skilled nursing, intermediate and custodial care. This is an option if you cannot live by yourself and you need to obtain a broad array of medical services, as well as assistance with all ADLs. Nursing homes may also have the ability to treat residents for both acute and hospice care.

## Tax Deductions and Credits

You may be able to deduct medical expenses beyond the obvious, such as:

- ☛ Transportation to medical appointments
- ☛ Changes to a home or car for medical reasons
- ☛ Long-term care insurance premiums
- ☛ Privately hired in-home healthcare employees
- ☛ Prescription drugs

Taxpayers defined as “chronically ill” may deduct additional expenses, including those necessary for diagnostic, preventive, therapeutic, rehabilitative and maintenance or personal care services. A chronically ill individual is one with severe functional or cognitive impairment (such as Alzheimer’s Disease). To be defined as having severe functional impairment, someone would not be able to perform two or more of the six activities for daily living (ADLs):

- |               |              |                |
|---------------|--------------|----------------|
| (1) Eating    | (3) Mobility | (5) Dressing   |
| (2) Toileting | (4) Bathing  | (6) Continence |

*Chronically ill may deduct additional expenses.*

Tax credits can benefit low-income caregivers, but usually require the individual to live with the patient and to be employed outside of the home.

### **Funeral Costs, Services And Products**

Funerals rank among the most expensive outlays that many consumers will ever make. Compare prices and services so that you can make a wise and well-informed decision, and determine whether Medicaid will consider funeral costs as an allowable expense.

#### **Pre-Need and Planning**

An increasing number of people are planning their own funerals, designating their funeral preferences and sometimes even paying for them in advance. They see funeral planning as an extension of writing a will and estate planning. Arrangements can be made with a funeral home or through a funeral-planning or memorial society. Decisions should include where your remains will be buried, scattered or entombed. Buying family plots in advance avoids rushed decisions about a cemetery at the time of death.

Be sure to put your preferences in writing, and give copies to family members and your attorney. They should not be included in your will, because a will is often not read until after the funeral. Do not put them in a safe deposit box either, because the contents may not be accessible in time for your wishes to be followed.

#### **Prepayment**

Tell your family about any funeral plans or prepayments and where the related documents are stored. It is particularly important that the family knows about prepayment so that the item or service is not paid for a second time at the time of death.

Prepayment is not always the best solution. Consider the following:

- ☛ What are you are paying for? Are you buying only merchandise, such as a casket and vault, or are you also purchasing funeral services?
- ☛ What happens to the money you have prepaid? States have different requirements for handling funds paid for prearranged funeral services. Ask in particular about what happens to the interest income on money that is prepaid and put into a trust account.
- ☛ Are you protected if the firm you paid goes out of business?
- ☛ Can you cancel the contract and get a full refund if you change your mind?
- ☛ What happens if you move to a different area or die while away from home?
- ☛ Some prepaid funeral plans can be transferred, but often at an added cost.

### Choosing a Funeral Provider

You are not legally required to use a funeral home to plan and conduct a funeral, although many people value the experience and services of a professional funeral home. The Funeral Rule, enforced by the Federal Trade Commission, requires funeral directors to give you itemized prices in person and, if you ask, over the phone.

*Ask for itemized prices.*

Consumers often select a funeral home or cemetery because it is close to home, has served the family in the past or has been recommended by someone they trust. But if you limit your search to just one funeral home, you may risk paying more than necessary for the funeral or narrowing your choice of goods and services.

If you visit a funeral home in person, the funeral provider is required by law to give you a general price list itemizing the cost of each item and service. If the general price list does not include specific prices of caskets or outer burial containers, the law requires the funeral director to show you the price lists for those items before showing you the items.

Sometimes it is more convenient and less stressful to “price shop” funeral homes by telephone, but remember that you must ask for price information if you shop by phone. Many funeral homes are happy to mail you their price lists, although this is not required by law.

When comparing prices, be sure to consider the total cost of all the items together, in addition to the costs of single items. Every funeral home should have price lists that include all the items essential for the different types of arrangements it offers. Many funeral homes offer package funerals that may cost less than purchasing individual items or services. The law permits package funerals as long as an itemized price list is provided. Only by using the price lists can you accurately compare total costs.

*The FTC’s “Funeral Rule” is your key to a lower-cost funeral.*

### Types of Funerals

**Traditional, full-service funerals** usually include a viewing or visitation and formal funeral service, use of a hearse to transport the body to the funeral site and cemetery, and burial, entombment, or cremation of the remains. It is generally the most expensive type of funeral. In addition to the funeral home's basic services fee, costs often include embalming and dressing the body, renting the funeral home for the viewing or service, and using vehicles to transport the family. The costs of a casket, cemetery plot or crypt, and other funeral products and services also must be considered.

**Modified traditional funeral** differs from the "full-service" funeral in three significant ways:

- ☛ One-hour viewing with an embalmed casketed body at the location of choice, such as a park, fraternal hall or private home.
- ☛ Arrangements completed with funeral director at a location of choice outside of the funeral home, such as in your home or church.
- ☛ Reduced costs on caskets and services chosen from a catalog rather than the funeral home showroom. Participating funeral homes prefer to get referrals for this product through a general consortium phone number as opposed to exposing their established "full-service" families to a lower-end product. Customers are directed to the closest participating establishment. Target customers are those who may prefer not to enter a funeral home at all.

**In a direct burial**, the body is buried shortly after death, usually in a simple container. No viewing or visitation is involved, so no embalming is necessary. A memorial service may be held at the graveside or later. Direct burial usually costs less than a traditional, full-service funeral. Costs include the funeral home's basic services fee as well as transportation and care of the body, the purchase of a casket or burial container, and a cemetery plot or crypt. The funeral home often charges an additional fee for a graveside service.

**In a direct cremation**, the body is cremated shortly after death, without embalming. The cremated remains are placed in an urn or other container. No viewing or visitation is involved, although a memorial service may be held, with or without the cremated remains present. The remains can be kept in the home, buried, or placed in a crypt or niche in a cemetery, or buried or scattered in a favorite spot. Direct cremation usually costs less than a traditional, full-service funeral. Costs include the funeral home's basic services fee, as well as transportation and care of the body. A crematory fee may be included or, if the funeral home does not own the crematory, a fee may be added. There also will be a charge for an urn or other container. The cost of a cemetery plot or crypt is included only if the remains are buried or entombed.

Funeral providers who offer direct cremations must offer to provide an alternative container.

