

## LEGAL AND FINANCIAL ISSUES FOR PEOPLE WITH ALZHEIMER'S DISEASE

A diagnosis of Alzheimer's disease is very upsetting, and in the immediate aftermath, planning for the person's eventual legal and financial dependence may not seem like a high priority. Emotions are high and many decisions need to be addressed. But because over time, affected individuals become increasingly less able to manage their own legal and financial affairs, time cannot be wasted for the questions that need to be answered: How expensive is AD to treat? Will I have enough money to pay the costs? Who will manage my finances when I no longer can? How will those decisions be made?

In an ideal situation, it's best to discuss future financial decisions as soon as possible after AD is diagnosed. This way, affected individuals know where their assets are located and can still make legally competent decisions for themselves. Dementia will eventually take away the ability to talk about complicated matters, making it harder, sometimes impossible, so quick planning is necessary. Knowing your legal and financial options will go a long way in protecting your assets.

The first step in planning your financial future is to take an honest look at your family's current financial situation.

- Assemble the person's assets by locating financial documents like stock certificate, bank account statements, real estate deeds, retirement or disability benefits, and insurance policies.
- Seek assistance from someone you trust who has a history of making wise financial decisions, such as a financial planner, an elder law attorney or estate-planning attorney to help coordinate financial strategies and investments, locate potential financial sources, and identify tax deductions.
- Identify expenses you may encounter, including ongoing medical treatments, prescription medicines, and care services.

**THE FOLLOWING ARE SOME OPTIONS AND STRATEGIES FOR ESTATE PLANNING:**

## **Advance Directive (formerly known as Durable Power of Attorney for Finances (DPA))**

This is a document in which you give someone the authority to make financial and legal decisions and engage in financial and legal transactions for you. It is one of the first steps in planning for incapacity. It differs from a “general” power of attorney because a general power of attorney ceases to be effective if you become incapacitated.

You decide how much power to give the person you appoint. That person can have limited or broad powers, whatever you desire. DPA is a relatively easy and inexpensive way to have your legal and financial affairs handled. You can also revoke it at any time.

## **Durable Power of Attorney for Health Care (DPAHC)**

In this case, you appoint someone to consent to or refuse health care for you. It can include invasive tests, the release of medical records or even the use of life support treatment. This becomes effective only when you are not competent to make your own health care decisions.

If you do not choose an advance directive, the court may appoint a conservator for you. The conservator will remain under the supervision of the court. Not choosing a DPAHC in advance is more costly.

## **Living Will**

This is a formal statement of your wishes concerning the use of discontinuance of life sustaining treatments. A Living Will is useful only when a physician has determined that the person is irreversibly ill or critically injured and near death.

## **WILL**

A Will appoints an executor and directs them on how to distribute your property to the people you have chosen after you die.

## **REVOCABLE LIVING TRUST**

In this arrangement, you transfer ownership of your assets from yourself to the trust. You can retain complete management and control or you can designate someone else to do it for you. You can revoke or change the trust at any time. If you become incapacitated, the person you have appointed will manage your property for your benefit. You can plan for your incapacity in a living trust.

A Living Trust differs from a Will because, upon your death, there is generally no need to go to court to distribute your assets. The person you have appointed will do that for you. A Living Trust is more costly to have drafted than a Will. And because there is no court supervision, there is

less protection from mismanagement of your assets, so you must choose your trustee carefully.

## PLANNING FOR NURSING HOME CARE

Nursing home care can cost over \$50,000 a year. Assets can be quickly depleted and Medicare will not cover long-term care in a nursing home. What can be done so that you and your family do not lose everything you have worked and saved for?

There are 3 ways to pay for long-term care:

1. If you are **self-insured**, you pay from your own savings for someone, or a nursing facility, to take care of you.
2. Purchase **Long Term Care Insurance** through a private insurance company. The company then becomes responsible for your long-term care needs. Unfortunately, once symptoms of AD appear, you won't be able to buy the insurance. It's also essential to get a comprehensive policy that covers in-home assistance. There are many types of policies, so it's

important to have your attorney assist you with this. Not everyone will benefit from buying LTCI, so consider the following:

- Look at your family background. If there is a history of early death from congenital problems or heart attacks, LTCI may not be appropriate.
- If your family tends to have tremendous longevity, or debilitating neurological diseases, such as AD or Parkinson's, you may benefit from LTCI.
- If you don't have assets that will be depleted by nursing home care, LTCI may not be necessary. For those who have income and resource restrictions, Medicaid will cover custodial care in a skilled nursing facility.

### 3. Medicaid:

You can arrange your assets according to Medicaid guidelines so you can qualify for custodial care coverage in skilled nursing facilities. A variety of strategies can be successfully employed to obtain Medicaid eligibility: Converting non-exempt assets to exempt assets, transferring assets, and in some situations, by using irrevocable trusts. Again, it is imperative to have your attorney help you with this.

Another option to consider for paying long-term care expenses is life insurance. It can be a valuable source of cash if you are able to borrow from the policy's cash value or use a portion of the death benefits.

As a loved one starts to lose his ability to remember and function as he used to, it's natural for him to cling even more tightly to the things that remain. This why many people with AD respond to the changes taking place with resistance, denial and sometimes anger. They may feel that the family is unfairly trying to "take over." Accepting that they can no longer take care of their finances, or need to make changes to their estate planning, means accepting the finality of their illness, something they may not be prepared to do.

Dealing with the emotions of a loved one at this time is a sensitive issue and best approached as soon after a diagnosis as possible. This way, your loved one is more apt to comprehend why the legal and financial transition is necessary. The longer you wait to plan your estate once AD has been diagnosed, the more difficult it will be to make the necessary changes if your loved one later becomes apprehensive or suspicious. If you wait until your loved one is legally incompetent, assuming control over his legal affairs becomes more difficult and expensive.

Planning for disability or incapacity not only protects your financial resources, it helps ease the financial and emotional burden on family, and gives you control over who makes your decisions and how they are made—all without the need for court intervention or conservatorship proceedings. Without a doubt, knowing your legal and financial options will go a long way in helping protect your assets while providing the necessary care for your loved one.

Because laws, rules and regulations change frequently, the Alzheimer's Association suggests you contact a financial planner, an estate-planning lawyer, or one who specializes in legal problems of the elderly and disabled. Also, if a person moves to Washington from another state, any out-of-state documents should be reviewed by a Washington State attorney because laws vary from state to state.

Free Brochures available from the Alzheimer's Association. Contact our 24-hour Helpline at 1-800 848-7097.