



Turning Eighteen: 101

Jennifer VanderMark, BSW, JD, CWIC

Adult Advocate

The Arc of Macomb County

586-469-1600 x 143

jennifer.vandermark@arcservices.org

My child turned 18! Now what?!?!

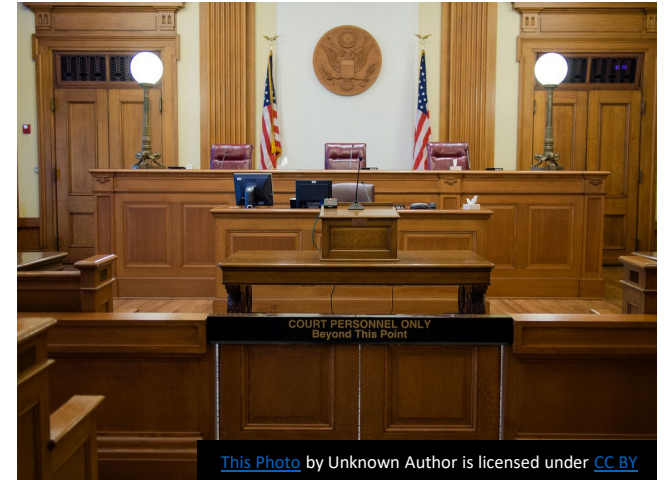
1. Supported decision making
2. Income/Social Security
3. Medicaid
4. Macomb County Community Mental Health (CMH)
5. Michigan Department of Health and Human Services (DHHS)



COURT
FEDERAL
STATE
COUNTY



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Supported Decision Making



When does the
question regarding
legal
authority/support
occur?



Mental Health Code

For persons with developmental disabilities, guardianship and alternatives to guardianship are dictated by Chapter 6 of the Michigan Mental Health Code (MCL 330.1600 through MCL 330.1644)



Estates and Protected Individuals Code

For persons with persistent and severe mental illness and persons of age, the Estates and Protected Individuals Code dictates guardianship and the alternatives.



Least Restrictive

Regardless whether one uses an EPIC or MHC standard, both laws and subsequent case law support, require and recommend the use of the least restrictive legal designation.



Poor Choices
v.
Inability to
Chose

Poor Choices \neq
incapacitated

Right to make
bad decisions

**The law presumes
capacity!**

Levels of support

Nothing! Law of natural consequences (live and learn!)

Circle of Support – family, friends, trusted individuals

Verbal consent and signed releases, authorized user

Joint bank account and Representative Payee

Power of Attorney and Patient Advocate

Guardianship



Representative Payee



What is a power of attorney?

Document that allows you to give someone the authority to manage a person's affairs.

Person assigned to manage affairs is an agent.

Voluntary.

Can be changed.

Scope is defined by the document, i.e., legal, financial, medical, contractual, etc.

Outside of the court process.

What is Power of Attorney?

Signed, witnessed by two individuals and notarized.

“Sound mind” – sufficient mental capacity to understand their actions.

Consent is whether a person knows what right he has and that he wants someone else to have the ability to use that right.

Agent must sign an acknowledgment of responsibilities.

Scope

Durable power of attorney: remains in effect when you are unable to make your own decisions.

General power of attorney: can be effective immediately upon execution.

Springing power of attorney: can “spring” into action.

Special or limited power of attorney.

Agent

Someone you trust.

Can be a list of people, or more than one person at a time.

Must follow your instructions to the best of your ability.

Must act in your best interest.

Keep good records, whether they are financial, medical, etc.



Patient Advocate

- Medical
- End of life



What is Guardianship?

Involuntary legal process through the probate court

Guardianship of an individual with a Developmental Disability is dictated by the Michigan Mental Health Code.

Partial guardianship is preferred for those with I/DD

Court defines powers

Court appoints guardian

Expires after 5 years

Must file a petition to modify or terminate

Who can be guardian?

Anyone can file a petition

Any suitable individual or agency (third party public guardian - agency or law firm) – court prefers family

Cannot appoint an agency who is providing services to the individual

The court shall make reasonable efforts to question the individual regarding their preferences and give it due consideration

Appointed guardian must file annual report



Guardianship Process

File petition

Health appraisal

Hearing will be scheduled

Psychological evaluation

Court will appoint GAL

Notice must be given to all interested parties

Petitioner and individual must be present.



Guardianship FAQs

Do I have to file for guardianship?

Who is an interested party?

Do I have to include my ex-spouse's information?

Can we be co-guardians?

The school did a psychological evaluation, can we use that one?



A little more about Guardianship...

It is a legal authority that gives you the ability to get information and make decisions.

It is a partnership

It cannot dictate or prevent behavior/poor decisions.