### Funeral Costs

According to the Funeral Rule, if state or local law requires you to buy any particular item, the funeral provider must disclose it on the price list, with a reference to the specific law. Funeral costs include:

#### **Basic fees for the funeral director and staff**

The Funeral Rule allows funeral providers to charge a basic services fee that customers cannot decline to pay. This basic fee includes services that are common to all funerals, regardless of the specific arrangement. They include funeral planning, securing the necessary permits and copies of death certificates, preparing the notices, sheltering the remains, and coordinating the arrangements with the cemetery, crematory, or other third parties. The fee does not include charges for optional services or merchandise.

#### **Charges for other services and merchandise**

These are costs for optional goods and services, such as transporting the remains; embalming and other preparation; use of the funeral home for the viewing, ceremony or memorial service; use of equipment and staff for a graveside service; use of a hearse or limousine; a casket, outer burial container, or alternate container; and cremation or interment.

#### **Cash Advances**

These are fees charged by the funeral home for goods and services it buys from outside vendors on your behalf, including flowers, obituary notices, pallbearers, officiating clergy, and organists and soloists. Some funeral providers charge you their cost for the items they buy on your behalf. Others add a service fee. The Funeral Rule requires those who charge an extra fee to disclose that fact in writing, although it does not require them to specify the amount of their markup. The rule also requires funeral providers to tell you if there are refunds, discounts, or rebates from the supplier on any cash advance item.

### Funeral Services and Products

#### **Embalming**

Many funeral homes require embalming if you are planning a viewing or visitation, but embalming generally is not necessary or legally required if the body is buried or cremated shortly after death. Eliminating this service can save you hundreds of dollars. Under the Funeral Rule, a funeral provider:

- May not provide embalming services without permission
- May not falsely state that the law requires embalming
- Must disclose in writing that embalming is not required by law, except in certain special cases
- May not charge a fee for unauthorized embalming unless embalming is required by state law
- Must disclose in writing that you usually have the right to choose a disposition, such as direct cremation or immediate burial, which does not require embalming if you do not want this service
- Must disclose in writing that some arrangements, such as a funeral with viewing, may make embalming a practical necessity and, if so, a required purchase

*The law does not always require embalming.*

## Caskets

Caskets are the single most expensive item in a traditional, full-service funeral. Here are some facts about caskets:

- ☛ They are usually made of wood, metal, fiberboard, fiberglass, or plastic.
- ☛ Prices usually begin above \$2,000 and can be up to \$10,000.
- ☛ The Funeral Rule requires the director to give you a list of caskets with prices and descriptions BEFORE showing the casket.
- ☛ Funeral directors will usually show more costly caskets, knowing consumers usually buy the casket priced in the middle. It is a good idea to ask to see the lower-priced caskets.
- ☛ It is possible to purchase a casket from a third-party dealer. The Funeral Rule requires the director to accommodate use of a casket purchased elsewhere without an extra fee.

*You can use a casket from a 3rd party dealer.*

## Cremation

Many funeral homes rent a casket for the visitation and funeral if a body is to be cremated. Rental can eliminate the cost of casket purchase. A direct cremation has no viewing or other ceremony with the body present. Under the Funeral Rule, funeral directors who offer direct cremations:

- ☛ May not tell a consumer that state or local law requires a casket for direct cremations, because none do
- ☛ Must disclose in writing a consumer's right to buy an unfinished wood box or an alternative container for a direct cremation
- ☛ Must make available an unfinished wood box or other alternative container, a non-metal enclosure—pressboard, cardboard or canvas—that is cremated with the body

## Outer Burial Containers

Burial vaults or grave liners are commonly used in traditional, full-service funerals. The vault or liner is placed in the ground before burial, and the casket is lowered into it. The purpose is to prevent the ground from caving in as the casket deteriorates over time.

A grave liner is made of reinforced concrete and will satisfy any cemetery requirement. Grave liners cover only the top and sides of the casket. A burial vault is more substantial and expensive than a grave liner. It surrounds the casket in concrete or another material and may be sold with a warranty of protective strength. Most but not all cemeteries require purchase of a grave liner, costing several hundred dollars. There are also charges – usually hundreds of dollars – to open a grave for interment and additional charges to fill it in.

State laws do not require a vault or liner, although many cemeteries require some type of outer burial container to prevent the grave from sinking in the future. A funeral provider is required to provide a list of prices and descriptions before showing any outer burial containers. It may be less expensive to purchase it from a third-party dealer.



## Cemetery Sites

The Funeral Rule does not cover cemeteries and mausoleums unless they sell both products and services. (If the deceased was a veteran, see page 32.) When purchasing a cemetery plot, consider:

- ☛ Location
- ☛ Requirements of the family's religion
- ☛ Any cemetery restrictions on burial vaults purchased elsewhere
- ☛ Type of monument or memorial allowed
- ☛ Whether flowers or other remembrances may be placed on the grave

Perpetual care on a cemetery plot is sometimes included in the purchase price. If not, look for a separate endowment care fee for maintenance and groundskeeping.

If planning to bury cremated remains in a mausoleum or columbarium, costs may include purchase of a crypt, opening and closing fees, and charges for endowment care and other services.



## GOVERNMENT PROGRAMS

### Social Security Disability (SSD) Benefits

Social Security pays benefits to people who cannot work because of a severe medical condition that is anticipated either to last a year or more, or result in death. Eligibility depends on whether you have paid into the Social Security system and accumulated sufficient Federal Insurance Contributions Act (FICA) work credits.

Benefits do not begin until the sixth month of disability, so you should apply as soon as you become disabled. You will receive up to one year in back benefits once the case is decided. The initial decision can take up to five months, but the Social Security Administration can expedite its decision in the case of a terminal illness. In this case, the Social Security Administration should be alerted to give the claim a special designation called a TERI case.

*The initial decision can take up to five months.*

The administration uses a five-step process to determine eligibility, including these questions:

- ☛ Is the patient working? If so, monthly earnings must be below \$980 per month (as of 2009).
- ☛ Is the medical condition severe?
- ☛ Does the medical condition fall within the requirements of the administration's list of impairments that automatically qualify?
- ☛ Can the patient do the work he or she did before the illness?
- ☛ Can the patient do any other type of work that is substantial and gainful?

In certain situations there may be SSD benefits payable to the family. Apply online at [socialsecurity.gov](http://socialsecurity.gov) or call 800.772.1213. Interview appointments can be made and conducted by phone, and last about one hour. After an appointment is scheduled, a Disability Starter Kit is mailed or can be downloaded at [socialsecurity.gov/disability](http://socialsecurity.gov/disability).

