

Adult at 18

Every individual becomes an adult with all adult responsibilities on their 18th birthday. The first issue to address for a person with intellectual/developmental disabilities is “capacity—the ability to make and communicate responsible decisions.” Doctors may help make recommendations, but only the court can establish legal diminished capacity.

Financial Issues:

At the age of 18 people with intellectual/developmental disabilities can apply for Social Security Income (SSI) and decisions are based on the individual’s own income and assets. To manage the funds, Social Security can approve a **Representative (or Rep) Payee**.

If a person has assets over \$2,000, consider setting up a **Special Needs Trust**, joining one of the five pooled trusts, or establishing an **ABLE Account**. Trust resources are managed by a **trustee**.

Please note, conservatorship, guardianship, and Powers of Attorney DO NOT protect assets from Medicaid consideration. The legal world has a *high capacity threshold* for financial decisions and therefore many people with developmental disabilities are not likely to be able to make or communicate financial decisions covered in a General Power of Attorney for Property or a Financial Power of Attorney.

Medical Issues:

The medical world has a *low capacity threshold* for a **Medical Durable Power of Attorney** which means if a person has the capacity to sign their name, communicate preferences, and is not vulnerable, they can sign a Medical Durable Power of Attorney and HIPAA forms. With the Medical Durable Power of Attorney a person names someone, called an agent, to make health care decisions when they are not able to do so. The MDPOA should be witnessed by independent parties and notarized to have all the protections under Colorado law. Share the MDPOA with doctors and have one available for hospital admissions. All POAs trump guardianship. Forms at www.cha.com Publications-Your Right to Make Health Care Decisions OR www.kaiserpermanente.org. Enter in search bar “Colorado Advanced Directives” - Advanced Directives

If a doctor determines that an individual does not have the capacity to make and communicate medical decisions, family members and close friends can select a substitute decision maker—a **Proxy**. The family and friends must mutually agree on the proxy who then can make decisions about all kinds of personal and medical care, comply with a person’s wishes, or act in that person’s best interest. If the person with a disability or someone else disagrees with the choices, going to court for guardianship may be necessary. When identifying a proxy, the doctor can also appoint a **Surrogate Decision-Maker for Health Care Benefits** to make informed decisions about Medicaid and/or Medicare benefits.

An individual is incapacitated as defined by Colorado Probate Code as being “unable to effectively receive or evaluate information or both or make or communicate decisions to such an extent that the individual lacks the ability to satisfy essential requirements of physical health, safety, or self-care, even with appropriate and reasonably available technological assistance.” This statute requires a functional analysis be used to determine incapacity. When a person is incapacitated, the courts can appoint a **Guardian** to make decisions regarding the ward’s physical health, safety or self-care and to manage limited financial matters.

If a person has a terminal condition, they will want to consider:

- a Living Will, especially if they do not have a Medical Durable Power of Attorney
- Colorado’s comprehensive form Medical Orders for Scope of Treatment
- a CardioPulmonary Resuscitation or CPR Directive or a Do Not Resuscitate or DNR Directive

DD Services: A person receiving services or a guardian can designate an **Authorized Representative** to assist in acquiring or using intellectual/developmental disability services or supports.