



# **For the Lifespan: The Caregiver Guide**

## **Module 12**

### **Legal and Financial Matters: What You Need to Know**

## **Participant Guide**

# Module 12

## Legal and Financial Matters:

## What You Need to Know

### PURPOSE

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Module 12 will provide you with information about legal and financial issues relevant to your role as a caregiver.

### WHAT YOU WILL LEARN

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After completing this module, you will be able to:

- Understand more about estate planning.
- Identify how advance directives can help.
- Learn more about different funding options.
- Understand more about funerals.
- Learn more about Veteran Benefits.

The Participant Guide for this module includes:

- Local community resources
- State resources
- Websites
- National resources

### ESTATE PLANNING

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Although thinking ahead about what will happen to an estate after your loved one dies might be unpleasant and distressing, it is an important aspect of getting things in order in preparation for the

future. Estate planning is the process of anticipating and arranging for what should be done with an estate after someone dies. Planning ahead can help eliminate uncertainties and maximize the value of the estate by reducing taxes and other expenses.

## LEGAL PLANNING

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### Speaking with an Attorney

As a caregiver, it is prudent to engage an attorney in legal planning. An attorney can help you with legal documents important for outlining future health care preferences, as well as give you advice on Medicare, Medicaid, insurance, Social Security, and general financial matters. If you are not familiar with attorneys in your area, contact the state Bar Association and request a referral, visit <http://www.utahbar.org>.

## ADVANCE DIRECTIVES

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Advance directives are legal documents that outline a person's decisions about healthcare preferences ahead of time, when they are still able to speak and think on their own behalf. There are a number of different types of advance directive documents:

- *Living Will:* A person makes known his or her wishes regarding life prolonging medical treatments in a document known as a living will. A living will can also be called an advance directive, health care directive, or a physician's directive. It is important to have a living will because it informs your family and health care providers about your desires for medical treatment in the event you are no longer able to speak on your own behalf. The requirements for living wills vary by state so it can be helpful to work with an attorney to create one.

Generally, a living will describes certain life prolonging treatments. You, the declarant, indicate which treatments you do or do not want applied to you in the event you either suffer from a terminal illness or are in a permanent vegetative state. A living will does not become effective unless you are incapacitated; until then, you'll be able to say which treatments you do or don't want.



Living wills usually require certification by your doctor and another doctor that you are either suffering from a terminal illness or permanently unconscious before they become effective. This means that if you suffer a heart attack, for example, but otherwise do not have any terminal illness and are not permanently unconscious, a living will does not have any effect. You would still be resuscitated, even if you had a living will indicating that you don't want life prolonging procedures. A living will is only used when your ultimate recovery is hopeless.

- *Do Not Resuscitate Order (DNR):* A Do Not Resuscitate Order is an instruction to emergency responders not to use CPR if breathing or the heartbeat stops. A DNR usually requires written orders from a physician and can be revoked at any time. Regulations around DNR orders vary by state, so it can be prudent to discuss this with an attorney.
- *Health Care Power of Attorney (or Health Care Proxy):* For situations where the care recipient is incapacitated and therefore not able to speak for themselves – but their health is not so dire that their living will becomes effective – they should have a health care power of attorney or health care proxy. A health care power of attorney is a legal document



that gives you or someone else the authority to make health care decisions for the person you care for in the event they are incapacitated. The person that is designated to make health care decisions on their behalf is supposed to consider what they would want, so be sure to talk with them about it. It may be a difficult conversation, but you're asking someone to take on a great burden - letting him or her know what is wanted lessens that burden.

- *Power of Attorney:* A Power of Attorney is a written document in which one person (the principal) appoints another person to act as an agent on his or her behalf by conferring authority to the agent to perform certain acts or functions. Powers of attorney can be written to be either general or limited to special circumstances. While a power of attorney is generally terminated when the principal dies or becomes incompetent, the principal can revoke the power of attorney at any time.
- *Durable Power of Attorney:* A Durable Power of Attorney is a special type of power of attorney that differs by continuing the agency relationship beyond the incapacity of the principal. Durable powers of attorney are popular because they allow a person to have her or his affairs handled easily and inexpensively even after she or he has become incapacitated. No judicial proceedings are necessary which means the incapacitated person saves time and money and avoids the stigma of being declared incompetent.



