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When Aging Parents Cannot Manage Their Financial Affairs

America's population is aging. As people get older, some cannot fully care for themselves. Here are some steps to prepare for, recognize and help a parent or loved one who can no longer manage his or her financial and legal affairs.

Preparation

Preparing in advance is valuable, even while parents can manage their affairs. As time passes, their abilities may change. Tell your parents your willingness to help if in time they are unable to take care of everything. Discuss what they want you to do if they need help. This talk may raise other subjects you should know, including:

- A sense of the properties, money and other assets they own. You don't need every detail, and many parents won't reveal everything. But some background makes your help more effective if needed.
- Their expenses and bills, long term and short term debts and regular income. Don't forget social security and pension benefits.
- Their general health, any health issues and what care and life-support they want if a medical problem arises and they cannot express their wishes at that time.
- Locations of estate planning documents like their will, trust and healthcare power-of-attorney; and other important papers like property deeds, stocks, insurance policies and bank records. Some may be in a locked cabinet or safe deposit box so it's good to discuss how to access these when needed.

How easy or hard these subjects are to discuss depends on your relationship with your parents, their circumstances and yours, and possibly issues of trust or even jealousy if they or other relatives question your motives. Just discuss as little or as much as your

parents want.

Be Alert

Serious illness and hospitalization are obvious times when help may be needed. Or there may be subtle signs that an aging parent is losing the ability to care for himself or herself. Staying in bed for days, refusing to see friends, changes in hygiene, confusion, or other strange behavior may signal a mental breakdown. Not taking medicines, missing appointments or not paying bills can mean forgetfulness or loss of mental ability. Dramatic weight loss can mean they cannot even prepare their own food. These may be temporary so don't overreact. But don't ignore them either. A parent may be reluctant or too proud to ask, but these could be signs that help is needed.

Helping a Parent Who Can't Manage His or Her Affairs

When a parent can't manage his or her affairs, a son or daughter may be the best person to assist. You know your mother or father better than anyone and there may be no one your parent trusts more.

As a first step, consider meeting regularly to review mail together, help pay bills and handle other matters needing attention. If your parent resists, you can still visit regularly, and gently check that they are paying bills and taking care of other financial and legal matters.

Where managing bank accounts, rental property, stocks, bonds and other assets is needed, sometimes a child's help may be easier by being listed as joint owner of the property. This means changing title so either the parent or child can make decisions and take actions involving the property. This step can be ideal if there is mutual trust, and a parent wants you to help make and act on decisions. Joint ownership is also an estate planning tool because jointly held property can automatically become property of the child at the parent's death without going through probate.

Changing to joint ownership is sensitive, because your parent gives up some ownership and control. Siblings or other relatives can become suspicious, thinking there are other motives. There are also tax risks because the ownership change is a transfer that can trigger income or gift tax. So a lawyer's advice is needed when taking this step.

As another alternative, it is sometimes possible to send a signed letter from your parent telling people or companies that you are authorized to act on your parent's behalf.

If this type of letter is not accepted, then a more formal tool is a power of attorney.

This is a paper your parent signs, giving legal authority to you (or anyone named in the document) to make decisions and handle transactions for him or her. Actions you take under a power of attorney are treated as if done by the person who granted the authority to act. A power of attorney can be broad (for example, it can grant you power over all your parent's business and financial affairs), or can say it is limited to certain kinds of actions. A power of attorney can also be limited to a stated length of time.

A power of attorney becomes invalid if the person who granted it dies or becomes incapacitated. But another form, called a “Durable Power of Attorney,” stays in effect even after these events. You and your parents should seek legal help when considering using this kind of form.

When social security benefits are involved, the government can appoint you as your parent’s representative to receive their payments and use the money to pay their expenses.

Where a parent’s inability to care for himself or herself is even greater, a conservatorship (called a guardianship in some states) may be needed. The court appoints a “conservator” (or “guardian”) to make financial decisions for him or her. This is a serious action by the court because it takes away some legal decision-making power of the incompetent parent. Courts prefer to appoint an adult child to this role.

Help for You

There is help for children who assist their aging parents. If you work for a company that has 50 or more employees, the federal Family Medical and Leave Act entitles you to as much as 12 weeks leave each year to care for a parent with a serious health condition. Depending on state law or company policy, some workers can even receive partial salary during family leave. Some federal workers abroad may be able to travel at government expense to help a parent who is incapacitated or can’t live independently. Government or employer benefits may also be available to the parent, including Social Security, Medicare, benefits under insurance they bought, or a pension plan where they work or used to work. A child helping a parent manage his or her affairs should also check these possible sources of help.

Conclusion

Whatever the situation and whether or not government or employer assistance is available, a helpful and caring attitude is important. So is integrity. Decision-making authority for a parent’s finances can tempt people to benefit themselves. A duty of honesty comes with this role. Because of the legal significance as well as tax and other legal implications, a lawyer’s advice should be obtained in the process of

helping aging parents manage their financial and legal affairs.

Call Us For Help

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