You may choose to work with an attorney during this process. Attorneys that practice in this area typically get paid from the award. States regulate a cap on the percentage that can be charged.

## Medicare

Medicare is health insurance for people age 65 and older and for people with disabilities. It has three parts:

- ☛ Medicare Hospital Insurance (Part A) pays for in-patient hospital and certain follow-up services. You are eligible if you are 65 and older; eligible for Social Security or Railroad Retirement benefits; a government employee who pays Medicare tax; or if you have been receiving Social Security benefits for 24 months.
- ☛ Medicare Medical Insurance (Part B) pays for doctors' services, outpatient hospital, and other medical services. You are eligible if you qualify for Part A and pay an added fee. The standard monthly premium for 2009 is \$96.40.
- ☛ Medicare Prescription Drug Coverage (Part D) subsidizes the cost of prescription drugs. Anyone who is eligible for parts A & B is also eligible for Part D. The cost for this coverage varies by state, insurer and plan.

Medigap insurance is private supplemental health insurance sold to Medicare beneficiaries to provide coverage for expenses that are not or only partially covered by Medicare. The name reflects the fact that it covers the difference, or "gap," between the expenses reimbursed by Medicare and the total amount charged. You must be enrolled in Medicare Part A & B before you can enroll in a Medigap plan.

*Medigap insurance is NOT a government program.*

## Medicaid

Medicaid is a federal program that is administered by state law. It pays for medical assistance for certain individuals and families with low incomes and minimal resources. This program is jointly funded by the federal government to assist states in providing medical long-term-care assistance to people who meet certain eligibility criteria. Medicaid is the largest source of funding for medical and health-related services for people with limited income.

Even if you have substantial assets, you may still qualify for Medicaid. This is because assets that are inaccessible to you are not counted for Medicaid purposes. Although a proper transfer of assets will preserve those assets for your loved ones, the transfer may also subject you to a period of Medicaid ineligibility (60 months under the Deficit Reduction Act). Caution is advised with any asset transfer, since federal legislation may prohibit transfers made specifically to qualify for Medicaid.

The rules surrounding Medicaid eligibility are complex, and you should consult an attorney who specializes in Medicaid law before making any transfers. For more information, contact either the Center for Medicare & Medicaid Services ([cms.hhs.gov](http://cms.hhs.gov)) or the National Association of Elder Law Attorneys ([naela.org](http://naela.org)).

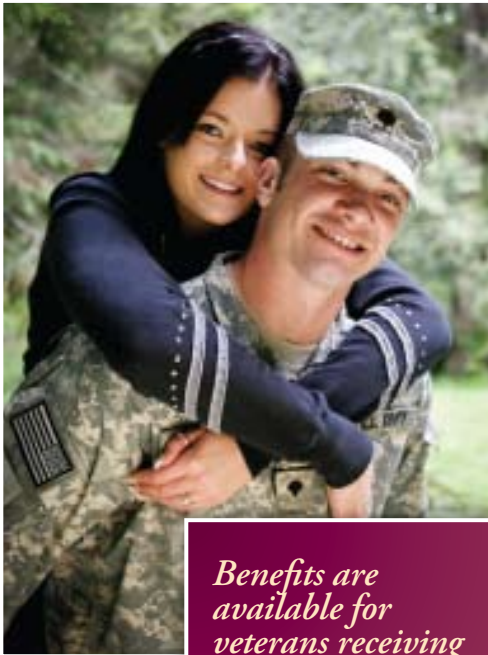
### Supplemental Security Income - SSI

This is a cash-assistance program of last resort. To qualify, you must file for all other possible benefits first, including Social Security. Be aware that it is very difficult to qualify for SSI. The maximum monthly payments are \$674 per person or \$1,011 per couple (as of 2009). You must be a U.S. citizen to be eligible, although some lawful non-citizens may qualify. The assets that are not counted in determining your financial need includes the home in which you live and one motor vehicle. Assets such as bank accounts, stocks and bonds may not exceed \$2,000 for an unmarried individual or \$3,000 for a married couple. To qualify, the recipient's illness must be severe and anticipated either to result in death or last twelve months or more. If eligible for SSI, you will usually qualify for Medicaid and food stamps. For more information, visit [socialsecurity.gov](http://socialsecurity.gov) or call 800.772.1213.

### Veteran's Benefits

The Department of Veterans Affairs (VA) administers a wide array of benefits for veterans who have received an honorable or general discharge. There are also benefits available for those who received a dishonorable or bad conduct discharge. Certain benefits require wartime service, but in all cases, eligibility depends upon individual circumstances. For further details, visit:

- ☛ VA Web site: [va.gov](http://va.gov)
- ☛ VA Benefits: <http://www1.va.gov/opa/vadocs/fedben.pdf>
- ☛ Education Benefits: 888.442.4551; [gibill.va.gov/](http://gibill.va.gov/)
- ☛ Home loan guarantees: [homeloans.va.gov/](http://homeloans.va.gov/)
- ☛ Income verification and means testing: 800.929.8387
- ☛ Military records: [archives.gov/index.html](http://archives.gov/index.html)
- ☛ Spanish version: [va.gov/opa/feature/](http://va.gov/opa/feature/)



*Benefits are available for veterans receiving an honorable or general discharge.*

Available healthcare services include:

- Hospital, outpatient medical, dental, pharmacy and prosthetic services
- Domiciliary, nursing home and community-based residential care
- Sexual trauma counseling
- Health programs for homeless veterans
- Alcohol and drug dependency treatment

For more information, contact the Health Benefits Service Center at 800.827.1000 or [va.gov/vbs/health/](http://va.gov/vbs/health/)

### Pension

Veterans with low incomes who are permanently and totally disabled or are age 65 and older may be eligible for monetary support if they have 90 days or more of active military service, at least one day of which was during a period of war. For further information, visit Compensation & Pension at [vba.va.gov/bln/21](http://vba.va.gov/bln/21).

### Life Insurance

Of the eight life insurance programs, only four are open to new enrollees, and two are specifically designed for disabled veterans. The other two “open” programs are Service Members Group Life Insurance and Veterans Group Life Insurance.

The VA Life Insurance Office, at 800.669.8477, has specialists available between 8:30am and 6:00pm. Eastern Time to discuss premium payments, insurance dividends, address changes, policy loans, naming beneficiaries, and reports of the death of an insured. The website is also helpful: [insurance.va.gov](http://insurance.va.gov).

