



# PARENT/CAREGIVER PACKET

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# Planning Ahead For When Your Special Child Turns 18

BY NICOLE VANDIVER BRYAN

**Planning ahead is wise for all.** It is essential for the future of a child with special needs who is about to turn 18. In most states, a child's 18th birthday signifies the moment when that child is legally presumed to be competent to make his or her own medical, financial, and educational decisions. Unless parents take precautionary steps to overcome that legal presumption, their child - legally - could quit school, sign up to purchase expensive toys or leave home. If an 18-year-old child is ill, the parents technically lose the ability to be informed about the illness or to make medical decisions for their child. What precautionary steps to consider, as that 18th birthday approaches, is the subject of this article.

## Basic Questions:

The two most frequent concerns expressed by parents anticipating the milestone 18th birthday are:

- Is my child capable of making important decisions or should we seek court authority to make decisions for him or her?
- Is my child eligible for governmental income assistance and health care benefits?

## I. Decision Making Issues

Faced with the prospect of losing the authority to make decisions for their child who is about to turn 18, some parents believe they must immediately be appointed guardian (called a conservator in some states) with full authority to make all medical and financial decisions for their child. Guardianship may be the only option for families with a child who has severe cognitive impairments. For families with a physically disabled but cognitively able child, guardianship will probably not be the proper choice, though their child may need assistance managing his or her own affairs or making important health care or educational choices. Parents should consider the alternatives carefully with their medical and legal advisors.

***The threshold question is: Does my special child have the capacity to make personal and financial decisions?***

If a child has the judgment and ability to make personal and financial decisions, he or she will not need a guardian and may name his or her own agents to make decisions or to help with matters like bill paying, accessing medical information or education planning. Legal capacity requirements vary from one document to another and, before preparing any documents for an adult disabled child, a special needs attorney will meet with the child to assess legal capacity and to determine the child's choice of agents. In close cases, the attorney may request a capacity assessment by an appropriate medical professional.

## Powers of Attorney

Children with special needs who have the required level of capacity to sign documents naming agents to act for them retain all their own legal rights while enjoying the help of a trusted person to assist with certain tasks. From a parent's perspective, the only downside to an adult child naming agents is that a person who has the capacity to execute a power of attorney also has the ability to revoke the document. A durable power of attorney (POA) for financial matters allows the named agent to handle the child's financial affairs. An education POA names an agent, usually a parent, to continue to advocate for the adult child in educational matters. A health care POA (also called an advance medical directive or health care proxy) allows the named agent to make health care decisions for the child. It can become effective immediately or in the future if the child is later unable to make or communicate his or her own choices.

A HIPAA (Health Insurance Portability and Accountability Act) release form permits the agent to access the adult child's medical information and to discuss it with third parties such as medical providers and insurance carriers.

### **Legal Guardianship**

When a child with special needs lacks the capacity to name agents, a guardianship may be necessary. A guardianship is a technical legal proceeding in which a court, after finding that the adult child lacks the capacity to make decisions, declares that child to be legally incompetent and names others to act for him or her. Guardianship proceedings and the words used to describe the court-appointed decision makers (Guardian of the Estate, General Guardian, Conservator, etc.) vary from state to state but a "limited" guardianship may be available and advisable when an adult child is capable of making some but not all decisions. For example, the child may retain the right to decide where to live and to manage small amounts of money while the guardian handles medical decisions and the remainder of the child's finances.

## **II. Possible Government Benefits**

On reaching age 18, a child with special needs may be eligible for certain public benefits including SSI (Supplemental Security Income) or SSDI (Social Security Disability Income), both administered by the Social Security Administration (SSA).

To qualify for monthly SSI benefits, the child with special needs must have limited income and resources and be disabled or blind. Unlike SSDI benefits, SSI benefits are not based on the child's work record or that of the child's family member. The maximum federal monthly SSI benefit for 2010 is \$674. The SSI monthly benefit is higher in some states that contribute a state SSI supplement to the federal benefit amount.

The test of disability is different for adults and children. If a child is already receiving SSI payments, SSA will review the child's medical condition when he or she turns 18 to determine if a disability exists according to the adult rules. An adult is considered disabled if he or she has a medically determinable physical or mental impairment that results in the inability to engage in any substantial gainful activity and can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months.

It is important to schedule an appointment immediately upon turning 18 with the child's doctor to document that the child continues to be eligible to receive SSI benefits under the adult rules. (A medical evaluation may also be important to establish the existence of the child's disability before the age of 22 in order to qualify as a disabled adult child (DAC) and be eligible to receive SSDI benefits, based upon a parent's work record, when the parent reaches age 62, becomes disabled or dies.)

SSI eligibility rules concerning income and assets also change when a child turns 18. At that age, SSA no longer counts income and resources of family members in determining whether a young adult meets SSI financial limits. It considers only the income and resources of the adult child. Even if a child did not receive SSI payments because of parents' income and resources, he or she may be eligible after turning 18.