It is not the only option

There is no law, rule, or requirement that someone with I/DD have a guardian.





INCOME

1. Employment

**2. Supported
Employment (MRS/CMH)**

3. SSI/SSDI

SSI
and
SSDI



SSI – Supplemental Security Income

- Cash benefit for those who are disabled, blind, or age 65 and older who have few resources and low income.
- Needs based and means tested
- Social Security determines eligibility and payment amount based on the individual's available income and resources.
- Cash benefit can fluctuate based on income
- Automatically comes with Medicaid in Michigan
- Paid out of general fund tax dollars
- Most common benefit for someone who just turned 18.



Social Security Title II benefits (SSDI)

- SSDI – Social Security Disability Insurance
- Based on work record of insured worker
- CDB – Child Disability Benefits
 - Payable to a disabled adult child of an insured worker who has retired or become disabled and is collecting or who has died.
- You are entitled to MEDICARE after 24 months.
- You have to apply for MEDICAID separately. You may not qualify based on income or you may have a spend down. The \$2000 asset limit applies to Medicaid eligibility.



Child Disability Benefits (CDB)

- Title II benefit for those over the age of 18 who have a parent who is retired or disabled and collecting or deceased with a survivor benefit.
- Disability must have manifested before the age of 22
- Eligibility determined at onset of triggering event.
- The SSA determines if or when someone qualifies for CDB benefits.
- You can not decline CDB benefits or choose SSI instead.
- CDB benefits come with MEDICARE after waiting period
- Must apply for Medicaid separately



Which one do I apply for?

- The Social Security Administration will determine which one you will qualify for.
- SSI - over 18, low income, low assets, no work history, and not eligible for CDB
- SSDI – Can draw off of your own work credits
- CDB – At the time of application or anytime after age 18, a parent is either retired or disabled and collecting or has passed away.
- Age 18 redetermination – If you receive SSI as a child after you turn 18, the SSA will determine if you meet the adult criteria for benefits.



How do I apply?

- Apply online at <https://www.ssa.gov>
 - must be 18
 - Are not currently collecting benefits
 - Have not been denied in last 60 days
- Click on my Social Security and create an online account
- Application must be submitted within 60 days
- You can apply over the phone by calling 1-800-772-1213 or your local SSA office to schedule a phone appointment with an SSA representative.
- Age 18 redetermination – The SSA should contact you to initiate this process. However, I suggest you call them.



When should I apply?

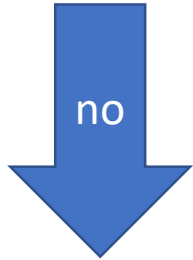
- AS SOON AS POSSIBLE!
- You can apply any time after the age of 18
- “Developmental Disability” is defined as a disability that manifested before the age of 22. This will be important for CDB benefits.
- Age 18 redetermination – Social Security *should* initiate but it is recommended you call when they turn 18 or end high school (whichever comes later).



SSI is a needs-based means tested program: It has a two-part test

1. Non-medical eligibility

- Low income
- Assets less than \$2000

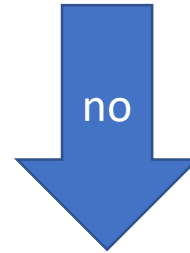


Denied, regardless of disability.

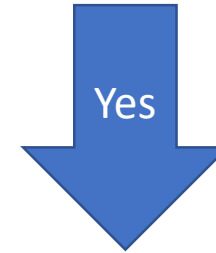


2. Medical eligibility

- Must meet the SSA's definition of "disabled" and be established by medical evidence



Denied



Approved



What is income?

Once your child turns 18, they are a household of ONE. Only count THEIR income and assets. Parental income and assets should NOT be included on the application.

- Earned income – wages
- Unearned income – SSDI (if you are a concurrent beneficiary)
- In Kind Support and Maintenance (ISM) - Someone else is paying for food and shelter.
- Deemed income – spouse's income (or parental income if beneficiary is a child)

*Go to SSA.gov for full list



What is not income?

- SNAP benefits
- First \$20 of income received each month
- First \$65 of earned income and then $\frac{1}{2}$ of any earnings over \$65
- Income tax refunds
- Money someone else spends to pay for other expenses other than food and shelter (phone, transportation, medical bills, etc)
- Food or shelter provided by a non-profit agency

*Go to [SSA.gov](https://www.ssa.gov) for full list



What is an asset?

The resource limit for SSI (and Medicaid) is \$2000

- cash
- Bank accounts, stocks, and investments (including joint accounts)
- Life insurance
- Anything you own that can be turned into cash
- Property (other than the home you live in)

*Go to [SSA.gov](https://www.ssa.gov) for full list



What is not an asset?