### Funeral and Burial

There is limited space available for burial in national cemeteries. Gravesites cannot be reserved, but reservations under previous programs will be honored.

Headstones and markers may be furnished by the government and inscriptions are regulated. In a national cemetery, markers must be consistent with others on the site and are ordered through the cemetery.

If burial is in a private cemetery, information and application instructions can be found at [cem.va.gov/](http://cem.va.gov/). For information on headstone and marker status, call 800.697.6947.

Presidential Memorial Certificates recognize honorably discharged deceased veterans. The next of kin, other relatives or friends may request the certificates at any local office or by mail at Presidential Memorial Certificate (402E), National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420-0001. There is no pre-printed form or time limit. To qualify, your family will need a copy (not the original) of the discharge document. Further information can be found at [cem.va.gov/pmc.htm](http://cem.va.gov/pmc.htm).

Burial flags are available if the decedent served during wartime or after 1954.

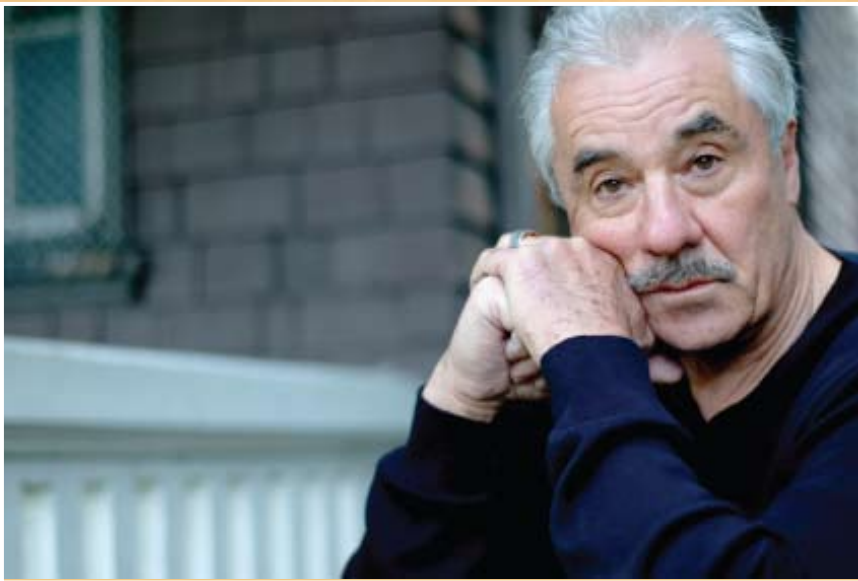
Reimbursement of burial expenses is available, based on service-connected death and financial need.

The Department of Defense will provide military funeral honors upon request. This includes folding of the flag, two or more uniformed armed service personnel, and a bugler or electronic device playing *Taps*. If interment is in a private cemetery, the national cemetery staff or funeral director may request military honors.

# Survivor Issues

☛ The issues of tracking assets and liabilities, adjusting to altered sources of revenue, care of dependents, managing financial affairs, and accessing available resources and benefits may shift, after death, to one or more loved ones. This booklet contains the framework and structure to accomplish this shift. Surviving family members are frequently thrust into new and unfamiliar roles in managing finances as family members and loved ones seek information, reassurance and security in the months and years after a death.

Some of the issues related to financial affairs facing survivors are immediate or short-term, while others may arise months or even a year or more after a family member's death. The following suggestions are meant only as guidelines to help the bereaved set some priorities when the number of required tasks may seem overwhelming.



## TIMELINE AND CHECKLIST OF TASKS

### Immediately After Death

- Arrange for care of minors
- Arrange for care of pets
- Arrange to take care of perishable food, plants and disposables
- Arrange for security of the decedent's home, car, motor home, property or business
- Get a copy of the death certificate from the county examiner
- Make funeral arrangements (see Funeral Section on page xx)
- Advise personal representative or executor of death

#### The bereaved should avoid:

- ☛ Thinking about moving from your current home until you can make a decision that is based on reason and not emotion
- ☛ Spending money impulsively
- ☛ Caving into pressure to sell or give away the deceased's possessions
- ☛ Giving or lending money to others without reviewing finances first

### Within Two Weeks

- Find the will or letter of instruction, if any
- File testamentary letters with the court
- Locate all important documents
- Make an appointment with an attorney to discuss the estate
- Notify life insurance companies of death and request claim form
- If there is mortgage insurance on a home, identify and notify the insurance company
- Notify creditors of the death, especially if they are demanding payment
- Cancel credit cards on which the deceased was the only signer
- Notify all other credit card companies
- Contact post office to change mail delivery if necessary
- Obtain bill for last illness from hospital
- Cancel or redirect newspapers, subscriptions and other home deliveries
- Be aware of any home, auto or other insurance payments due
- Consult a competent adviser before requesting distribution of retirement benefits
- If there is a debt crunch and you expect money from an insurance or estate settlement, remember that:
  - ☛ You may be able to get a cash advance from the life insurance company
  - ☛ You may be able to take out a cash advance from a credit card
  - ☛ You may be able to negotiate with creditors to postpone payment for 30 days

### **Within One Month**

- Notify Social Security and Medicare
- Finish gathering and organizing financial documents
- Change titles on any automobile owned jointly
- Change title on stocks, bonds, etc., held in joint tenancy
- Change title on property. If trust is involved, consult a competent adviser
- Do not pay off decedent's debts until you discuss them with an attorney and/or executor
- Obtain valuations of assets as appropriate
- Evaluate business and partnership obligations. If necessary, notify the decedent's employer or other business contacts, as well as the employee benefits office. Get information on the disposition of the deceased's last paycheck, company life insurance, pension benefits, money in deferred compensation or profit-sharing accounts

### **After Two Months**

- If a trust is involved, arrange for allocations or transfers
- Arrange for final personal and fiduciary income tax returns and estate tax return
- Follow up with anyone mentioned above who has delayed a response or action

### **Other Considerations**

Depending on the family dynamics and specifics of the situation, professionals often recommend that major financial changes and decisions be delayed for 6-12 months following the death of a loved one. Although this may not always be practical, you should consider that highly emotional times could skew your ability to make good financial decisions. Survivors, for example, may feel the need to rush to pay all outstanding bills immediately. It should be noted that survivors are not responsible for the individual debts of the deceased. Consequently, personal assets of the survivor and the estate should not be mixed.