A person on SSI can have no more than \$2000 in countable assets. Assets that are not counted in determining the \$2000 limit are a home, one vehicle, household goods and personal effects, a burial space and certain life insurance policies. In most states, people receiving SSI benefits automatically qualify for Medicaid to pay for medical care. Check your state's rule. In all states, people who receive SSDI become eligible for Medicare after 2 years.

Unlike SSI, there is no asset test for SSDI, but it is important to consider how income earned from employment can affect ongoing eligibility. For example, a wheelchair-bound investment banker would

not be eligible for SSDI because eligibility turns on the amount of money earned rather than the severity of the disability. The SGA income limit for 2010 is \$1000.

## **Conclusion**

Turning 18 is a significant milestone and an opportunity for the whole family to share and celebrate a new and adult phase of life. It is also a time to plan carefully - to take those precautionary steps that strike the right balance between protection and independence for your special child in the coming years.

Nicole Vandiver Bryan is a partner in the law firm of Vandiver & Bryan, PLLC, practicing in Cornelius, North Carolina. Her practice focuses on estate planning (wills and trusts), elder law matters (Medicaid and Medicare, VA benefits planning, living wills, guardianships), disability issues (planning and trusts for disabled individuals, public benefits) and probate. Nicole was selected by her peers for inclusion in the 2008, 2009 and 2010 editions of the Best Lawyers in America. You can read about Ms. Bryan and her practice at [www.vbfirm.com](http://www.vbfirm.com), and contact her at (704) 892-9355 or [nvbryan@vbfirm.com](mailto:nvbryan@vbfirm.com). She is also a member of the Special Needs Alliance, a national, non-profit organization committed to helping individuals with disabilities, their families, and the professionals who represent them. Contact information for a member in your state can be obtained by calling tollfree (877) 572-8472, or by visiting: [www.specialneedsalliance.org](http://www.specialneedsalliance.org).



# SUPPLEMENTAL SECURITY INCOME (SSI) BENEFITS

The [Supplemental Security Income](#) (SSI) program pays benefits to disabled adults and [children](#) who have limited income and resources.

SSI benefits also are payable to people 65 and older without disabilities who meet the financial limits.

People who have worked long enough may also be able to receive Social Security disability or retirement benefits as well as SSI.

## [An adult with a disability](#)

- Schedule an appointment with a local Social Security office to file an application. Call **1-800-772-1213** (TTY **1-800-325-0778**) from 7 a.m. to 7 p.m., Monday through Friday or [contact your local Social Security office](#), or;
- [Apply Online for Disability Benefits](#) page.
- Although this is not a SSI application, we can use most of the information you provide to start the disability process. Once you finish the online process, a Social Security representative will contact you for any additional information needed for the SSI application.

## [A child with a disability](#)

- Visit [Apply For Disability Benefits – Child \(Under Age 18\)](#) to find out how to apply.
- Complete the online [Child Disability Report](#) if you are ready to apply now.

## [A person age 65 and older](#)

- Call us at **1-800-772-1213**. If you are deaf or hard of hearing, you can call us at TTY **1-800-325-0778**, or
- Visit your [local Social Security office](#). (Call first to make an appointment.)

