

Guardianship is when a judge appoints someone to care for an adult who is unable to make certain decisions on their own.

It is important to know that in the United States, anyone who is 18 or older is presumed to be able to make big life decisions, including medical, financial, and employment decisions. This means you may not be able to accompany your child or other dependent into the doctor's office or have access to their medical information unless they give you permission, or you're granted permission through a legal process such as guardianship.

Do I need to establish guardianship?

Consider the following questions:

- 1** Can my dependent say they are of sound mind to sign a legal document? Yes No
- 2** Can my dependent provide informed consent for medical or psychiatric treatments? Yes No
- 3** Can my dependent manage healthcare logistics (e.g. scheduling doctor's appointments, finding reliable transportation, picking up prescriptions)? Yes No
- 4** Can my dependent manage personal finances without help? Yes No
- 5** Is my dependent capable of living independently? Can he/she follow a daily schedule, do basic housekeeping, and use community resources (e.g. banks, stores, post office)? Yes No
- 6** Is my dependent able to get (and keep) a job? Yes No

If you answer "No" to any of these questions, you may want to consider preparing for guardianship or a guardianship alternative after your dependent turns 18.

Who can help me?

- You will likely need a lawyer to help you go through the guardianship process.
- Do your best to find a local lawyer who specializes in guardianship.
- The Special Needs Alliance¹ may have a special needs lawyer in your area. Guardianship laws vary by location, so it is important to find someone who knows your local laws.

Get Ready

If you and your lawyer decide guardianship is the best option, here's what you need to do:

- Get started as soon as possible (when your dependent is 17 or younger) because this process takes time
- Gather your dependent's medical records
- Conduct an assessment which may include:
 - Clinical Team Report (CTR): assessment completed by a physician, a licensed psychologist, and a social worker if required
 - Medical Certificate (MC): filled out by a physician in order to demonstrate the need for the guardianship to the judge
- Nominate a guardian (This can be you or someone else)
- Designate a standby guardian (If you are the guardian, this is the person you nominate as guardian if something happens to you and you can no longer care for your dependent)
- Prepare a letter of intent (LOI)
 - To learn more about writing an LOI, check out our financial empowerment resource
- Go to court to present your case in front of a judge, who will decide if guardianship is granted

Alternatives to Guardianship

Generally, judges appoint guardians when there are no less restrictive options that would work. Some alternatives to guardianship include:

Limited Guardianship: This is when guardianship is limited to certain types of decisions while allowing independence in other areas.

Assistive Services: There are many public and private services that help people with disabilities stay in their homes. It is not necessary for someone to have a guardian in order to take advantage of these services.

Healthcare power of attorney: This is a person who will act on behalf of their dependent when he/she is unable to make decisions or communicate intentions regarding healthcare.

Supported decision-making: This allows people with disabilities to make choices about their own lives with support from a trusted team of people.

This resource is being provided for informational purposes and does not constitute legal advice.

¹www.specialneedsalliance.org/find-an-attorney