None of these documents will do you any good, however, if no one knows about them. You have to speak with their doctor and the person that is designated as their health care

proxy. Discuss with their doctor what kinds of end of life medical treatments you or the person you care for wants. He or she can help by answering any questions about certain treatments or other issues. Once you've decided what it is you and/or your care recipient do or don't want, make their wishes known to their doctor and family members. For people living in Utah, you can refer to the following website: <http://aging.utah.edu/programs/utah-coa/directives>. Here you will find a toolkit to complete these forms. It is also advisable to consult with an attorney.

In addition to the health care related legal documents described above, there are additional documents that are strongly recommended.

- *Will:* A will is a legal document explaining a person's wishes for disposition of property and assets, funeral plans, care of children or pets, and anything else he/she wants communicated following their passing.
- *Trust:* A trust is a legal instrument that places specific items (homes, mineral rights, etc.) into trust where it's specified who has a right to it. It's more difficult to challenge than a will and is recorded at the local courthouse.

## HOSPICE CARE

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Hospice care is a team-oriented approach of expert medical care, pain management, and emotional and spiritual support expressly tailored to each individual patient. Hospice care is humane and compassionate care for people in the final phases of incurable disease so that they may live as fully and comfortably as possible. Hospice is not necessarily a “place” to be or a “type” of service, but rather a philosophy of care. From the hospice perspective, death is

seen as the final stage of life. The goal of hospice, therefore, is to help a person spend his or her final days as alert and pain-free with as much dignity and quality of life as possible.

Hospice does not attempt to hasten death, neither does it attempt to postpone it. Ultimately, hospice focuses on quality, not quantity of remaining life, with an emphasis on a person being surrounded by loved ones to the degree this is possible. Medicare, private health insurance, and Medicaid in most states cover hospice care for patients who meet specific criteria. Hospice can take place at home or outside of the home and involves support 24 hours a day, 7 days a week. Hospice care can be initiated when a person has a terminal diagnosis, is no longer going to be helped by curative treatments, and has a life expectancy of six months or less to live. In hospice, your loved one will receive “palliative,” not “curative” care. This means the purpose of the care is to improve the quality of your loved one’s remaining life, not to treat disease-related symptoms.

Hospice is most effective when it is started early, but many families struggle with this decision because it can be perceived as “giving up” on their loved one. This is not the case at all. A person can be removed from hospice if their illness recedes or goes into remission. A person can return to hospice later if the illness once again reaches a terminal phase.

It is common that health care insurance providers and/or Medicare will pay for hospice care. For further information, call 1-800-MEDICARE or visit [www.medicare.gov](http://www.medicare.gov). You can also contact the National Hospice and Palliative Care Organization at 1-800-658-8898 or visit [www.nhpc.org](http://www.nhpc.org). For Utah specific information, please visit <http://www.utahhospice.org/contact>.

## FAMILY AND MEDICAL LEAVE ACT OF 1993

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The Family and Medical Leave Act of 1993 provides 12 weeks of protected job leave for qualified employees who need to care for a family member or themselves. Regulations, requirements, and eligibility vary from case to case, so specific details should be discussed with the human resources department at your place of employment.



Typically the leave will be granted for an employee who must:

- Care for a child after their birth, adoption, or placement in foster care.
- Care for a spouse, child, or parent who has a serious medical condition.
- Care for self while in recovery from a serious health condition which makes it impossible to perform regular job duties.

Some requirements of the Family and Medical Leave Act may include the following:

- 30 days advanced notice of employee's absence from work when the absence is foreseeable.
- Medical certification to support leave because of a serious health condition.
- Additional opinions about health condition.
- Reports indicating an employee's ability to return to typical job duties.
- Health benefits must be maintained by employer for the duration of the leave. Upon return, the employee must be reinstated to the same position they had prior to the leave or a comparable level position.

# MEDICARE

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## **Part A**

Health insurance offered by the federal government to individuals over age 65 and those under age 65 who have qualifying disabilities.