## General Overview of Supplemental Security Income (SSI)

Disability must last at least 1 year	Social Security Administration	Application / medical reviews →	Disability Determination Service (DDS) State offices / State employees
<p><b>1. Benefit name</b></p> <p><b>Supplemental Security Income (SSI)</b></p> <p>Also known as the: Title XVI (16) Program</p> <p><b>SSI</b> is federally funded by general tax revenues.</p>	<p><b>2. Eligibility</b></p> <p>◆ Past work history is not a factor when determining eligibility for <b>SSI</b>.</p> <p>◆ <b>The SSI</b> program makes cash assistance payments to aged, blind, and disabled persons (including children) who have limited income and resources.</p> <p><b>Note:</b> children under age 18 a parent(s) income &amp; assets are used to determine eligibility.</p> <p><b>SSI</b> resource limits: Single \$2,000 Couple \$3,000</p> <p><b>Asset option:</b> <a href="http://www.miable.org">www.miable.org</a></p>	<p>← Application / medical reviews →</p> <p><b>4. Insurance Benefit</b></p> <p>a. <b>Medicaid</b> – is <b>automatic</b> when receiving SSI in Michigan.</p> <p>b. <b>Medicaid 1619 b</b> applies when earnings exceed the break-even point (<b>This is the point at which an individual is not eligible to receive a SSI benefit cash benefit due to earnings from work</b>) an individual will move into a Medicaid 1619b status as long as income remains below the state threshold level. The 2017 level for Michigan is \$35,688. <i>SSA Redbook - Pages 46 - 47</i></p> <p><b>Asset limit for a. &amp; b. is \$2,000</b></p> <p style="text-align: center;">             Medicaid determined by the Social Security Administration              ↔              Medicaid determined by the Department of Health &amp; Human Services (DHHS)         </p> <p>c. <b>Freedom to Work (FTW)</b> <b>Medicaid</b> - see fact sheet</p> <ul style="list-style-type: none"> <li>• unlimited income from work</li> <li>• asset limit of \$75,000 in savings, checking, cash, etc.</li> <li>• one house</li> <li>• one car</li> <li>• unlimited retirement funds</li> <li>• monthly premium may apply</li> </ul>	<p><b>5. Can I Work? Yes – always record &amp; report earnings</b></p> <p>1. <b>Student Earned Income Exclusion (SEIE)</b> This incentive applies to SSI recipients under the age of 22, who are regularly attending school (high school, college, training course, home schooling). 2018 – up to \$1,820 per month can be excluded from wages, or up to a maximum of \$7,350 yearly. <i>SSA Redbook - Page 40</i></p> <p>2a. <b>General Income Exclusion (G.I.E.)</b> First \$20 of any income is excluded. <i>Page 39</i></p> <p>2b. <b>Earned Income Exclusion (E.I.E.)</b> First \$65 of earning excluded. <i>Page 39</i></p> <p>2c. <b>The ½ Deduction</b> – after allowable deductions, earnings are divided by 2. <i>Page 39</i></p> <p>2d. <b>Breakeven Point</b> – if earnings exceed (\$?'s) per month the SSI cash benefit may stop (this may vary based on a person's SSI benefit rate &amp; whether a person has IRWE's, PASS, BWE, or SEIE).</p> <p>3. <b>Impairment Related Work Expense (IRWE'S)</b> <i>Pages 23-25</i></p> <p>4. <b>Blind Work Expenses (BWE)</b> - <i>Page 49</i></p> <p>5. <b>Plan for Achieving Self-Support (PASS)</b> - <i>Pages 26-27</i></p> <p>6. <b>Continuing Disability Review (CDR)</b> protection &amp; Section 301 provision. <i>Page 29</i></p> <p>7. <b>Property Essential to Self-Support(PESS)</b> - <i>Page 42</i></p> <p>8. <b>Expedited Reinstatement (EXR)</b> of benefits – request must be made within 60 months of the last month of entitlement. <i>Pages 30</i></p>



## REPRESENTATIVE PAYEE

What does a representative payee do for me?

Your payee receives your payments on your behalf and must use the money to pay for your current needs, which include:

- housing and utilities;
- food;
- medical and dental expenses;
- personal care items;
- clothing; and
- Rehabilitation expenses (if you're disabled).

After those expenses are paid, your payee can use the rest of the money to pay any past-due bills you may have, support your dependents or provide entertainment for you. If there is money left over, your payee should save it for you.

The payee must keep accurate records of your payments and how they are spent and regularly report that information to Social Security. Your payee also should share that information with you.

If you live in an institution, such as a nursing home or a hospital, the payee should pay the cost of your care and provide money for your personal needs.

### **What should I tell my payee?**

Be sure to tell your payee if you:

- get a job or stop working;
- move;
- get married;
- get money from another source;
- take a trip outside the United States;
- go to jail or prison;
- are admitted to a hospital;
- save any money;
- apply for help from a welfare department or other government agency; and
- are no longer disabled, if your benefits are based on a disability.

If you or your payee fail to report any of the above actions to us, you may be paid more money than you are due. You may have to pay back any money you were not due, and your payments may stop

# REPRESENTATIVE PAYEE

## If you have questions about having a payee

Call Social Security's toll-free number, 1-800-772-1213, between 7 a.m. and 7 p.m. on business days. If you are deaf or hard of hearing, you may call our toll-free TTY number, 1-800-325-0778, between 7 a.m. and 7 p.m. on business days or call your local Social Security office between 9 a.m. and 4 p.m. on business days. You also can visit us on the Internet at [www.socialsecurity.gov](http://www.socialsecurity.gov).

## REPRESENTATIVE PAYEE SUPPORT

Support to set up Representative Payee

- All contracted supports coordination agencies can provide representative payee services to the people they work with as part of the supports coordination services. **THIS IS A FREE SERVICE**
  - HOPE Network
  - MOKA
  - Thresholds
  - Spectrum
  - Pine Rest
- **The ARC** has a limit on how many people they serve
- **Good Stewards** charges \$38.00 per month for the service
- **Social Security Administration** has a Representative Payee Pool
  - Can charge up to \$35.00 for SSI cases per month
  - Can charge up to \$60.00 for RSDI cases per month
- **People First** receives 10% of the persons income up to \$39.00 per month
- **Greater Grand Rapids Payee Service**
- **Diversified Finance & Health Services, Inc.**
- **InterAct of Michigan, Inc.**
- **Any friend, family member or guardian** can become a representative payee at no cost
- **NOTE: A family member or friend does not receive a payment for this service**

## Rental Agreements

### Flat Fee Rental Agreements Can Be Used to Avoid the 1/3 Reduction of SSI for Clients Living in the Household of Another:

When clients are living in the household of another, their SSI amount can be reduced by 1/3 unless they show that they are contributing their 'fair share' to household expenses. The easiest way to show that the client is paying their 'fair share' is to have them sign a flat fee rental agreement equal to 1/3 of the federal SSI amount + \$20 (technically this is known as the 'presumed maximum value' (PMV) of in-kind support and maintenance).