- The home you live in
- The vehicle you use for transportation
- Household goods and personal effects
- A Special Needs Trust
- Up to \$100,000 in an MIABLE account

*Go to [SSA.gov](https://www.ssa.gov) for full list



Protecting Assets:

MI Able Account - <https://savewithable.com/mi/home.html>

- \$16,000 annually
- Up to \$100,000 for SSI
- Must be used for “qualified disability expenses”
- Medicaid payback

Estate planning – Do it!!!!

Special Needs Trust

- Preserves Medicaid and SSI eligibility.
- Provides for quality of life.
- Provides for trustee to act as advocate



Medical documentation

- ✓ Evaluations
- ✓ Hospital admission and discharge summaries
- ✓ Psychological/Neuropsychological testing
- ✓ Diagnostic testing
- ✓ IEPs
- ✓ IQ testing
- ✓ Case management reports
- ✓ Vocational assessments
- ✓ Medications
- ✓ Medical records (The SSA will request these directly from you provider)
- ✓ SSA may schedule additional testing/evaluations

*This list is not all inclusive. The SSA office may ask for additional medical documentation not mentioned on this list. Go to [SSA.gov](https://www.ssa.gov) for more details.



Determining disability

- The disability criteria for SSI and Title II (SSDI) are the same.
- The disability criteria for a child (functional capacity) is different than the criteria for an adult (ability to work).
- If an individual qualified for benefits based on their disability as a child, they may not qualify as an adult (age 18 redetermination)
- CDB benefits require a new determination (switching from SSI to SSDI).



If benefits are denied:

- You will be notified by mail
- You have the right to appeal
- You should contact an attorney who specializes in social security benefits as there are deadlines and time frames.



If benefits are approved

- 2022 SSI rate is \$841 per month plus Medicaid
- Title II (SSDI and CDB) amount varies and Medicare in 24 months.
- The SSA will determine amount based on earned/unearned income and In-kind Support and Maintenance (ISM). If the individual is not paying rent/room and board, the SSA will automatically reduce the monthly benefit amount by 33%
- The SSA will determine if the individual needs a Representative Payee
- If the individual is working, they must report their gross monthly income.
- Eligibility redetermination every 1 to 6 years to review income, assets, and living arrangements
- Continuing Disability Review every 3 to 7 years to determine if individual still has disabling condition.





Social Security FAQs

1. Why should I apply as soon as they turn 18?
2. Do I need to charge room and board?
3. Why are they considered a household of one?
4. How long is the application process?
5. What do I do when I get ready to retire?
6. Can my child work and still collect SSI/SSDI?

What about guardianship or POA?

- You do not have to be a legal guardian to help someone apply for benefits.
- Having a court ordered guardianship in place does not increase the likelihood of an individual being eligible for benefits.
- The Social Security Administration does not recognize POA.
- If you are guardian or have a POA, that does not automatically make you the Representative Payee. You must apply through the SSA and provide documentation that the individual is unable to manage their finances.
- If you are a Representative Payee and the individual is working, it is YOUR responsibility to report their income to SSA.



EMPLOYMENT AND SOCIAL SECURITY

If you are working and collecting SSI or SSDI/CDB benefits, there is important information that you need to know regarding time frames, incentives, safety nets, and reporting requirements. For more information on how earned income impacts Social Security benefits, please call the Ticket to Work Help Line.

866-968-7842



MEDICAID

- SSI recipients automatically get full Medicaid in Michigan
- SSDI/CDB (Title II) recipients must apply separately.
- You can have Medicaid and private insurance
- Disabled Adult Child (DAC) Medicaid for those who were on SSI and triggering event switched them to CDB (Title II).
- If you've never been eligible for SSI and have ONLY collected SSDI or CDB, you will not be eligible for DAC Medicaid.
- Medicaid Spenddown (monthly premium) for those who never qualified for SSI and their SSDI benefit is too high to qualify for full Medicaid.
- Freedom to Work Medicaid for those who are on SSDI/CDB (Title II) and working.
- Must have less than \$2000 in assets



Macomb County Community Mental Health (CMH)

*The answer to what happens after age 26!

- Community Living Supports (CLS staffing)
- Respite care
- Skill building/Vocational programs
- Supported employment
- Specialized Residential Placement
- Appeal rights if denied services

* Must have Medicaid!!



Michigan Department of Health and Human Services (DHHS)

1. Adult Home Help (AHH) – paid staffing for hands on care
* must be Medicaid eligible
2. Supplemental Nutrition Assistance Program (SNAP)
- under 22/over 22
3. Medicaid
4. MIBridges – www.newmibridges.michigan.gov

THANK YOU!!

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