



Planning Ahead

How can I plan for the future as I get older?

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 emergencies and 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 lets you give instructions about 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 to be in charge of decisions if you can't make your own decisions.
2. Instructions for what you want your Health Care Agent to do and not do.

Your Health Care Agent has 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 a written document that gives 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 things an Attorney-in-Fact helps with are things like paying bills or selling property if you move to an apartment or nursing home. Your Attorney-in-Fact can also get information from businesses and places that normally might not share it with anyone but you.

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

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 says how you want to 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 money and property are divided. Your money and property go to your closest relatives. If you have a spouse and children, the property goes to them by a set formula. If you don't have a spouse or children, your property is given out in this 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 partner you're not married to
- leave something to a friend or a charity
- give specific things to someone
- cut someone out who would inherit from you by law, but you don't want them to

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 should list beneficiaries on your accounts. This makes things easier for your family to know who gets things like bank accounts, life insurance, or retirement accounts. If beneficiaries are listed, 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 is a document that 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 person you transfer it to is called the grantee. The grantee of the TODD has no rights or control of the property until you die. **Talk to a lawyer about your options for any estate planning decisions.** 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 can't stop a surviving spouse or joint tenant from trying to make claims against the property. A TODD can't 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 to pay for your stay.

Medical Assistance (MA) pays when people either have no countable assets or have spent down their countable assets enough to qualify. Medical Assistance can also pay for help in your home and 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 money or property 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 before you apply. In those 5 years, if you:

- give your house to your kids in a quit claim deed or
- get rid of money or property for less than it was worth

You will be penalized.

If you do give money or property away for less than it's worth, 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

Minnesota Department of Human Services: [Health Care Coverage for People Who Need Nursing Home Care](#) or go to: 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

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

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