

## Estate Planning / Special Needs Trust

These plans are uniquely tailored for each family. They involve a level of legal complexity and it is recommended that advice is sought from a legal attorney who specializes in future planning, special needs trusts and disability law.

## SSI

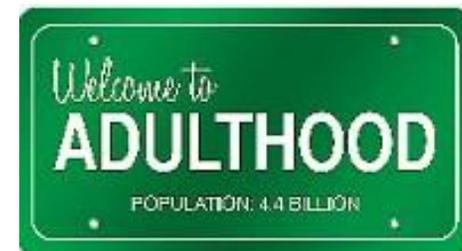
A child under the age of 18 with a developmental disability may not qualify for SSI due to the family's income. However, upon turning 18, family income is not a factor in determining SSI eligibility and the young adult should apply. They will be eligible for some level of benefit if they have a documented disability.

These services / organizations are resources for you to explore. They have not been endorsed by MCS. You may suggest additional resources or send comments on these listings to [info@mcsnet.org](mailto:info@mcsnet.org)

1000 Wilbraham Road  
Springfield, MA 01109



## Transition Age of Majority



The age of majority is the threshold of adulthood as declared in law. In the United States, and most other countries, the age of majority is recognized at age 18.

Springfield Family Support Center  
1000 Wilbraham Road  
Springfield MA 01109  
Tel : 413-782-2500

Holyoke Family Support Center  
260 Westfield Road  
Holyoke MA 01040  
Tel: 413-534-3299

MCS SOS of Springfield  
505 E. Columbus Avenue  
Springfield MA 01105  
Tel: 413-301-7390

Westfield Office  
3 State Street  
Westfield MA 01085  
Tel: 413-562-4885

Visit our website at [www.mcsnet.org](http://www.mcsnet.org)



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## **Age of Majority**

The age of majority is the chronological moment (age 18) when minors cease to be considered children and assume control over their persons, actions and decisions, thereby terminating the legal control and responsibility of their parents or guardian. The age of majority is a legally fixed age, concept and statutory principle that may not necessarily correspond with actual mental or physical maturity of an individual.

## **Legal Guardianship**

A legal guardian is a person who has the legal authority to care for the personal and property interest of another person. Guardians are typically used in three situations: guardianship of an incapacitated senior, guardianship of a minor, and guardianship of a developmentally disabled adult. Parents may start a guardianship action to become guardians of a developmentally disabled child when the child reaches the age of majority. Also, two people can be appointed co-guardians and would share legal responsibility equally. **All Guardians must pass a CORI before being appointed Guardian.**

## **Limited Legal Guardianship**

Limited Guardianship is typically sought when an individual can make informed decisions for him or herself in some areas, but not all. For example, if there is a complicated medical history and/or current complex medical needs, someone could be granted medical guardianship if the individual was unable to make competent, informed medical decisions for him or herself.

## **General Legal Guardianship**

General Guardianship is typically sought when an individual cannot reliably make any important decisions on his or her own. Full guardianship may be appropriate if the person lacks the ability to process basic information, or has very poor reasoning skills. A General Guardian makes all major decisions for the individual in areas such as, but not limited to, medical care, living arrangements, work and contracts including IEPs.

## **Rogers Guardianship**

A Rogers Guardianship is one in which the Guardian obtains the court's permission for extraordinary treatment. The types of medical treatment which the court may consider "extraordinary" includes administering of antipsychotic medication, sterilization, abortion, electroconvulsive therapy, psychosurgery, and removal of artificial maintenance of nutrition or hydration. A Rogers Guardianship hearing is commonly held to determine whether to administer antipsychotic medications to an incapacitated person.

## **Guardian Care Plan Report**

The Care Plan/Report is a fill-in-the-blank court form that every Guardian must fill out and send in to the court. It asks the Guardian to report on the incapacitated adult's current condition, living arrangements, financial matters and future care. A Guardian Care Plan Report is required by the Probate Court system. The first Care Plan is due within 60 days of being appointed Guardian. The Annual Report is due every year on the anniversary date of the guardianship appointment. A blank copy of the form can be found at the local Probate Court or on the court's website.

## **Durable Power of Attorney (DPA)**

Under Massachusetts law, any competent person is authorized to establish a DPA. A DPA is a document which allows another person (referred to as attorney-in-fact), usually a spouse, parent, adult child or close family member to make financial decisions in the event that a person becomes incompetent or incapacitated by a physical or mental disability. The major benefit of establishing a DPA is that it may remain valid even after the person creating it becomes incompetent or incapacitated, which will alleviate the necessity of proceeding to Probate Court with guardianship or conservatorship. However, the DPA must be prepared and signed prior to the disability.

## **Health Care Proxy**

The Commonwealth of Massachusetts allows a person who is competent to nominate and appoint another person to make medical decisions in the event that he or she is unable to make informed medical decisions on their own behalf, including the withholding of medical treatment. This document is called a Health Care Proxy or Durable Power of Attorney for Health Care. It may also be one's desire to have the so-called "living will language" included, which specifies that a person does not wish to be kept alive by heroic means. If this is the case, the individual establishing the Health Care Proxy should be sure to have language included that specifies what objectives should be met, as well as appointing the designating person to authorize or withhold the specific treatment.