- Provides assistance in covering the costs for:
  - Inpatient care in hospitals
  - Inpatient care in skilled nursing facilities (not long-term care or custodial care)
  - Hospice care
  - Home health care services

## **Part B**

- Covers medically necessary services such as:
  - Doctors services
  - Outpatient care
  - Home health services
  - Some preventative services
  - Medically necessary supplies
  - Ambulance services

## **Part C**

- Medicare Advantage Plans
  - These are private Medicare-approved health plans for individuals eligible for Medicare
  - Generally have lower out-of-pocket costs than Medicare plans alone
  - Plan options can include:
    - Medical Savings Account
    - Special Needs Plans
    - Private Fee-For-Service

- Health Maintenance Organization
- Preferred Provider Organization



### **Part D**

- Prescription drug coverage for individuals enrolled in Medicare.
- Usually includes a monthly premium for coverage
- Private companies provide the coverage
- Offers a choice of drug plans to enroll in

## MEDICAID

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Medicaid is the health insurance program provided by the United States to provide health care coverage for low-income individuals of all ages. The program will also cover nursing home care for eligible individuals. Information about eligibility can be obtained from your local Department of Workforce Services office. Their website is: <http://health.utah.gov/medicaid>.

## MEDIGAP

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Medigap is a supplemental insurance program designed to cover the gap in service coverage for individuals who have Medicare. Eligibility requirements including the following must be met to qualify for Medigap services.

- Enrollment in Parts A and B of Medicare
- Age 65 or older

## SOCIAL SECURITY

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### **Old-Age**

Eligibility requirements include:

- Age 62 or older.

- File application for old age benefits.
- Benefits are determined by work history and are designed to replace lost earnings.
- The amount of benefits will be adjusted if income levels exceed an exempt amount.

### **Survivors**



Survivors benefits are benefits paid out to a surviving spouse or dependent child in the event of the death of an individual who had been working and paying into Social Security prior to their death. As with the other types of Social Security benefits, the amount received depends upon the amount earned.

### **Disability Insurance**

Social Security Disability Insurance (SSDI) is an insurance program designed to protect workers who cannot work for a year or more after becoming totally disabled. Benefits are paid to workers who have worked recently and for a long enough duration. SSDI benefits can also be paid to eligible family members. Details and a benefits application are available at the following web address:

<http://www.socialsecurity.gov/applyfordisability>.

## **LONG-TERM CARE INSURANCE**

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Long-Term Care Insurance (LTCI) is an insurance product sold in the United States which helps provide for the cost of long-term care beyond a pre-determined period. LTCI typically covers care that is not covered by health insurance, Medicare or Medicaid (although Medicaid does provide some “medically necessary” services). About 60% of individuals over the age of 65 will require at least partial long-term care services during their lifetime to assist with activities of daily living. Traditionally, LTCI covers services such as in-home

care, assisted living, adult daycare, respite care, hospice care, nursing home, and specialized facilities for Alzheimer's.

Some of the advantages of Long-Term Care Insurance include:

- It may decrease the dependency a parent has on his or her children to cover out-of-pocket expenses.
- Premiums may be eligible for an income tax deduction.
- A decrease in anxiety about how to manage in the future as one becomes increasingly incapacitated.
- Visit AARP's website at [www.aarp.org](http://www.aarp.org) and the American Health Care Association at [www.ahca.org](http://www.ahca.org) for information and tips about long-term care insurance.

### **Taxes**

In some instances tax credits are available for those who pay an outside party to help care for their loved one. For additional information about this potential tax credit, contact the Internal Revenue Service at [www.irs.gov](http://www.irs.gov).

## **VETERANS**

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The U.S. Department of Veterans Affairs offers a wide range of benefits and services. The benefits and services that veterans may be eligible for include compensation and pension, education, home loans, vocational rehabilitation, life insurance, survivor benefits, burial benefits, fiduciary services, Advance Directives, Palliative and Hospice Care, VA Contract Adult Day Care, VA Contract Nursing Homes, VA Contract Respite Care, VA Contract Skilled Home Health, and Homemaker/Home Health Aide. Enrolled veterans, or caregivers of enrolled veterans, should contact the veteran's primary care social worker who can assist with available benefits and services. Veterans who are not enrolled can contact the

VA Caregiver Support Program by calling toll free 1-855-260-3274 or visiting <http://www.caregiver.va.gov>.

