

The ALERT



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of Cleveland
Since 1905

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The Social Security Representative Payee Program – Protecting Seniors

By Deborah Dallmann

With Alzheimer's disease and other cognitive impairments on the rise, many seniors are unable to manage their money, including Social Security benefits. To make sure these seniors receive and properly use their benefits for food, housing, and other essential needs, the Social Security Administration (SSA) can appoint a third party, known as a "representative payee." Seniors, advocates, and caregivers should be aware of the representative payee program and its importance.

Choosing a Representative Payee

When seniors receiving social security benefits or their caretakers feel they cannot manage their money, they can ask the SSA to appoint a representative payee. The benefits are paid directly to the payee. SSA will first look to the beneficiary's family and friends who are willing to serve as a payee. If no family or friends are available, SSA may appoint an organization to be the payee. The individual or organization seeking to become the payee must apply with the local SSA field office or online.

Duties of a Representative Payee

SSA encourages payees to take an active role in the beneficiary's life. A representative payee must:

- Meet with the beneficiary on a regular basis.
- Use the money to pay for the beneficiary's needs, including housing and utilities; food; medical and dental expenses; personal care items; and clothing.
- Save any unspent benefits to meet later needs.
- Keep accurate records of benefit payments and how they are spent and regularly report that information to SSA.
- Report any changes that may affect the payment of benefits.

Protection Against Misuse of Benefits

For seniors on fixed incomes, every penny counts. All payees must follow SSA rules. They must maintain records showing all money received and purchases made on beneficiaries' behalf. If a payee misuses benefits, SSA can impose criminal and civil penalties. Suspected misuse should be reported to the local SSA office, or by calling 1-800-269-0271 (TTY 1-866-501-2101), or submitting a report online at <http://oig.ssa.gov>.



Resources

- For help when social security benefits are terminated or reduced because of an overpayment, recipients can apply to The Legal Aid Society of Cleveland by calling 1-888-817-3777.
- For more information about the SSA Representative Payee program, see: www.ssa.gov/payee - "When People Need Help With Their Money" and also <http://www.justiceinaging.org/wp-content/uploads/2016/01/FINALSSA-Representative-Payee-Program.pdf>
- Adults age 60 and over may also contact ProSeniors telephone hotline by calling 1-800-488-6070.

Advance Directives: Health Care POA and Living Wills By Emily Depew

Advance directives help ensure that you receive the medical care you would want even when doctors and family members are making decisions on your behalf. There are two different types of advance directives: Health Care Power of Attorney and Living Will.

Health Care Power of Attorney: This document allows you to legally appoint a person to make health care decisions for you if you lose the ability to make your own decision, even if the period of disability is temporary. It is important for you to discuss how you feel about important health care treatments so that the person to whom you assign this responsibility understands your wishes and is comfortable with the role.

Living Will: With this document, you specify whether or not you would want life sustaining treatment in the case that you are unable to make an informed medical decision and you are in a terminal condition or a permanent unconscious state. You may also specify your wishes regarding organ and tissue donation in this document.

To start the advance directive planning process, speak with your doctor about the types of health care decisions that could come up in your future. Consider what is important to you and your family. Once you

feel confident about your wishes, you need to complete legal forms. Your local area agency on aging can assist you in finding the correct documents. Alternatively, you can seek help from a lawyer to complete the documents. Low-income older adults and people with disabilities or serious illness can apply to Legal Aid for help by calling 1-888-817-3777. You can also use this online interview tool, which will help you create your own Living Will or Health Care Power of Attorney (<https://lasclev.org/selfhelp-poa-livingwill/>).

After completing your advance directives, give a copy to your doctors, and make your family and close friends aware of where you keep a copy. Also give copies of the directive to the person named as your Health Care Power of Attorney. It is never too early to start planning, and remember to review your advance care planning decisions at least every 10 years.

“Advance directives help ensure that you receive the medical care you would want even when doctors and family members are making decisions on your behalf.”

Grandparent Powers of Attorney and Caretaker Authorization Affidavits

By Katie Feldman

Grandparents sometimes find themselves caring for a grandchild unexpectedly. This often happens without any formal court order giving the grandparent custody or guardianship. Without custody or guardianship, the grandparent will face problems getting medical care for the child or dealing with the child's school.

Ohio law offers two options that give temporary custodial rights to grandparents in this situation depending on whether the parent can be located. If the parent can be found and agrees that the child live with the grandparent, the parent and grandparent can together sign a grandparent power of attorney (POA). If only one parent signs the POA, then a copy of the POA must be sent by certified mail to the non-custodial parent.