The current calculation of 1/3 Federal SSI + \$20 can be found at POMS SI 00835.901

<https://secure.ssa.gov/poms.nsf/lnx/0500835901>

Since the Federal SSI amount is going up to \$750 in 2018, the rental agreement should be made for at least \$270.00 per month [1/3 x \$750 + \$20 = 270.00]. Current beneficiaries could sign and date a document that says something like: "I agree to pay Mr./Mrs. [Name] \$270 per month to contribute to household expenses, starting on [date]." For clients that are applying for SSI but not yet receiving it, in order to avoid a reduction, they could sign and date an agreement at the time of application that states something like: "I agree to pay Mr./Mrs. [Name] \$270 per month to contribute to household expenses starting on [date]. I agree to pay back any amounts that accrue while my SSI application is pending out of my anticipated SSI lump sum back payment." Needless to say, the client MUST ACTUALLY contribute \$270 per month to household expenses once their benefits start to come in.



# Residential Tenancy Agreement (sample form only)

THIS AGREEMENT made on the 5th day of January, 2014

BETWEEN: Joe R. Fake (Hereafter referred to as "the Tenant(s)")

AND: Mary L. Fake / mother (Hereafter referred to as "the Landlord")

1. The rental premises are located: 100000 Fake Street, Fake, Michigan 90000 (Street address)  
and includes usage of one bedroom and bathroom / kitchen usage (bedroom, kitchen, etc).

The term of this agreement shall be as follows:

2. This tenancy began on or shall begin on January 2014.

3. The rent shall be \$ 285 per month, and shall be payable in advance on or before the 5<sup>th</sup> day of each month.

4. There will be one person(s) occupying the rental premises.

5. Except for casual guests, no other persons shall occupy the premises without written consent of the Landlord. JF (Initial) *Joe*

6. Utilities will be paid by the Landlord and are included in the rental amount. JF (Initial) *Joe*

7. Groceries for the tenant(s) will be purchased by the tenant. JF (Initial) *Joe*

8. The Landlord shall provide and maintain the premises in a good state of repair and fit for habitation and complying with municipal health, safety, and maintenance standards. JF (Initial) *Joe*

9. The Tenant is responsible for ordinary cleanliness of the premises and for the repair of damage caused by the willful or negligent conduct of the Tenant or persons permitted on the premises by the Tenant. JF (Initial) *Joe*

THIS DOCUMENT is intended to be a complete record of the rental agreement. Both parties are to have a complete copy of this agreement. Any agreements and undertakings must be included herein in writing to be binding.

Landlord: Mary Fake Date: January 5, 2014

Tenant(s): Joe Fake Date: January 5, 2014

# Residential Tenancy Agreement

THIS AGREEMENT made on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

BETWEEN: \_\_\_\_\_ (Hereafter referred to as "the Tenant(s)")

AND: \_\_\_\_\_ (Hereafter referred to as "the Landlord")

1. The rental premises are located \_\_\_\_\_ (Street address)  
and includes usage of \_\_\_\_\_ (bedroom, kitchen, etc).

The term of this agreement shall be as follows:

2. This tenancy began on or shall begin on \_\_\_\_\_.

3. The rent shall be \$ \_\_\_\_\_ per month, and shall be payable in advance on or before the \_\_\_\_\_ day of each month.

4. There will be \_\_\_\_\_ person(s) occupying the rental premises.

5. Except for casual guests, no other persons shall occupy the premises without written consent of the Landlord. \_\_\_\_\_ Initial

6. Utilities will be paid by the Landlord and are included in the rental amount. \_\_\_\_\_ Initial

7. Groceries for the tenant(s) will be purchased by the tenant. \_\_\_\_\_ Initial

8. The Landlord shall provide and maintain the premises in a good state of repair and fit for habitation and complying with municipal health, safety, and maintenance standards. \_\_\_\_\_ Initial

9. The Tenant is responsible for ordinary cleanliness of the premises and for the repair of damage caused by the willful or negligent conduct of the Tenant or persons permitted on the premises by the Tenant. \_\_\_\_\_ Initial

THIS DOCUMENT is intended to be a complete record of the rental agreement. Both parties are to have a complete copy of this agreement. Any agreements and undertakings must be included herein in writing to be binding.

Landlord Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Tenant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# FOOD ASSISTANCE

## Eligibility

- Must live in Michigan
- **Asset limit is \$5,000.** Assets are cash or any property you own
  - One household vehicle and first home are excluded
- Income is considered when determine the amount of food assistance you are eligible to receive

Information from <http://www.michigan.gov/mdhhs>

You can complete an application at MI Bridges:

[https://newmibridges.michigan.gov/s/isd-landing-page?language=en\\_US](https://newmibridges.michigan.gov/s/isd-landing-page?language=en_US)

## Parent and Child Living Together:

### Information from DHHS BEM618.

- Receive **Full SSI**
- Are at least **18 years of age**
- Reside in Michigan
- Are not currently receiving Food Assistance Program (FAP) Benefits
- Meet the Social Security Administration's definition of independent living
- **Purchase and prepare food separately from the others in the household.**
- **This specific program is MiCAP, not local DHHS office**
- **The form is sent to family once qualify for SSI, fax in only**

### Information from BEM554, page 16

If using FAP benefits, must **either** pay for heat/electricity **or** receive *Home Heating Credit* in excess of \$20.