When you post an obituary, you are giving public notice not only that someone has died, but also when services will be held. Unfortunately, this can provide an opportunity for criminals to approach survivors and indicate that goods or services have been purchased and payment is due. Publication of the date and time of the funeral service may also be an invitation for criminals to rob the empty home of the deceased. Steps should be taken to secure the premises adequately and avoid fraudulent transactions.

*Carefully consider major decisions during highly emotional times.*



## SOCIAL SECURITY SURVIVOR'S BENEFITS

Social Security survivor benefits can be received after the death of someone as young as 22 years old, based on the number of calendar quarters worked or credits earned. Credits are based on the amount of earnings. In 2009, you receive one credit for each \$1,090 of earnings, up to a maximum of four credits per year. No one needs more than 40 credits (10 years of work) and, under a special rule, children and the spouse caring for them can receive benefits for 6 credits of work in 13 quarters prior to death. The following exceptions are complicated, and will require individual review.

### **Widows or widowers can collect benefits if they are:**

- ☛ 60 or older
- ☛ 50 or older and disabled
- ☛ Any age if caring for the decedent's child who is younger than 16 or disabled and receiving Social Security benefits

### **Children can receive benefits if they are unmarried and:**

- ☛ Younger than 18
- ☛ Between 18 and 19 but in elementary or secondary school full time
- ☛ 18 or older and severely disabled (if disability started before 22 years old)

**Parents can receive benefits** if they were dependent upon decedent for at least half of their support. In any event, the Social Security Administration will want these documents:

- ☛ Proof of death (death certificate or funeral home notice)
- ☛ Survivor's Social Security number as well as the decedent's
- ☛ Survivor's birth certificate
- ☛ Marriage certificate, if a spouse
- ☛ Divorce papers, if applicable
- ☛ The deceased's children's Social Security numbers
- ☛ Decedent's W-2 forms or federal self-employment tax return for most recent year
- ☛ Name of survivor's bank, as well as account number, for direct deposit



## LIFE INSURANCE BENEFITS

The beneficiary usually can choose how the death benefit of a life insurance policy will be paid. Common options include:

- ☛ Interest option, where the company retains the proceeds and pays only the interest earned to the beneficiary at regular intervals
- ☛ Fixed-period options, where the company pays the proceeds together with interest at regular intervals for a fixed period of time
- ☛ Fixed-amount option, where benefits are paid in fixed amounts at regular intervals until the proceeds and interest are depleted
- ☛ Annuity option, where proceeds and interest are used to provide regular payments to the beneficiary for the remainder of his or her life
- ☛ Lump sum, where the company pays the total amount of the benefit in one single payment at the death of the insured



## RETIREMENT ACCOUNTS

Many individuals name their spouse or other family members as beneficiaries of their retirement accounts. These retirement accounts may consist of IRAs, Roth IRAs, 401(k), 403(b), or 457 plans, or other tax qualified or pension benefits.

Unlike insurance proceeds, any benefit received from tax-qualified retirement accounts are taxable at the beneficiary's tax rate. Consequently, it is extremely important to understand the tax implications of the specific situation. This is also a good opportunity to perform additional post-mortem tax planning and take advantage of tax-planning opportunities. Seek the assistance of a competent adviser.



## OTHER BENEFITS

If the deceased was a former federal, state or local government worker, contact the Federal Employment Retirement System (FERS) or the local organization that coordinates benefits for the survivor. If the deceased was a veteran, contact the Department of Veterans Affairs for possible benefits (see page 32).

## TAX STATUS

Tax returns and filing status will be issues for a survivor after the end of the year in which the deceased died. Thus, it is essential to work with the personal representative, and working with a CPA tax consultant is recommended. More information can be found on the AICPA's financial literacy website, [360financialliteracy.org](http://360financialliteracy.org). A survivor has several filing choices that may be appropriate:

- ☛ Married filing jointly is possible for the year the spouse died, as long as the survivor has not remarried before the end of the year in which the death occurred. It is usually necessary to file in cooperation with the executor or administrator of estate. If no personal representative is appointed, the spouse should write his or her name, address and Social Security number in the space at the top of the tax form. Then sign the return, and in the space for the deceased, write "Filing as Surviving Spouse." If a personal representative is appointed, he or she and the surviving spouse must sign the form.
- ☛ Married filing separately. The surviving spouse, working with a competent adviser, should calculate taxes both jointly and separately, and then make the most advantageous choice. If filing separately, write the deceased's name on the tax form, and write the personal representative's name and address in the remaining space. The personal representative must sign the form.
- ☛ Qualifying widow(er). You must meet certain criteria, such as supporting a dependent child and not having remarried. This allows the surviving spouse to use joint return status for each of two years after the death of a spouse.
- ☛ Head of household. This is an option for those who are unable to qualify for qualifying widow(er) status. To qualify, you must provide support for a relative (child or parent), in addition to meeting several other conditions.

# Resources

- The material contained in this booklet is designed to introduce some basic and fundamental topics related to managing financial affairs during and at the end of life. These topics can be fairly dense and complex. Information about resources and referral centers for three professions – CPA, attorney and financial planner – are provided below.



## CERTIFIED PUBLIC ACCOUNTANT (CPA)

CPAs can assist individuals with a variety of financial issues, including tax, financial planning, management consulting and business valuation. In addition, PrimePlus/ElderCare services aim to integrate these planning strategies with the care goals of family members when elderly family members are no longer able to act independently.



## CPA FINANCIAL PLANNER

A financial planner is someone who uses the financial planning process to help you meet your life goals. The planner can take a “big picture” view of your financial situation and make financial planning recommendations that are right for you. The CPA’s knowledge of tax is critical to the overall planning process.

### CPA/PFS Personal Financial Specialist

The PFS Credential is a comprehensive financial planning credential that is available only to CPAs that specialize in financial planning. A CPA/PFS professional is a financial planner that can be trusted to apply the integrity and objectivity of the CPA profession to an individual’s situation. To locate a CPA/PFS financial planner, visit [findaPFS.org](http://findaPFS.org).

Some CPAs also offer PrimePlus/ElderCare Services that design, implement, and monitor financial strategies for maturing families and individuals to assist them in maintaining and enjoying their personal independence.

A wealth of information can also be found at the 360 Degrees of Financial Literacy website ([360financialliteracy.org](http://360financialliteracy.org)) created by the AICPA. This is a national effort by the CPA profession to offer information for managing personal finances.