If the parent cannot be found after reasonable efforts have been made to locate the parent, then a grandparent caretaker authorization affidavit (CAA) can be completed instead. Only the grandparent needs to sign the CAA.

Both the POA and CAA need to be notarized at the time the document is

signed. Then within five days of being created, the document must be filed at the juvenile court for the county where the grandparent lives.

The POA and the CAA give the grandparent custodial rights and responsibilities for the care of the child. This means the grandparent can enroll the child in school, get information about the child from the school, and consent to medical care for the child. Neither the POA nor the CAA affect the rights of the parents or grant legal custody to the grandparent.

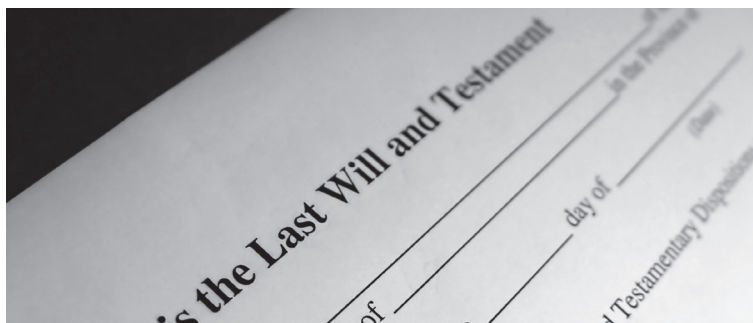
The POA and the CAA end when the person who created the document cancels it, the child stops living with the grandparent, or the parent terminates the CAA.

Forms and instructions for the grandparent power of attorney and the caretaker authorization affidavit can be found on the Cuyahoga County Juvenile Court website: <http://juvenile.cuyahogacounty.us/en-US/forms-publications.aspx> under the heading, "Grandparent Power of Attorney and Caregiver Authorization." These forms can be used across Ohio.



Are Wills Really That Important?

By Kate Fenner



When my mother died in 2012, we discovered that her will was from 1959 and had not been updated to reflect the many changes in her life since then: she had four more children, she bought a house, furniture, an automobile, jewelry, and a dog. As a result, my mother died without a valid will. Following her death, bills had to be paid, property sold, her furniture, jewelry, the car divided, and someone had to take in the dog.

A valid will would have settled all of the “who gets what” questions, and it would have made the administration of her estate truly reflect my mother’s final instructions to us – her kids. A will would have saved us money as we could have probated her estate without having to post a bond. My mother could have picked whom she most trusted to administer her estate, to pay the bills, and to make decisions with regard to the sale of her house and her household goods, etc. Most importantly, a valid will would have given my mother control over who received special personal items and valuables, gifts that are often remembered most fondly. But, because she died without a valid will, the court chose the administrator to make these decisions.

What is so important about a will?

- Wills allow you to name whom you select to be the guardian of your minor children following your death. If you have minor children or children that are disabled and will need future care, this is

exceptionally important. Without a will, the court will decide among family members or a state-appointed guardian.

- Wills can provide instructions regarding whom you specifically do not want to inherit from your estate. Without these specific instructions, a person you do not want to benefit under your estate automatically may be entitled to inherit from your estate under the law.
- Wills limit the opportunity for conflict between beneficiaries (and those who want to be beneficiaries).
- Wills outline how you would like your property and assets to be distributed following your death. (the “who gets what, when, and where”)
- Wills allow you to pick the person whom you most trust to carry out the administration and distribution of your estate.
- Wills limit the court from deciding what should happen to your assets after they die.
- Wills avoid a long probate process, substantial court involvement, and save the estate money.

How do I make a will?

The best option if you need a will is to seek assistance from an attorney. For eligible clients, Legal Aid will prepare a will. Call 1-888-817-3777 to apply. Others can find names of attorneys who prepare wills by calling the local bar association attorney referral service. Lastly, you can complete forms online without help from an attorney. See a simple will form for Ohio at <http://www.proseniors.org/pamphlets-resources/ohio-online-legal-forms/>. ProSeniors also has a telephone hotline (800-488-6070) to assist low-income seniors with legal questions.

Wills requires us to think about our death – which is uncomfortable. But in making a will, we can protect and provide for those we love following our death. Wills, while allowing us to express our final wishes, most importantly serve to greatly benefit our loved ones by providing them with clear direction through their difficult grieving process following our deaths.

What You Need to Know about Prepaid Funeral Arrangements

By Rebecca Maurer

Many people do not like to think about death or funeral arrangements, but some people do make plans for when they pass. For example, some people choose to purchase “pre-paid funeral contracts.” These contracts allow you to make decisions about your own funeral, and pay for it ahead of time.