- Acceptable verifications:
  - Current bills
  - Written statement from the provider
  - Current lease

### Information from BEM212 FAP

If you are not receiving SSI:

If you buy, fix, and eat your food separately, you can have your own Food Assistance case, as long as you are **over 22 years and 1 month old.**





**MICHIGAN COMBINED APPLICATION PROJECT (MiCAP)**

Michigan Department of Health and Human Services (MDHHS)

PO Box 8123, Royal Oak, Michigan 48068-9985

Phone: 877-522-8050 Fax: 517-324-9919

Person's Name  
Address  
Here

Example

We have good news for you, getting Food Assistance Program (FAP) benefits has never been easier. Because you receive Supplemental Security Income (SSI), you may be eligible to receive food benefits from the Michigan Combined Application Project (MiCAP). Once we receive this signed form, we will determine if you are eligible and, if necessary, send you a Michigan Bridge card and instructions for using the card. If you do not wish to receive food benefits, simply do not return the form. We hope you find this way of receiving food benefits easy to use and beneficial to your health. **If you applied before and were denied, you may now be eligible.**

Please answer the questions below and return this form in the enclosed postage paid envelope.

Do you live alone?  Yes  No

Do you live with your spouse?  Yes  No

Do you live with your natural, adopted or step children who are under age 22?  Yes  No

If you live with anyone else, do you buy and/or make your food with them?  Yes  No

If yes, do other people buy and/or make your food because you are unable to do so on your own?  Yes  No

Do you have any other income other than SSI (i.e.: RSDI, employment, child support)?  Yes  No

Do you receive American Indian tribal food distribution benefits? (You may not receive both MDHHS FAP benefits and tribal food benefits.)  Yes  No

Have you ever been convicted of a drug-related felony that occurred after August 22, 1996?  Yes  No

If yes, have you been convicted more than once?  Yes  No

If you have been convicted of one drug-related felony, an authorized representative is required. This person should be someone you trust.

Enter full name of authorized representative: \_\_\_\_\_

**Please indicate the total amount you pay for shelter per month. For example: rent, mortgage, property taxes. \$ \_\_\_\_\_**

Do you pay for heat separately from your shelter?  Yes  No

Do you pay for excess heating costs?  Yes  No

If no, do you pay for excess heat billed to your landlord and your heat is included in your rent?  Yes  No

Have you received an energy related State Emergency Relief (SER) payment or Michigan Energy Assistance Program (MEAP) in an amount greater than \$20 this month or within the past 12 months?  Yes  No

Have you received the Home Heating Credit (HHC) in an amount greater than \$20 this month or within the past 12 months?

Yes  No

Do you pay for cooling costs (including room air conditioner) separately from your shelter?

Yes  No

Do you pay for electricity (non-heat) separately from your shelter?

Yes  No

Do you pay for excess cooling costs billed by your landlord and your electricity is included in your rent?

Yes  No

Do you pay for water/sewer separately from your shelter?

Yes  No

Do you pay for telephone separately from your shelter?

Yes  No

Do you pay for cooking fuel separately from your shelter?

Yes  No

Do you pay for garbage/trash pick-up separately from your shelter?

Yes  No

By signing my name, I am acknowledging that I have read, or had explained to me, and understand the attached form providing program information and rights and responsibilities.

**Applicant signature** \_\_\_\_\_

Print Name	Date of Birth	Social Security Number	Phone Number
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If you want someone other than yourself to apply for FAP benefits for you, please provide that person's name, address, and telephone number below. Your designated **Authorized Filing Representative** must sign below.

**Authorized Filing Representative Signature** \_\_\_\_\_

Print Name	Address, City, State, ZIP	Daytime Telephone Number ( )
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If you are eligible for FAP, do you want someone else to have a Bridge card and access to your benefits to shop for you? This person should be someone you trust. If yes, enter his/her full name \_\_\_\_\_  
This person is your authorized representative.

**State of Michigan Voter Registration Application**

If you are not already **registered to vote** at your current address, would you like to register to vote?  Yes  No  
**NOTE: Checking "yes" does not register you to vote. If you check "yes" or do not respond, a voter registration application will be forwarded to you.**

Applying or declining to register to vote will not affect the amount of help that you will be provided by this department. If you would like help filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the voter registration application form in private.

If you believe that someone has interfered with your right to:

- Register to vote.
- Decline to register to vote.
- Privacy in deciding whether to register or in applying to register to vote.
- Choose your own political party or other political preference.

You may file a complaint with:

Secretary of State  
PO Box 20126  
Lansing, MI 48901-0726

The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability.  
"This institution is an equal opportunity provider."

