

**Financial and Legal Resources
For Seniors
In Tompkins County**

Tompkins County Office for the Aging
320 North Tioga Street
Ithaca, New York 14850
607-274-5482

TABLE OF CONTENTS

SUBSIDIZED & DISCOUNTED SERVICES

Bus Fare Discounts on TCAT	4
Congregate Meals Program (Foodnet)	4
Gadabout Transportation	5

HOUSING & ENERGY RELATED SERVICES

Cornell Cooperative Extension	5
Habitat for Humanity	5
Home Energy Assistance Program (HEAP)	5
Mini-Repair Program (INSHS)	6
Partial Property Tax Exemption	6
Power Partner (NYSEG)	6
EmPower New York	7
Rental Assistance-Section 8	7
Rural Development	7
Tompkins County Home Repair Program	8
Weatherization (TCA)	8
Weatherization Referral and Assistance Program (WRAP)	8

MEDICAL & INSURANCE PROGRAMS

Elderly Pharmaceutical Insurance Coverage (EPIC)	8
Local Prescription Drug Programs	9
Long Term Care Insurance Education & Outreach Program (LTCIEOP)	9
Medicaid	10
Medicare	11
Medicare Savings Program	12
Medigap & Supplemental Health Insurance	12

PLANNING & MANAGEING FINANCES

Credit Counseling	13
Funeral Planning-Funeral Consumers Alliance of the Finger lakes	13
Income Tax Returns Preparation-RSVP	13
Alternatives Federal Credit Union	13

Lifelong	14
MONEY MANAGEMENT	
Cornell Cooperative Extension	14
Women’s Opportunity Center	14
Ithaca Housing Authority	14
New York State IT-214	14
Reverse Mortgage	14
SAFETY NET	
Catholic Charities of Tompkins County	15
Supplemental Security Income (SSI)	15
Tompkins County Department of Social Services	15
OTHER	
Social Security Administration	16
Telephone Discount (Lifeline)	16
Tompkins County Red Cross-Project Share	16
Veteran’s Affairs Center	16
LEGAL ISSUES OF SUBSTITUTE DECISION MAKING	
Introduction	17
Representative Payment for Government Benefits	18
Health Care Proxy	21
Living Will	21
Power of Attorney	24
Living Trust	27
Guardianship	28
ADVANCED CARE PLANNING	
Lifelong	31
Sharing Your Wishes	31
LEGAL SERVICES AND ADVOCACY	
New York State Bar Association Lawyer Referral Program.	31
Community Dispute Resolution Center	31
Cornell Legal Aid	32
Legal Assistance Program-Office for the Aging	32
Tompkins Tioga Neighborhood Legal Services.	32

SUBSIDIZED & DISCOUNTED SERVICES

BUS FARE DISCOUNTS ON TCAT

TCAT

737 Willow Avenue

Ithaca, NY 14850277-9388 Extension 420

www.tcatbus.com

Individuals aged 60 and over, pay half the regular TCAT bus fares or purchase a ten-journey card for half the regular price. To verify age, you may show either a Medicare card or TCAT 1/2 fare card to the bus driver. TCAT 1/2 fare card is free with a simple application and proof of age. Discounted bus passes may also be purchased at Lifelong at 119 West Court Street.

CONGREGATE MEALS PROGRAM (FOODNET/MEALS ON WHEELS))

Foodnet/Meals-on-Wheels

2422 North Triphammer Road

Ithaca, NY 14850266-9553

www.foodnet.org

The Congregate Meals Program is provided by Foodnet, a not-for-profit group under contract with the Tompkins County Office for the Aging, to operate the nutrition program for the county. They provide meals and social time Monday through Friday midday. Nutrition counseling and education are provided to individuals and groups. The sites for meals are conveniently located throughout the county, and are open to everyone over 60 years of age. A donation is suggested for each meal, and food stamps are also accepted, but no one is denied a meal because of inability to make a donation.