## FUNERALS

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Funerals are a way for family and friends to come together to honor and celebrate the life of a loved one who has died. Funeral preparations may fall on family members when a loved one passes on if pre-planning has not occurred. To prevent these preparations from becoming too costly, a balance is often sought by caregivers to provide a funeral that will not place families into financial hardship. To make this a little bit easier, there is a federal law which requires funeral providers to provide you with pricing lists when asked. The total price of the funeral can include several different individual services or you may choose a prepackaged funeral program offered by the funeral provider. Regardless of the individual choices made in a funeral, three basic categories of prices have been outlined by the Federal Trade Commission's booklet: "Funerals: A Consumer Guide." These categories are:

- Basic service fee(s) for the funeral director and staff
- Charges for merchandise and services
- Fees for items purchased on your behalf by the funeral providers (flowers, obituary notices, music, etc.)

### **Services/Products**

- Embalming is not required. In some instances, however, embalming may be deemed necessary or recommended by the funeral provider. In these instances the funeral provider must inform you of the requirements/necessary services.
- Cremation is one option that can potentially reduce the cost of a funeral. Caskets, which are often one of the more

expensive elements of a funeral, are not required for cremation. It is possible to rent a casket to use for a viewing prior to cremation.



- Caskets come in several different styles and colors. Each option or set of options come with their own price(s) which are often the most costly element of the funeral. Funeral providers must provide you with price lists and casket descriptions prior to showing you any caskets available for purchase. Also you have the option of purchasing a casket from an outside party. If this option is chosen, the funeral provider is not allowed to charge you an additional fee.

In general, as with anything you will do for/with your loved one, do your research and figure out which funeral options will best fit the needs, wants, and available finances of you and your family. Funerals can be expensive, but it is important to remember that there are options that can reduce the costs of a funeral by thousands of dollars by taking the time to plan ahead. For a copy of the Federal Trade Commission Publication called “Funerals: A Consumer’s Guide,” visit <http://publications.usa.gov>.

## COMMUNITY RESOURCES

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- Benefits Outreach Program: provides information about potential benefits that can be applied for.  
[www.benefitscheckup.org](http://www.benefitscheckup.org).
- Centers for Medicare and Medicaid Services: website with information about Medicare and Medicaid services.  
[www.cms.hhs.gov](http://www.cms.hhs.gov).
- Lawyer Referral Service of the Utah State Bar: resource to locate the names of lawyers who handle cases for a fee.

[www.utahbar.org](http://www.utahbar.org).

- Leaving Well: living well through the end of life: resource to aid in planning for end of life care and concerns with your loved one.

[www.leaving-well.org](http://www.leaving-well.org).

- Nursing Home and Home Health Care Quality Initiative: provides information about past performance reviews for certified Medicare and Medicaid nursing homes and home health agencies.

[www.medicare.gov/NHCompare/home.asp](http://www.medicare.gov/NHCompare/home.asp).

- Social Security: handles applications for social security benefits.

[www.socialsecurity.gov](http://www.socialsecurity.gov).

- Social Security Disability Benefits: website which provides a link to apply for SSDI benefits.

<http://www.socialsecuritydisabilityform.us/SSD-Form/Default.aspx?p=Utah>.

- Utah Legal Services, Inc.: resource to locate free or reduced price legal services for low-income persons and those age 60 or older.

[www.uls.state.ut.us](http://www.uls.state.ut.us).

## UCARE MODULE TOPICS

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1. Providing Personal Care
2. Dementia and Memory Loss
3. A) Caring for Older Adults with Chronic Health Issues
3. B) Caring for Children with Special Health Care Needs
4. The Accessible Home
5. Taking Care of the Caregiver
6. Caring for those with Depression, Anxiety, Stress, or Mental Health Issues

7. Community Supports for Remaining at Home
8. Working Effectively with In-Home Service Providers
9. Keeping Your Home and the Person You Care for Safe
10. Eating Healthy for Life
11. Assistive Devices: Tools to Help You
12. Legal and Financial Matters: What You Need to Know

For more information, please visit: <http://www.ucare.utah.gov>.

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For more information, please visit: <http://www.ucare.utah.gov>,  
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