## Alternatives to Guardianship and Guardianship

When a person with developmental disabilities nears the age of majority (18), parents need to consider whether a guardian of the person and/or estate is necessary for their young adult. Many individuals with developmental disabilities are able to manage their affairs with informal assistance from family, friends, agencies and documents like Power of Attorney.

There is no magic formula to determine when or whether guardianship is appropriate. Every situation is unique. An individual's abilities and needs must be the main consideration in deciding to seek guardianship or to find other less-restrictive approaches.

The determination of need for guardianship is based on the person's abilities to handle personal decisions, finances, property, medical decision making and similar matters. The inability to handle these matters is the basis for a guardianship, not just the presence of a cognitive impairment or other developmental disability. Guardianship should be tailored to the person's needs and structured so the person retains as much independence as possible, especially in areas of capable decision making skills.

### Alternatives (from the least restrictive to most restrictive)

#### Natural Supports

Advice and guidance from family members, friends, neighbors and faith community

#### Release of Information forms

A person may sign a form to permit the sharing of information with other agencies or individuals

#### Social Service supports and person centered planning

Government programs non-profit agency supports and comprehensive planning that considers whatever supports are necessary for the individual to live an independent life

#### Representative Payee

If the person receives SSI or SSDI from the Social Security Administration, a representative payee can be named to handle the person's monthly checks and any Social Security paperwork

#### Power of Attorney for Health Care (Patient Advocate)

A POA for Health Care is a document allowing another person to make medical care decisions, specifically future medical treatment and end of life decisions. However, the patient advocate can only make medical decisions if the person has first been determined by two physicians or a physician and a licensed psychologist to be unable to participate in his/her own medical treatment decisions.

#### Limited Powers of Attorney (POA)

A limited POA is a document which covers only a specific area, such as finances, education, etc. This allows another person (eg, parents, friend, etc) to be involved in and make decisions regarding the particular area. An attorney can prepare this document.

#### General Durable Power of Attorney (POA)

A general POA is very comprehensive. It covers financial, medical, educational issues and decisions concerning government programs, housing, advocacy, etc. An attorney can prepare this document.

## Parents need to go to Probate Court (in the county they live in) for the following options:

### Partial Guardianship of the Person or the Estate

Guardian granted authority over the person only in specifically defined personal or financial matters. Allows the guardian to decide only in areas where the person is not capable.

### Temporary Guardianship

Can be appointed under emergency circumstances (eg, acute illness) if necessary for the person's welfare or protection.

### Full or Plenary Guardianship of the Person or the Estate

Establishes guardianship over all the person's personal decisions and/or financial matters. Since full guardianship involves controlling almost every aspect of the person's life, it is the most restrictive option.

## Resources to call for more help with questions about transitions in Kent County:

Disability Advocates of Kent County  
Bonnie Miller 616-323-2217  
bonnie.m@dakc.us www.dakc.us

arcKentCounty  
616-459-3331  
www.arckent.org

Network 180  
Joann Crumm 616-336-3909  
joann.crumm@network180.org www.network180.org

Children's Special Health Care Services – Kent County  
616-632-7066 or 616-632-7055  
chris.buczek@kentcountymi.gov  
www.michigan.gov/cshcs/ Choose: Transition to Adulthood

## GUARDIANSHIP\*\* PROCESS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES (Full/Plenary Guardianship)

A guardian for a person with Developmental Disability may be appointed by the Probate Court of the Michigan County under the Michigan Mental Health Code. A person with a Developmental Disability means a severe, chronic condition that meets all of the following requirements:

- Is attributable to a mental or physical impairment or a combination of mental and physical impairments
  - Is manifested before the individual is 22 years old
  - Is likely to continue indefinitely
- AND
- Results in substantial functional limitation in 3 or more of the major life activity areas:
  - Self-care, Receptive and expressive language, Learning, Mobility, Self-Direction, Capacity for Independent Living, Economic Self-Sufficiency

Guardianship paperwork can be filed on the individual's 18th birthday

### Kent County Probate Court: [www.accesskent.com/courts/probate/](http://www.accesskent.com/courts/probate/)

Clerk: Rhonda Brown: 616-632-5440 May call with questions or for help

For help filling out forms: Legal Assistance Center, 5<sup>th</sup> floor of County Court Building

180 Ottawa Ave NW # 5, Grand Rapids, MI 49503, 616-632-6000 (Closed Mondays)

### Family can do the following:

- Go to [www.accesskent.com/Courts/Probate/](http://www.accesskent.com/Courts/Probate/) for more information
  - Accesskent.com; Courts, Probate Court, Guardianship and/or Developmental Disabilities
- Prepare the Order and Letters of Guardianship (Probate Court can help with this)
  - Documents needed: Go to [www.courts.mi.gov](http://www.courts.mi.gov)
  - Court Forms. Search for a Court Form, enter form number:
    - PC658:** Petition
    - PC562:** Notice of Hearing
    - PC571:** Acceptance of Appointment, Clearance forms (Criminal History Check etc.)
    - PC659:** Report to Accompany Petition
    - PC564:** Proof of Service
  - (The person(s) filing to become a Guardian will need a background check)
- The individual must have a **Psychological evaluation** (includes Mental, Physical, Social, Educational, Adaptive Behavior and Social Skills)
  - must be completed within 12 months from the filing of the Petition