## **ATTORNEY**

Attorneys can assist individuals with a variety of legal issues, including wills, estates, trusts and healthcare advance planning. Individuals are advised to seek the advice of an experienced attorney when dealing with any identified legal issue.

### **American Bar Association**

Visit: [abanet.org/rppt/public/home.html](http://abanet.org/rppt/public/home.html) for more information on the most common questions about the estate planning process, probate, and the administration of estates, transfer taxes and tax planning.

### **National Academy of Elder Law Attorneys**

Established in 1987, the academy provides information, education, and networking for those who deal with the many specialized issues involved with legal services to the elderly and people with special needs. For further information, visit the NAELA Member Consumer Registry website, which includes a searchable directory of attorneys who belong to NAELA (<https://naela.ebiz.uapps.net/solutionsite/default.aspx?tabid=148>). Or for further information and FAQs, go to [naela.org](http://naela.org).

**Disclaimer:** Listing in the NAELA directory does not constitute an endorsement, referral, or statement of qualification by NAELA, nor does NAELA screen or evaluate those listed. Users of this directory should determine for themselves the qualifications of any elder law attorney prior to utilizing his or her services. NAELA is not responsible for the acts or omissions of any elder law attorney.

### **The American College of Trust and Estate Counsel (ACTEC)**

ACTEC offers access to a searchable database of lawyers who specialize in trusts and estates nationwide. To become a member, a lawyer must be elected by the membership at large and have at least 10 years of practice experience. Visit [actec.org/public/roster/search.asp](http://actec.org/public/roster/search.asp) for more information.



# Glossary





**401(k) plan**

This retirement plan is established by employers and enables eligible employees to designate a portion of their salary to defer to the 401(k) investment choices selected by their employer. Employers may contribute to their employee's 401(k) by matching a portion of the investment.

**Active trust**

A trust in which the trustee must perform certain duties.

**Advance directives**

Legal document written by an attorney or person directing the physician about a patient's request for terminal care; can designate whom a patient selects for making medical decisions when the patient is no longer able to do so.

**Amendment**

Any change (addition or deletion) in a legal document.

**Ancillary**

Something that is subordinate or auxiliary to something or someone else.

**Annuitant**

The beneficiary of an annuity.

**Annuity**

The payment of an allowance or income, either annually or at other intervals, for a lifetime or for a certain number of years.

**Attorney-in-fact**

A person who holds a power of attorney that has written authorization to transact business and execute documents for another person.

**Beneficiary**

The person who collects the benefits from a will or trust.

**Bequest**

An act of giving a gift of personal property by will.

**Claim against estate**

A statement made by a requestor upon an estate requesting an action or forbearance of an action thought owed the requestor.

**Codicil**

A supplement or appendix to a will; intended to alter an already executed will.

**Community property**

Classification of property equally owned by a husband and wife that was acquired during their marriage. This legal concept is recognized in some western and southwestern states.

**Conservator**

A person legally appointed by a court to manage the affairs of an individual who may be physically or mentally incapacitated.

**Constructive trust**

Without regarding the intention of the parties, this trust is created by a court as a means of justice to benefit the party that has been mistakenly deprived of its rights.

**Contest of a will**

A legal process attempting to prevent the probate of a will or the distribution of property according to the will.

**Corporate fiduciary**

A bank or trust institution with fiduciary powers. Examples include an executor, administrator, trustee or guardian.

**Corporation**

A separate and distinct legal entity.

**Corpus (body)**

The capital or principal amount of an estate or trust.

**Custodian**

One whose duty it is to take care of something, such as an estate or property.

**Decedent**

A deceased individual.

**Defined contribution plan**

A retirement plan where the contribution amount is defined but the future benefit is based on the performance of the assets held within the plan.

**Disclaimer**

A repudiation of any interest in or claim to the subject of the action, such as rejection of any title, claim, interest, estate or trust.

**Distribution**

The dissemination of property to those entitled to receive it according to the terms of a will or trust agreement.

**Domicile**

The location of a person's permanent home; where he/she legally resides.

**Domiciliary administration**

Relates to the share of an estate that is located in the state of a deceased person's domicile.

**Donee**

One who obtains a gift.

**Donor**

One who contributes a gift.

**Dower**

The right of a woman to all or a portion of her deceased husband's estate.

**Durable power of attorney**

A legal document that allows an individual to designate another person to make legal decisions on the individual's behalf.

**Duress**

Unlawful constraint used to force a person to do some act against his or her will.

**Estate**

Signifies the total assets of a person at the time of their death.

**Estate plan**

A plan for the administration and disposition of an individual's property during their lifetime and at their death; established in a will and one or more trust agreements.

**Estate tax**

Federal and state governments impose this tax on the transfer of a person's estate upon their death.

**Executor**

See Last Will and Testament.

**Executrix**

See Last Will and Testament.

**Fair market value**

The price that a property is transferred between willing buyers and sellers who are both acting rationally and with complete knowledge of the situation.

**Fiduciary**

An individual or institution bearing a relationship of trust and responsibility for the benefit of another.

**Gift tax**

This is a federal and state tax imposed on the transfer of property; to be paid by the donor, rather than the recipient.

**Grantor**

This person grants property or property rights through a written instrument.

**Gross estate**

The total value of an individual's property in an estate before liabilities are deducted.

**Guardian**

There is a legal relationship between a ward and a guardian. Wards are usually those who have been declared incompetent by the courts to make particular decisions on their own behalf. Court-appointed guardians act as surrogate decision makers for the ward.

**Guardian ad litem**

A court-appointed person representing the interests of a minor or incompetent person in court and legal matters.

**Heir**

This person is entitled by a will or by the court to inherit the estate of another.

**Heirs-at-law**

Typically refers to the relatives of a person who has died without creating a valid will. These heirs inherit the property of the deceased.

**Holographic will**

A handwritten will by the person making the will.

**Incidents of ownership**

The rights the owner has under an insurance contract. Examples include the right to cash in the policy, to receive a loan on the value of the policy and to change the designated beneficiary.

**Incompetent person**

A person who is legally not capable of managing his/her affairs because of a mental (not physical) handicap.

**Individual Retirement Account (IRA) (also see Roth IRA)**

An IRA is a tax-deferred investment and savings account that acts as a personal retirement fund for people with earned income.

**Intestacy**

When an individual dies without leaving a valid will.

**Intestate**

See Last Will and Testament.

**Inventory**

Refers to the list of items included in the estate of a deceased person.

**Irrevocable trust**

See Trusts.