The dining room locations are:

Ithaca (at Titus Towers) 273-5297

Groton (at Center Village Court Senior Apts.)279-9145

Trumansburg (at First Baptist Church)387-3015

Lansing (at Woodsedge Senior Apts.)279-9146

Call Foodnet from 8 a.m.—3:30 p.m. or the dining rooms 10 a.m.-1:30 p.m.

Home delivered meals are also available for people who cannot get to the congregate sites.

GADABOUT TRANSPORTATION SERVICES, INC.

737 Willow Avenue
Ithaca, NY 14850273-1878

GADABOUT is a volunteer transportation service for people aged 60 and over and for disabled residents of Tompkins County which offers door-to-door service. Most buses are equipped to take wheelchair passengers. It is necessary to call two days in advance. It may be possible to accommodate later requests but not guaranteed. Minimal fare of \$1.50 for rides in the city limits and \$2 outside to city limits. One way trips are available and you can use GadaBucks (available at the Gadabout office) for payments.

HOUSING & ENERGY RELATED SERVICES

CORNELL COOPERATIVE EXTENSION

(Save Energy, Save Dollars)
615 Willow Avenue
Ithaca, NY 14850272-2292 ext. 152

www.cce.cornell.edu/tompkins/EmPowerNY/index.htm

Learn about low-cost and no-cost ways to save energy and reduce your energy bills. Also learn about programs that can help you afford energy-efficiency improvements with subsidies, low-interest loans, or free services to qualifying households. Participants will receive a free energy kit, including weatherstripping, shrink window insulation, faucet aerator, outlet and light switch gaskets, and more.

HABITAT FOR HUMANITY898-4148

www.habitat.org

Volunteers who provide assistance with minor home repairs.

HOME ENERGY ASSISTANCE PROGRAM (HEAP)

Tompkins County Office for the Aging
320 North Tioga Street
Ithaca, NY 14850274-5482

www.tompkins-co.org/cofa

The Office for the Aging operates the **HEAP** program for the low-income 60+ population and those younger on Supplementary Security

Income (SSI) or Social Security Disability (SSD). HEAP is a federally funded program that can help low-income individuals with a once a year fuel payment. Eligibility limits and benefits vary from year to year. COFA also helps seniors with applications for other benefit programs.

MINI-HOME REPAIR PROGRAM (INHS)

115 West Clinton Street
Ithaca, NY 14850 277-4500
www.ithacanhs.org
Elderly City of Ithaca residents can receive free labor for mini-repairs.

PARTIAL PROPERTY TAX EXEMPTION

Location: Tompkins County Division of Assessment 2nd Floor
128 East Buffalo Street
Ithaca, NY 14850 274-5517
www.tompkins-co.org/assessment

Partial property tax exemptions for home owners aged 65 and over are permitted by New York State law. The board of each village, town, city, county and school district decides on the maximum income level at which to give the exemption, up to the maximum allowed by the state.

STAR is a partial exemption from school property taxes on owner-occupied primary residence. The Enhanced STAR exemption is available to individuals age 65 or older who live in an owner occupied 1, 2, or 3 family home and have moderate income.

Filing deadline for both these exemptions is March 1st every year. For application forms, call the Assessment Office at 274-5517.

POWER PARTNER (NYSEG) HOME ENERGY ASSISTANCE

..... 1-800-284-7988
Power Partner, NYSEG energy assistance program, is designed to help consumers who are at or below Home Energy Assistance Program (HEAP) income guidelines, learn more about the wise use of energy. Power Partner provides a wide network of assistance through the many community partnerships developed since the program started in 1998. Power Partner can help you: (1) save at least \$114 on your NYSEG bill by lowering you monthly basic service charge; (2) save an additional

\$30 to \$70 per year on your monthly basic service charges if you are also a NYSEG natural gas customer; (3) identify community-based energy saving programs you may be eligible for.