These pre-paid contracts give some people peace of mind. But before purchasing such a contract, keep the following issues in mind.

First, under Ohio law, a pre-paid funeral contract must always be in writing. Do not hand over any money if the funeral director does not give you a written contract. The written contract must include a statement of the funeral services you have purchased.

Second, a funeral contract can either be “guaranteed” or “non-guaranteed.” Under a “guaranteed” contract, the funeral home guarantees to provide the funeral services you’ve chosen for the amount

Prepaid Funeral Arrangements continued on page 4...

you paid at the time. It will not matter if the price of the services increases later on. The funeral home cannot ask your family for any more money.

However, a “non-guaranteed,” contract is different. In that case, the funeral home can hold on to your money and refuse to perform the funeral services you asked for if the money you paid is not enough to cover the cost at the time you pass away. The written contract must tell you whether the contract is “guaranteed” or “non-guaranteed.” Always be sure to ask which one it is.

Third, you can cancel any contract for pre-paid funeral services for seven days after you make the contract. After those first seven days, you can only get your money back if it is a “revocable” contract. (Even if your

contract is revocable, a funeral home often can keep some percentage of the money paid.)

Other people want their contract to be “irrevocable” – meaning they cannot cancel it after those first seven days. In fact, if you are buying a pre-paid funeral contract to spend down your assets to qualify for Medicaid, the contract must be irrevocable. The written contract must also tell you whether the contract is “revocable” or “irrevocable.” Always be sure to ask which one it is.

When considering a prepaid funeral contract, be sure to get all the information and read the documents carefully. Do not sign anything until you are certain it gives you the benefits you are paying for.

Naming a Durable Power of Attorney

By Anne Sweeney



A durable power of attorney can be one of the most helpful estate planning tools a person uses, but it can also be very risky. A durable POA gives a person (who is called an “attorney in fact”) legal authority to act for another person in a variety of matters, including banking, benefits, housing, taxes, real estate, litigation, and more. (The durable POA is *different* from a Health Care Power of Attorney, which is the form used to appoint a person to make decisions about health care.)

A power of attorney can be limited or very broad in scope depending on what is needed. A properly written and executed durable POA can give someone a great deal of power over another person’s affairs, and should be carefully considered. Executing a power of attorney does not take away the ability of the principal – the person signing the power of attorney – to continue to conduct his own affairs.

When deciding who to name as “attorney in fact,” consider four things about potential people:

1) Trust. The person named in a POA must be trusted to do what the principal wants and needs. The “attorney in fact” must not use his authority to take advantage of the principal and cannot exceed the authority given to him.

2) Competency. The attorney in fact must be capable of handling the tasks the principal needs done. A person who must handle a complicated tax matter needs a different level of competency than someone who needs to make sure the rent is paid each month.

3) Capacity. The needs of the principal may change over time. The attorney in fact should have the time, energy, and willingness to help the principal as different situations arise.

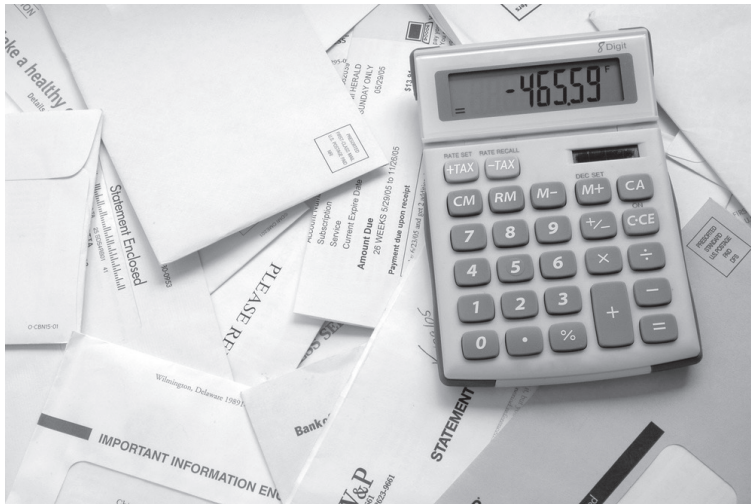
4) Communication. The principal and the attorney in fact should be able to communicate clearly with each other. The principal needs to give directions about what she wants done under different circumstances, and the attorney in fact should be honest about what she is willing and able to do.

Ohio’s “power of attorney” form, along with tools and resources to help fill it out, can be found at <http://www.proseniors.org/824-2/>. The POA form should be signed before a notary. The POA must be given to anyone or any institutions asked to rely on it, such as a bank or landlord. The POA lasts until the principal dies or says the power of attorney is no longer in effect. The POA must be recorded with the county if used for any transactions involving real property.