Some Options: (a school Psychological evaluation **cannot** be used for Guardianship)

- Wilson & Wynn Interventions [alice@wilsonandwynn.com](mailto:alice@wilsonandwynn.com) 616-647-3460
  - costs around \$400
- HRA Psychological Services [www.hrapsychservices.com](http://www.hrapsychservices.com) 616-458-0692
  - may cost \$1000 or more
- Pine Rest Christian Hospital 616-258-7524 (may cost \$1000-1500 plus time in court)
- Mary Free Bed Rehabilitation Hospital 616-840-8668 (may cost \$1400, can bill some private insurance and some Medicaid)
- network180 agency [www.network180.org](http://www.network180.org) 616-336-3939

If an individual has Supports Coordination and is receiving services like Respite, Community Living Supports, etc, and he/she meets the qualifications for developmental disability, the Psych Eval may be covered by Medicaid if the individual has Medicaid

(Kent County CSHCS does not endorse nor receive remuneration for any referrals made on this list)

## Family can do the following on the 18th birthday or after:

- Family will bring the PC658 Petition and PC659 Report to Accompany with the required information to the Probate Court

## Kent County Probate Court will:

- Help the family Prepare the Order and Letters of Guardianship
- Set a Hearing Date: you will receive the **PC562** Notice of Hearing and **PC564** Proof of Service in the mail
- Appoint an Attorney for the individual (at no charge) to represent him/her at the Hearing and
- Get copies of everything to the Attorney
- Conduct the Hearing
  - Potential guardian(s) and individual must attend the hearing
  - Letters of Guardianship will be given when granted

## Legal Guardian(s) will:

- Receive the **PC662** Letters of Guardianship of Individual with Developmental Disability
- Keep **PC662** to share with anyone who needs to have proof of legal guardianship (eg, medical, insurance, etc)
- File an annual report around the anniversary date of guardianship
  - Find the forms at: [www.accesskent.com/Courts/Probate/forms.htm](http://www.accesskent.com/Courts/Probate/forms.htm)
    - Annual Guardianship Reports:
      - **PC663**: Report of Guardian on Condition of Individual with Developmental Disability
      - **PC564**: Proof of Service (Required to be filed along with PC663)
  - Send a self-addressed envelope with the forms and request a copy of the newly dated Guardianship letter
    - No cost for a regular copy
    - Include \$12.00 (or current fee) for a certified copy

(\*\*Guardianship for a *Legally Incapacitated Individual* is of a person impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause to the extent that the person lacks sufficient understanding or capacity to make or communicate informed decisions. This is a slightly different process. Contact Kent County Probate Court.)

## Resources to call for more help with questions about transitions, in Kent County:

Disability Advocates of Kent County  
Bonnie Miller 616-323-2217  
[bonnie.m@dakc.us](mailto:bonnie.m@dakc.us) [www.dakc.us](http://www.dakc.us)

arcKentCounty  
616-459-3331  
[www.arckent.org](http://www.arckent.org)

Network 180  
Joann Crumm 616-336-3909  
[joann.crumm@network180.org](mailto:joann.crumm@network180.org) [www.network180.org](http://www.network180.org)

Children's Special Health Care Services – Kent County  
616-632-7066 or 616-632-7055  
[chris.buczek@kentcountymi.gov](mailto:chris.buczek@kentcountymi.gov) [www.michigan.gov/cshcs/](http://www.michigan.gov/cshcs/) Choose: Transition to Adulthood

## 2018 Countable Income Formula:

**Example:** Single person, receiving an SSI check and is working, earning \$900 per month.

### Step 1:

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Earned Income	\$900.00
Subtract General Income Exclusion	(\$20.00)
Subtract Earned Income Exclusion	(\$65.00)
Countable Earned Income	\$815.00
Divide Remainder of Earnings by 2	/2
	\$407.50
Equals Total Countable Earned Income	

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### Step 2:

Federal Benefit Rate	\$750.00
Subtract Total Countable Earned Income	(\$407.50)
Equal Adjusted SSI Payment Amount	\$342.50

### Before Working:

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SSI	\$750.00
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### After Working:

Gross Earnings:	\$900.00
New SSI Payment:	\$342.50
Total Gross Monthly Income:	\$1,242.50





# Section 1619b: SSI and Medicaid Coverage

## 2017 Fact Sheet on Work Incentives

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### How It Helps You:

If you are eligible for SSI have Medicaid for your health insurance and are employed, 1619b allows you to work and to keep Medicaid coverage without a Medicaid spend-down. You can continue to be eligible for Medicaid coverage until your gross annual income reaches a certain amount (this amount is \$35,688 for 2017). Exceptions to this work incentive are if you no longer need Medicaid, or if you accumulate more than \$2,000 in resources as an individual or \$3,000 as a couple (this is currently Michigan's Medicaid resource limit).