**Joint and survivorship**

When a husband and wife are joint beneficiaries of an annuity. Upon the death of either, the remaining spouse becomes the sole beneficiary.

**Joint tenancy**

Two or more people mutually holding legal title to property. In the event that one owner dies, the surviving owner receives the entire property.

**Keogh plans (HR-10 Plan)**

A tax-deferred retirement plan designed to help self-employed workers or individuals who earn self-employed income establish a retirement savings program. The self-employed person makes contributions, and these along with investment earnings grow tax-deferred until withdrawal (assumed to be retirement), at which time they are taxed as ordinary income.

**Last will**

The last will a person completes. All former wills are invalid; this term is used to emphasize the fact that it is the most current and effective will of the maker.

**Last will and testament**

A will is perhaps the most well-known means of disposing of property at death. Every state has its own rules for making a valid will, but at the very least, they involve a written document that is:

- ✎ Signed by the person making it (called the testator or, if female, the testatrix)
- ✎ Witnessed by at least two disinterested people (those who do not stand to inherit under the will)

The person nominated by the testator to wind down the affairs of the decedent is called the personal representative (also known as executor or executrix). When a person with a will dies, he or she is said to die testate. This means that the will governs the disposition of that person's property. A person dying intestate has no last will and testament.

**Letters of administration**

A legal document issued by a probate court that gives the administrator authority to take control of assets in the deceased person's name.

**Letters of conservatorship**

A document showing the authorization for an individual or other source to act as a conservator of a person's property.

**Letters testamentary**

A legal document by a court giving an executor power to take control of and distribute property.

**Lien**

A legal claim against a property; security for payment of an obligation.

**Life estate**

An estate granted to an individual for the remainder of his or her life.

**Living trust**

A trust that becomes effective while the creator is still living.

**Living will**

A directive to physicians in which an individual expresses his or her desire not to be kept alive by extraordinary means when he or she is determined to be in a terminal condition. This document directs the physician to give or withhold life-sustaining medical care. The principal should state in the living will the conditions under which treatments should be continued or discontinued, and what types of life-sustaining efforts should be made.

**Lump sum distribution**

One lump payment of an individual's retirement plan benefits rather than equal payments over a specific period of time.

**Minor**

A person under legal age; meaning under the age where he or she is granted full legal rights.

**Notary public**

A public officer authorized by the state to certify documents.

**Notice to creditors**

A public notice to creditors of an estate to present their claims for what the executor or administrator owes them.

**Pension plans (defined benefit plan)**

A traditional retirement plan offered by some employers that pays a set amount each year during retirement. They are company pensions that guarantee a specific amount of benefits to employees.

**Personal representative**

A person who manages the legal affairs of another, such as an executor and administrator.

**Pour-over**

Refers to transferring property from one estate or trust to another estate or trust based on the occurrence of an event.

**Powers of attorney**

A document whereby one person (called the “principal”) authorizes someone else (called the “agent” or the “attorney-in-fact”) to act on his or her behalf. A power of attorney may be general, granting broad authority to make decisions concerning investments, tax matters and property transactions, or it may be specific, granting only limited authority to perform one of more specific duties. Every state has legislation authorizing the creation and use of powers of attorney. In all cases, the principal must be competent when the power of attorney is executed. Note: There are different kinds of powers of attorney that are also called advance directives.

**PrimePlus/ElderCare Services**

Services offered by CPAs to design, implement, and monitor financial strategies for maturing families and individuals to assist them in maintaining and enjoying their personal independence.

**Probate (verb)**

A legal process where a deceased person’s estate is administered and distributed; includes payment of outstanding obligations.

**Probate Court**

This court has jurisdiction over a deceased person’s estate and also over people under guardianship.

**Probate of will**

Presentation of proof before a court to establish the validity of a will and to admit a will to probate.

**Profit-sharing plan**

This plan provides employees with a share of the net profits of the business (in addition to their regular wages).

**Qualified Domestic Relations Order (QDRO)**

A court order accounting for the assignment of marital property, generally employee benefits, to an alternate payee such as a spouse or dependent.

**Quick claim deed**

Conveyance of real property.

**Residue**

The remaining portion of a deceased person’s estate after all payments (debts, expenses, etc.) have been made.

**Revocable trust**

See Trusts.

**Revocation**

The act of making a will or a trust instrument void.

**Rollover**

Repeated investments of the profits of short-term securities upon maturity.

**Roth IRAs (also see Individual Retirement Account)**

Retirement contributions are not deductible up front, but withdrawals can be made tax-free after age 59½, in contrast to the traditional IRA.

**Simplified employee pension plan (SEP)**

An arrangement by which an employer contributes to an individual retirement account or annuity of an employee.

**Simultaneous death**

When two or more people die and the order of their death cannot be determined.

**Subchapter S corporation**

An eligible corporation whose shareholders elect to be treated as a partnership for income tax purposes.

**Successor trustee**

When an original trustee dies or becomes incapable of managing his or her own trust, this person(s) becomes responsible for management of the trust.

**Tenancy by the entirety**

Joint ownership of real property by a husband and wife in which both have rights to the property. Upon the death of either the other has the title through the right of survivorship.

**Tenancy in common**

When two or more owners share a stated portion of property. Upon the death of one owner, their portion does not go to the remaining owner(s); it goes to the deceased owner's heirs.

**Testamentary capacity**

The mental ability to comprehend how to make a valid will.

**Testamentary trust**

A testamentary trust is created by the maker's will, funded by the estate and administered by a trustee named in the will.

**Testate**

See Last Will and Testament.

**Testator**

See Last Will and Testament.

**Testatrix**

See Last Will and Testament.



### Trusts

Trusts are legal arrangements by which the legal ownership and the beneficial ownership of assets are separated. Trusts can be divided into two major categories—irrevocable or revocable. Irrevocable trusts cannot be changed (with very few exceptions) once they are put in place. Revocable trusts can be amended and/or changed.

### Trust company

A corporation engaging in the trust business; serves both individuals and business organizations.

### Trust instrument

A document that establishes a trust. Examples include a will, trust agreement, declaration of trust, deed of trust or order of court.

### Trust under will

See Testamentary Trust.

### Variable annuity

This type of annuity allows the owner to invest in various portfolios or sub accounts. The return on assets fluctuates over time and is not guaranteed, in contrast to a fixed annuity.

### Vesting

When a person has received a benefit right, which is attributed to employer contributions, and is not contingent upon the person's duration of employment.