Older adults and people with disabilities or serious illness may apply to Legal Aid for help creating a durable power of attorney by calling 1-888-817-3777.

Need Help Paying Your Medicare Expenses?

By Bob Bonthius



If you are a low-income Medicare beneficiary, the Medicare Premium Assistance Programs (MPAP) may help you pay some or all of your Medicare cost-sharing expenses (premiums, copays, and coinsurance). MPAP is part of the Ohio Medicaid program. MPAP is sometimes called the “Medicare buy-in” or “Medicare savings” program. All of these names refer to four subprograms:

- the Qualified Medicare Beneficiary (QMB) program;
- the Specified Low-Income Medicare Beneficiary (SLMB) program;
- the Qualified Individual-1 (QI-1) program; and
- the Qualified Working Disabled Individual (QWDI) program.

MPAP will pay different costs for you if you are eligible for one of the four subprograms:

- QMB will pay all your copays, coinsurance, and monthly Parts A and B premiums.
- SLMB and QI-1 will pay your monthly Part B premiums.
- QWDI will pay your monthly Part A premiums.

In addition, if you are eligible for QMB, SLMB or QI-1, Social Security will automatically enroll you in its Extra Help program. For 2017, Extra Help limits your Part D prescription copays to no more than \$3.30 for each generic drug and no more than \$8.25 for each brand-name covered drug.

Each subprogram has different income limits, and other eligibility requirements. For 2017, the income limits for individuals are:

- \$1005 monthly for QMB (100% FPG);
- \$1357 monthly for SLMB and QI-1 (135% FPG); and
- \$2010 monthly for QWDI (200% FPG).

The asset limit is \$7390. But, only some income and some assets are counted; and different limits may apply depending on your circumstances. So, you should apply, have the county make an eligibility determination, and then seek advice or appeal if you disagree with the county’s decision. Legal Aid may be able to help you. To be connected to the nearest Legal Aid office, phone (866) 529-6446 (LAW OHIO).

You may apply for MPAP at your local County Department of Job and Family Services, sometimes called the “county welfare department” or “county Medicaid.” For the address of the nearest office, phone the Medicaid Consumer Hotline at (800) 324-8680.

Free Site Helps Seniors Find Benefits

By Karla Perry

BenefitsCheckUp is a web-based service that helps seniors. It is especially helpful for those with limited income and resources, their family members and, social service organizations. It connects people to over 2,000 public and private programs.

Many adults over 55 need help paying for basic needs. Some of the benefits screened for are health care services, prescription drugs, rent assistance, in-home services, meals, heat, and energy assistance, and transportation.

The screening tool can also be a help to younger adults with disabilities and to their caregivers. The program can often screen for benefits that people are unaware of or unlikely to have.

BenefitsCheckUp is a free service provided by the National Council on Aging (NCOA). The website for this service is www.BenefitsCheckUp.org. Since 2001, millions of people have used

BenefitsCheckUp to find helpful programs.

To start using BenefitsCheckUp, people click on an online questionnaire. The questionnaire asks the user a series of questions. The program then produces a “report card” explaining what benefit programs the user may be eligible for and how to apply for them.

It is a completely confidential service. Users do not need to give their names, addresses, telephone numbers, or social security numbers. Users only need to enter their age, income, and zip codes and BenefitsCheckUp will identify programs for which they may qualify.

BenefitsCheckUp has recently been updated to include some new features. For instance, users can select a program category (like health care, tax relief, transportation) and quickly screen only for that category. There is also a new resources library. This library includes a search by state for various fact sheets.



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RETURN SERVICE REQUESTED

Legal Aid has improved its intake system to better serve the Northeast Ohio community.
Please share this information with your constituents:

**If you need legal assistance,
you can contact Legal Aid any weekday for help.**

New intakes are processed via phone:
888-817-3777 (toll-free)
Monday, Wednesday, Friday: 9 a.m. – 4 p.m.
Tuesday, Thursday: 9 a.m. – 2 p.m.

If you prefer an in-person intake application, those are handled:
Tuesday, Thursday: 9 a.m. – 1 p.m.
at any of our four Northeast Ohio offices (Cleveland, Elyria, Jefferson & Painesville).

Visit www.lasclev.org for more information!



This newsletter is meant to give you general information and not to give you specific legal advice. This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice. You should contact a lawyer if you need representation or if you have questions.

If you have a communications limitation, contact us through the Ohio Relay Service. Interpretation services are available so that anyone can communicate with us in his or her dominant and/or preferable language.

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