EmPower New York

PO Box 2489

Syracuse, NY 13220 1-800-263-0960

www.nyserda.org

The EmPower New York program is currently offering **no-cost** energy services for HEAP income-qualified families. The program is funded through the New York State Energy Research and Development Authority (NYSERDA) under an agreement with the Public Service Commission. Services may include: Attic and/or wall insulation; draft reduction measures; replacement of old, inefficient appliances; installation of high-efficiency lighting; and tips on how to save energy.

RENTAL ASSISTANCE-SECTION 8

Ithaca Housing Authority (IHA)

798 South Plain Street

Ithaca, NY 14850273-1244

www.ithacaha.com/section8.html

Tompkins Community Action (TCA)

701 Spencer Road

Ithaca, NY 14850273-8816

www.tcaction.org

Section 8 is a rent subsidy program for low income people. Both the Ithaca Housing Authority and TCA operate Section 8 programs throughout Tompkins County.

RURAL DEVELOPMENT

903 Hanshaw Road

Suite 2

Ithaca, NY 14850257-2737 Ext. 4

www.rurdev.usda.gov

Rural Development (formerly Farmer's Home Administration) can provide grants and loans to rural seniors age 62 or older under the Section 504 Program for home repairs.

TOMPKINS COUNTY HOME REPAIR PROGRAM

Better Housing for Tompkins County, Inc.

950 Danby Road

Suite 210

Ithaca, NY 14850273-2187

www.betterhousingtc.org

Labor is provided free for minor home repairs related to health and safety, for seniors. Revolving loan funds are available for materials.

WEATHERIZATION (TCA)

Tompkins Community Action (TCA)

701 Spencer Road

Ithaca, NY 14850273-8816

www.tcaction.org

Tompkins County residents who are at or below Home Energy Assistance Program (HEAP) guidelines can receive free weatherization services, including furnace replacements, insulation, air sealing, etc. TCA also takes HEAP applications from non-elderly eligible recipients ,operates a free clothing program, an emergency food pantry, and provides assistance filling out applications for food stamps and other benefits.

WEATHERIZATION REFERRAL AND ASSISTANCE PROGRAM (WRAP)

Tompkins County Office for the Aging

320 North Tioga Street

Ithaca, NY 14850274-5487

www.tompkins-co.org/cofa

WRAP is a program that assists energy vulnerable low income seniors through the use of public and private funds. The goal is to provide a safe warm home for seniors. Contact the Office for the Aging.

MEDICAL & INSURANCE PROGRAMS

ELDERLY PHARMACEUTICAL INSURANCE COVERAGE (EPIC)

PO Box 15018

Albany, NY 12212-50181-800-332-3742

www.health.state.ny.us/health.care/epic

EPIC is a drug insurance program for New York State residents age 65 or older. Annual income limitations are \$35,000 or less (single) or \$50,000 or less (married). You are not eligible for EPIC if you receive full Medicaid benefits. If you have Medicare Part D, other limited prescription coverage, or a Medicaid spenddown, EPIC may be used to supplement that coverage to further reduce your medication expenses. As of July 1, 2007, most people with EPIC must be enrolled in the Medicare drug benefit (Part D) as well. EPIC will help pay for the cost of these private drug plans.

LOCAL PRESCRIPTION DRUG PROGRAMS

TompkinsRx is a prescription discount card that is available to all Tompkins County residents, regardless of age. It is free, requires no enrollment forms and can be used immediately at participating pharmacies to save an average of 20 percent off your commonly prescribed brand name and generic prescription drugs.

“Finding Lower Cost Prescription Interactive Resourced Guide” was developed by the Health Planning Council, a program of the Human Services Coalition, to provide information to Tompkins County residents and human services agencies about options to help pay for prescription medication. It does not provide medical, financial, or insurance advice, nor does it imply endorsement of any particular government agency or non-profit organization. It does not warranty the accuracy and timeliness of the information provided. Phone 273-8686. www.prescription.hsctc.org/home.htm

LONG TERM CARE INSURANCE EDUCATION AND OUT-REACH PROGRAM (LTCIEOP)

LTCIEOP provides consumers with objective information needed to plan the possible costs of future long-term care. There are two LTCIEOP Resource Centers located in Tompkins County:

