



## Planning Ahead

**Planning Ahead** as you age is important in managing your affairs. It helps make sure that what you want is carried out by your doctors and your family members. Planning Ahead properly makes it easier for your family to handle your estate after your death.

These are some questions to think about:

- Who will make medical and financial decisions for you if you can no longer make decisions for yourself?
- What if you have to go to a nursing home?
- How do you make sure your property gets to your heirs after you die?



There are a few legal documents you can do yourself to help with end-of-life planning. At a minimum, you should have a **Health Care Directive** that appoints someone you trust to make medical decisions for you if you become incapacitated.

Depending on your situation, you also may need a **Power of Attorney**, a **Will**, or a **Transfer on Death Deed**.

### Health Care Directive

A Health Care Directive is a document that helps people make decisions about your health care if the time comes that you can't make decisions yourself.

In your Health Care Directive you get to choose:

1. Who will be your Health Care Agent. Your Health Care Agent is a person you trust who will be in charge of decisions.
2. Instructions for what you want your Health Care Agent to do.

Your Health Care Agent will have the authority to talk to your care providers, look at your medical records, and decide where you get your care.

You can include instructions about where you prefer to get medical care and when you may want treatment stopped. The choices are up to you.

For more information and a Health Care Directive form you can use, see our fact sheet [Health Care Directives](#).

### **Power of Attorney**

A Power of Attorney is your written permission for someone to take care of your property and/or financial matters for you.

The person you name to take care of things for you is called an Attorney-in-Fact. If your Attorney-in-Fact does something in your name, it is the same as if you did it yourself. Common duties of an Attorney-in-Fact are things like helping write checks or sell property if you move to an apartment or nursing home.

**Important:** Even if you have a Power of Attorney form, you still get to make your own decisions about your money and property.

In the Power of Attorney form, you can also give your Attorney-in-Fact the power to act for you if you later become incapacitated. Your Attorney-in-Fact does not have to be a lawyer, but should be someone you trust.

For more information and a form you can use, see our fact sheet [Power of Attorney](#).

### **Will**

A will is a legal document that lets you distribute your money, property and personal belongings at your death. You do not legally have to have a will.

If you die without a will, Minnesota's inheritance laws control how your estate is divided. Your property goes to your closest relatives. If you have a spouse and children, the property goes to them by a set formula. If not, your property is given out in the following order:

- grandchildren
- parents



- brothers and sisters
- or more distant relatives if there are no closer ones.

You need a will if you want to leave something to a friend or a charity, if you want to give specific things to someone, or if you want to leave someone out who would otherwise inherit from you. You can also appoint someone called a Personal Representative to see that your estate is distributed according to your will.

It is a good idea to have a will. But even if you don't, you can make things easier for your family by making sure that your bank accounts and life insurance or retirement accounts all have beneficiaries listed. If your bank accounts and other investments have beneficiaries listed, then your family won't have to go through probate court to get access to that money.

See our fact sheet [Common Questions About Wills](#).

### **Transfer on Death Deed (TODD)**

A TODD can be used instead of a will to transfer real estate that you own at your death. It can let you avoid probate.

You can also use a TODD to transfer property to your life partner or to anyone else you want to. The grantee of the TODD has no rights or control of the property until you die. **As with any estate planning decision, talk to a lawyer about your options.** A TODD may not be the best choice for everyone.

There may be more problems if you are not the only owner of the property. A TODD cannot stop a surviving spouse or joint tenant from trying to make claims against the property. A TODD cannot avoid MA liens or estate claims.

See our fact sheet [Transfer on Death Deeds](#).



### **Nursing Home Stays and Medical Assistance**

Thinking about the possibility of going into a nursing home is another important part of planning ahead. Nursing home stays are very expensive. You have to spend down your assets in order to pay for your stay.

Medical Assistance (MA) pays when people have no assets or have spent down their assets enough to qualify. Medical Assistance can also pay for some qualifying stays in Housing with Services or Assisted Living facilities.



The rules for qualifying for MA are very complicated. One of the most important ones is that you can't give away property or money for less than fair market value. The county where you apply looks back at all the money you spent and all the property you sold or transferred for the last 5 years. **You will be penalized** if you give your house to your kids in a quit claim deed or otherwise get rid of property for less than it was worth within 5 years of your MA application.

If you wrongly gave money or property away, you can be denied Medical Assistance for months or years. This can cause major hardship for you and your family. There are lawyers who specialize in Elder Law. They can help you plan so that you can keep as much of your money and property as the law allows but still qualify for Medical Assistance. Talk to an Elder Law lawyer if you have a lot of income and assets.

See our fact sheet [Assisted Living and Nursing Home Laws in Minnesota](#).

#### Related Fact Sheets:

[Questions About Probate](#)

[Guardianship and Conservatorship](#)

#### Useful Links:

Social Security Retirement Estimator: [www.ssa.gov/retire/estimator.html](http://www.ssa.gov/retire/estimator.html)

Minnesota Department of Human Services: [Health Care Coverage for People Who Need Nursing Home Care](#) or go to: [www.mn.gov/dhs](http://www.mn.gov/dhs) and type *health care coverage for people who need nursing home care* into the search bar.

Senior Linkage Line: 1-800-333-2433

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