

Your child with disabilities is turning 18

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If you're concerned about what happens to your child who is unable to care for themselves when they turn 18, read this to learn about some of your options.

If you live in Washington State, and your child can't care for themselves because of a disability, you might wonder what, if anything, to do when your child turns 18. Some parents in this situation think about becoming the legal guardian of their newly adult child. This means going to court, which can be costly. Guardianship has other downsides as well:

- Once a guardianship is in place, it's hard to remove.
- Guardianship can have negative consequences for people with disabilities and their families and caregivers.
- Guardianships often wrongly assume people with disabilities can't make decisions for themselves.

You may not need to become your child's legal guardian after they turn 18.

There are alternatives. You should try to use an alternative if you can. We will briefly explain your options here. One of these options might meet your child's needs.

What is informed consent?

Adults generally have the right to decide about their own medical care and treatment. "Informed Consent" related to medical decisions means making such decisions after medical providers inform you about the possible risks and benefits, and other options. To give informed consent, you must be able to both understand the choices and to decide.

Health care consent for children who are under age 18 is different. Read about when a minor can access health care without parental consent to learn more.

What is the Consent to Health Care law?

In some situations, this Washington law (<http://apps.leg.wa.gov/RCW/default.aspx?cite=7.70.065>) lets certain people make health care decisions for someone at least age 18 whose mental incapacity keeps them from doing so. The law looks for a substitute decision maker for that incapacitated adult in this order of priority:

- An appointed guardian.
- Someone with durable power of attorney to make the patient's health care decisions.
- The patient's spouse or registered domestic partner.
- The patient's children who are at least age 18 (as a group).
- The patient's parents (as a group).
- The patient's adult brothers and sisters (as a group).
- The patient's adult grandchildren who know the patient.
- The patient's adult aunts and uncles who know the patient.
- In some cases, an adult with a special relationship to the patient as described in the state law.
(<https://app.leg.wa.gov/RCW/default.aspx?cite=7.70.065>)

How do I make health care decisions for my incapacitated adult child?

You choose what your child would want if they were competent to decide. If you can't do this, you should decide based on what you believe is in your adult child's "best interests."

What is Supported Decision Making (SDM)?

A Supported Decision Making (SDM) Agreement helps people with disabilities while protecting their rights as much as possible. It lets your adult child with disabilities choose people who provide them support to make decisions and exercise their legal rights, and areas in which your child believes they need this support in decision making.

With an SDM agreement, your adult child can choose a trusted friend, relative or other person to help them understand and make decisions, and to communicate

decisions to professionals like doctors or the bank.

What is a representative payee?

A government agency appoints a representative payee to get and manage benefits for someone whose disability keeps them from doing it themselves. Some federal agencies, including the Social Security Administration (<https://www.ssa.gov/payee/>) and Veterans Administration (<https://benefits.va.gov/fiduciary/>), use representative payees. Some Washington State programs use similar **protective payees**.

If your adult child gets government benefits, you can ask the agency to appoint you as your child's payee. You don't need to be a guardian to be a representative payee. If you become your adult child's representative payee, you must use their benefits for their personal care or well-being.

Talk with your child before asking to be appointed your child's payee. Your child might not want a payee at all. Or they may just want someone else to be payee instead of you. The agency in charge of the benefits can explain any rights your adult child has to object to and appeal the decision.

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