Tompkins County Office for the Aging
320 North Tioga Street
Ithaca, NY 14850 274-5482

www.tompkins-co.org/cofa

and

Lifelong

119 West Court Street

Ithaca, NY 14850273-1511

www.tcslifelong.org

Call or visit either Resource Center to obtain details about the following free services:

1. **Educational materials** about long term care, long term cost and long term care insurance. Educational materials are also available at the local program’s web site;
2. **Periodic Workshops** are scheduled to discuss topics such as: What is long term care and what does it cost? How is long term care paid for? How does long term care insurance work and who might need it? And how do I find a suitable long term care insurance policy? Workshops can also be brought to community or employee groups;
3. The information provided by the Long Term Care Education and Outreach Program is intended for the sole purpose of educating consumers in regard to the choices available for financing their future long term care needs. Particular emphasis is placed on understanding long term care insurance. Nothing is intended, nor should it be construed, as an endorsement by the State of New York or any specific insurance product or insurer.

MEDICAID

Tompkins County Department of Social Services

320 West State Street

Ithaca, NY 14850274-5359

MEDICAID is the medical assistance program for low-income people of all ages who are unable to pay for care and who meet the eligibility guidelines. It is financed by federal, state and local funds. The list of services that may be included is set by federal and state law.

Older people are expected to use their Medicare and private insurance first and to use Medicaid only for expenses not covered, such as prolonged nursing home or home health care and other exceptionally high medical cost not met by Medicare. For current eligibility rules, check with the Medicaid Division of the Department of Social Services.

MEDICARE

Social Security Administration (SSA)

127 West State Street 256-3651

Ithaca, NY 14850 1-800-772-1213

www.medicare.gov

MEDICARE is a federal health insurance program for almost everyone age 65 or older and certain disabled people under 65. The Center for Medicare & Medicaid Services (CMS) is the federal agency that runs Medicare. CMS is a part of the US Department of Health and Human Services. Social Security Administration offices across the country take applications for Medicare. There are several different parts to the Medicare program.

Hospital Insurance (Part A) helps pay for in-patient hospital care, in-patient care in skilled nursing facilities (not custodial or long-term care). It also helps cover limited home health care and hospice care. Most people do not have to pay premiums for Medicare Part A.

Medical Insurance (Part B) helps pay for doctor's services, outpatient care, durable medical equipment, etc. Most U.S. residents age 65 can enroll for Part B, pay the standard monthly Part B premiums and receive Part B benefits. Starting in January 2007, some people may pay a higher premium, based on their income. The amount of the Part B premiums changes every January 1st.

Medicare Advantage Plans or Medicare Health Plans (Part C) provide all of your Medicare Part A and Part B coverage and must cover medically-necessary services. These plans are run by private insurance companies approved by Medicare. They may offer extra benefits, and many include Part D prescription drug coverage. In addition to your Part B premium, Medicare Advantage Plans may charge an additional premium. Medicare Health Plans include PPOs (Medicare Preferred Provider Organization Plans); HMOs (Medicare Health Maintenance Organization Plans); PFFS (Medicare Private Free-for-Service Plans); SNPs (Medicare Special Needs Plans); and MSAs (Medicare Medical Savings Account Plans).

Prescription Drug Coverage (Part D) helps pay for prescription drugs. Anyone who has Medicare Part A or B is eligible for this optional Part D plan. These plans are run by private insurance companies and other private companies approved by Medicare. They usually have monthly premiums, can have a deductible and co-insurance for drugs and may have a coverage gap. If you have limited income and resources, you can apply to the Social Security Administration to obtain extra help paying for your Part D costs.

MEDICARE SAVINGS PROGRAM

Some low-income recipients can have their Medicare premiums, and perhaps deductibles and co-insurance, paid for by the Medicaid Office. Eligibility levels change each January 1st. For current levels, check with the Social Security Administration or the Medicaid Unit of the Department of Social Services at 274-5359.