### How It Works:

While you are earning income from work, if you have a disability or are blind, if you need Medicaid in order to work, if you are unable to afford benefits, and you meet all other requirements (such as less than \$2,000 in resources), you are eligible for 1619b Medicaid protection.

You should report your earnings to the Social Security Administration (SSA) monthly. At the time that your SSI cash payments stop due to reaching the Break Even Point (the point when your earnings cause your SSI check to go to zero), SSA will automatically determine eligibility for 1619b, and inform you of your eligibility for this Medicaid protection.

This information will be sent electronically to the local office of the Department of Human Services (DHS). However, you should also report your earnings to the caseworker at the DHS, and inquire about your eligibility for Section 1619b Medicaid continuation when you no longer receive an SSI check due to your earnings.

With 1619b you may still remain eligible for SSI, even though your check has stopped. If you begin earning less than the break even point or are not working again, your SSI check will start again. It is very important to always report your earnings to Social Security each month to have your check adjusted accurately.

A trained Benefits Coordinator familiar with Social Security Work Incentives can help you in understanding the conditions to continue with Medicaid coverage under Section 1619b.

# Freedom to Work (FTW) Medicaid Overview - 2017

- 1) **MA – Medical Assistance only:** Freedom to Work Medicaid applies only to the individual who is applying but if the person is married the application will ask for additional information.

## Who is Eligible for Freedom to Work (FTW)?

- 2) **Initial Eligibility:** FTW Medicaid is for individuals with a disability who are currently:

- *Employed:* Freedom to Work Medicaid allows a person to work and earn unlimited earnings from work. FTW coverage is retained when a person is relocated due to employment. **Note:** A person may have temporary breaks in employment up to 24 months if the break is the result of an involuntary layoff or is determined to be medically necessary and retain FTW eligibility.
- *Have a Disability:* The person must be disabled according to the disability standards of the Social Security Administration (SSA) / Disability Determination Services (DDS). FTW is available to a beneficiary with a disability age 16 through 64 who has earned income.  
**Note:** Employment, earnings, and Substantial Gainful Activity (SGA) should not be considered when determining eligibility.
- *Initial Income:* eligibility exists when the individual's countable (**earned and unearned**) income does not exceed 250 percent of the Federal Poverty Level(FPL) – **\$2,475 per month, \$29,700 annual**
- *Initial Asset Limit:* (cash, checking, savings, bonds, retirement, etc.) the initial eligibility determination for an individual in the **calendar year 2017 = \$7,390**

### **3) Ongoing Eligibility:**

- Ongoing asset limit up to \$75,000 (cash, checking, savings, bonds, etc.) and unlimited retirement funds.
- FTW does not count the house you live in,
- FTW does not count one car,
- Ongoing income eligibility exists when the individual's (**unearned**) income does not exceed 250 percent of FPL - \$2,475 per month in 2017,
- Earned income may be unlimited but the person may have to pay a monthly premium (see below).

### **4) Monthly Premiums:**

- There are no premiums for individuals with MAGI (Modified Adjusted Gross Income) less than 138 percent of the federal poverty levels(FPL) – income is less than \$1,366 per month.
- A **premium of 2.5 percent** will be charged for an individual with MAGI income over 138 percent of FPL and income is less than \$75,000 (example – total countable income \$2,000 per month x's 2.5% = \$50 per month),
- A premium of 100 percent of the average FTW participant cost will be assessed for an enrolled individual with MAGI income over \$75,000.

## **Making a Referral for Network 180 Adult I/DD Mental Health Services**

1. Guardian/Parent/Consumer may contact the network180 Access Center at PH 616-336-3909 and ask to speak to I/DD Intake Clinician, Dennis Dowling (If Dennis is not available, ask for Krissy).
  - a. A brief screening report will be completed to collect demographic and diagnostic information.
  - b. If you do not have Medicaid, you will be denied and placed on a non-Medicaid wait list. If you are eligible, you may receive a letter in the mail that says you are eligible but cannot be authorized until you have Medicaid.
  
2. Proof documentation substantiating the developmental disability will be requested at the time of the Assessment appointment. Information may be faxed ahead of time directly to FAX# 616-855-5271; please note that this is highly encouraged.
  - a. If you do not have records, you will be denied and then advised to call back when you do have records to substantiate DD. You will then receive a Notice of Action form in the mail with appeal rights/instructions.
    - i. However, you can meet in person at Network 180 face to face in order to complete release forms etc. to see if you can obtain records if you are unable to.
    - ii. Network 180 must be sure to get records before/ahead of the assessment. Bring these records to the first assessment appointment. If you show up to the first assessment appointment without these records, the appointment will be cancelled.
  
3. The appointment will be scheduled with the I/DD assessment team for a full assessment. This team will make the final decision on eligibility.
  - a. A full Social Work Assessment will be completed
  - b. If determined eligible, the team will develop the IPOS and then refer a provider of your choice. This process can take up to a couple months to complete.

4. Network 180 Currently has 7 providers for you to choose from (see next page for contact information)
  
- 5. If you are denied services, you have the right to appeal this decision.**