### Ward

There is a legal relationship between a ward and a guardian. Wards are usually persons who have been declared incompetent by the courts to make particular decisions on their own behalf. Court-appointed guardians act as surrogate decision makers for the ward.

### Warranty deed

A deed in which the seller guarantees the title is good; the deed contains covenants of title.

### Will

A legal document stating a person's desires regarding how and to whom they want their property distributed after they die.

# Index

Accelerated benefits rider, 16  
Activities of daily living (ADLs), 25  
Administrator, 10, 18, 40  
AICPA, see American Institute of Certified Public Accountants  
After death, 2, 7- 8, 10, 12, 16-19, 27, 35-37, 40  
Alimony, 7  
American Bar Association (ABA), 43  
American College of Trust and Estate Counsel (ACTEC), 43  
American Institute of Certified Public Accountants (AICPA), 42  
Annuity option, 39  
Artwork, 17  
Attorney, 8-9, 12, 18, 36, 37, 43  
Bank, 2-3, 32  
Bankruptcy, 22  
Beneficiary, 2, 10, see also Insurance and Retirement accounts  
Burial, 26-27, see also Funeral types  
Business, 12-13, 37  
    Corporation, 12  
    General partnership, 13  
    Limited liability company (LLC), 12  
    Limited partnership, 13  
    S corporation, 12  
Buy-sell agreement, 13  
CPA, see Certified Public Accountant  
CPA/PFS, see Personal Financial Specialist  
Casket, 26-29  
Cemetery, 25-30, 33-34  
Certified Public Accountant (CPA), 5, 7, 12, 17, 40, 42  
Checklist, 36-37  
Children, 9, 36, 38, see also Dependents  
Corporation, 12, see also Business  
Credit Card, 2, 22, 36  
Credit Repair, 22  
Credit Report, 2, 22  
Creditor, 12, 22, 36  
Cremation, 27, 29, see also Funeral Types  
Custody, 8  
Death benefit claim, 2  
Death certificates, 3, 36  
Debt management, 22, 36-37  
Dependents, 7, 10, 16, 17, 35 see also Children  
Disinheritance, 19  
Divorce, 10-11, 13  
DNR, see Do not resuscitate  
Documents, 2-3, 36  
Do Not Resuscitate (DNR), 7  
Durable power of attorney, see Power of attorney  
ElderCare Services, 5, 42  
Embalming, 28, see also Funeral  
Employee benefits, 13, 37  
Estate-planning, 17-19  
Executor, 2, 9-10, 18, 36-37

- Federal Employment Retirement Systems (FERS), 39
- 401(k), 13, 39, see also Retirement accounts
- 403(b), 13, 39, see also Retirement accounts
- Fixed-amount option, 39
- Fixed-period option, 39
- Funeral, 25-30
  - Costs, 25, 28
  - Providers, 26
  - Rule, 26, 28-29, 30
  - Services, 28-29
  - Types, 27
- General power of attorney. See Power of attorney
- Government worker, 39
- Guardian, 6, 8-9, 19
- Health care proxy, 7
- Health insurance, see Insurance
- Homeownership, 23
- Housing options, 24
  - Assisted Living, 24
  - Nursing home, 24
- Important documents, 2, 3, 36
- Incapacitated adults, 9
- Individual Retirement Arrangement (IRA), 10, 13, 23, 39
- Insurance, 14-17
  - Agent, 2, 5
  - Disability, 14
  - Health, 2, 7, 23, 31
  - Life, 10, 14-16, 33, 36
  - Long-term care, 16-17
  - Medigap, 31
- Interest option, 39
- Intestate, 19
- IRA, see Individual Retirement Arrangement
- Irrevocable trust, 19
- Joint tenancy, 11, 37
- Joint with rights of survivorship, 11
- Life Insurance, 10, 14-16, 33, 36, 39
- Living trust, 19
- Living will, 6
- Long-term care insurance, 16-17
- Medicaid, 31-32
- Medical durable power of attorney, see Power of attorney
- Medicare, 31
- Medigap insurance, 31
- Military funeral honors, see Veterans benefits
- Minor children, see Children
- National Academy of Elder Law Attorneys (NAELA), 43
- National Association of Unclaimed Property Administrators, 2
- Obituary, 37
- Partnership, 13, see also Business
- Pension, 13, 23
- Personal Financial Specialist (CPA/PFS), 5, 17, 22, 36, 42
- Personal residence trust, 23, see also Trusts
- PFS, see Personal Financial Specialist (CPA/PFS)
- Poor credit, see Debt management

- Power of attorney, 6
  - General power of attorney, 6
  - Durable power of attorney, 6
- Power of attorney for healthcare, see Power of attorney
- Probate, 11,18
- Railroad retirement benefits, 31
- Repairing credit, 22
- Retirement accounts, 13, 23, 36, 39
  - 401(k), 13, 39
  - 403(b), 13, 39
  - IRA, 10, 13, 23, 39
  - Keough plan, 13
  - Roth, 39
  - SEP, 13
  - SIMPLE plans, 13
- Reverse equity mortgage, 23
- Sale lease-back agreement, 23
- Shared legal custody, see Custody
- Social Security, 37-38
  - Disability benefits (SSD), 14, 30-31
  - Medicaid, 31-32, 37
  - Medicare, 31
  - Supplemental Security Income (SSI), 32
  - Survivor's benefits, 38
- Spouse, 7-8, 10-11, 19, 38-40
- Supplemental Social Security income (SSI), 32
- Tax
  - Deductions and credits, 24-25
  - Estate tax, 17-19, 37
  - Returns, 3, 24-25, 37, 40
- Tenancy by the entirety, 11
- Tenancy in common, 11
- Term insurance, see Life insurance
- Terminal illness, 9, 16, 25
- Title, 2, 3, 10-12, 37
  - Common property, 11
  - Joint tenancy, 11, 37
  - Joint with rights of survivorship, 11
  - One name alone, 10
  - Tenancy in common, 11
  - Tenancy by the entirety, 11
  - Titled in trust, 12
  - With a spouse, 11
- Trusts, 8, 10, 12, 19, 23, 37
- Trustee, 19
- Unclaimed property, 2
- Universal life insurance, see Life insurance
- Variable life insurance, see Life insurance
- Veteran's benefits, 3, 32-34, 39
- Viatical settlement, 16
- Waiver of premium benefit, 16
- Whole life insurance, see Life insurance
- Widows or widowers, 38
- Wills, 8, 10, 18-19, 36



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