MEDIGAP AND SUPPLEMENTAL HEALTH INSURANCE

Many companies offer ('medigap') policies to cover costs not included in Medicare.

Information about Medicare and Medigap insurance, including a listing of companies offering Medigap policies in NY state and the premiums they charge, can be found at the HIICAP web site: <http://www.HIICAP.state.ny.us>

Health insurance counseling is available through HIICAP (Health Insurance Information Counseling and Assistance Program) at Lifelong and at the Office for the Aging. HIICAP counselors can assist you with questions such as: What would be an appropriate Medigap policy for me? Am I over-insured or under-insured? What can I do about my denied claim? Can I get help paying for prescription drugs? When should I enroll in Medicare? What changes in Medicare should I be aware of? Can you help me understand my MSN (Medicare Summary Notice)? Call Lifelong 273-1511 or the Office for the Aging 274-5482 to arrange for an appointment with a HIICAP counselor.

PLANNING & MANAGING FINANCES

CREDIT COUNSELING

Individual counseling in person or by phone to arrange payment plans with creditors, clean up credit reports, receive budgeting help, or arrange alternative to bankruptcy.

Consumer Credit Counseling1-800-479-6026
CFCU Community Credit Union(for its members) . . . 257-8500

FUNERAL PLANNING-FUNERAL CONSUMERS ALLIANCE OF THE FINGER LAKES

PO Box 134

Ithaca, NY 14851-0134 273-8316

The **FUNERAL COMSUMERS ALLIANCE OF THE FINGER LAKES** is a non-profit, nonsectarian organization that contracts with local funeral homes for simple funerals and memorial services in advance.

INCOME TAX COUNSELING (RSVP)

121 West Court Street

Ithaca, NY 14850273-1511

www.tclifelong.org

RSVP, a program of Lifelong, sponsors an income tax assistance program for low-income, handicapped and senior citizens. This is an IRS-trained retired senior volunteer program which operates February through April. There is no fee for this service.

ALTERNATIVES FEDERAL CREDIT UNION

125 North Fulton Street

Ithaca, NY 14850273-4611

www.alternatives.org

Alternatives Federal Credit Union offers free tax preparation to eligible individuals and working families. Individuals with income up to \$25,000 or couples with up to \$40,000 may qualify.

LIFELONG

119 West Court Street
Ithaca, NY 14850 273-1511

www.tclifelong.org

Check-It—A bill payer service to assist seniors with their bill paying, bank account reconciliations, and other financial management assistance

MONEY MANAGEMENT PROGRAM/CLASSES

Cornell Cooperative Extension272-2292

www.cce.cornell.edu

Create spending plans to track expenses, explore credit issues through workshops and one on one education sessions.

Women’s Opportunity Center272-1520

www.womensopportunity.org

Ithaca Housing Authority (for IHA clients only) 273-8629

www.ithacaha.com

NEW YORK STATE IT-214 (“CIRCUIT-BREAKER”) PROPERTY TAX CREDIT)

New York, through the state income tax program, will refund part of the local property tax paid by moderate and low-income home owners and (indirectly) by renters. You may qualify even if you pay no state income tax. For information, application forms and assistance, call the RSVP Income Tax counseling program at 273-1511, the Office for the Aging at 274-5482 or the New York State Income Tax Department.

REVERSE MORTGAGE

Tompkins County Office for the Aging
320 North Tioga Street
Ithaca, NY 14850274-5492

Www.tompkins-co.org/cofa

Counseling on reverse mortgages is available at the Office for the Aging, including how much senior homeowners can borrow, what the loan costs are, alternatives to reverse mortgages and how to find lenders. Call for information or an appointment for counseling.

SAFETY NET

CATHOLIC CHARITIES OF TOMPKINS COUNTY

Samaritan Center
324 West Buffalo Street
Ithaca, NY 14850272-5062

www.catholiccharities.org

The Samaritan Center offers referrals and assistance with clothing, prescriptions, security deposits, utilities and transportation to low income residents.

SUPPLEMENTARY SECURITY INCOME (SSI)

Social Security Administration
127 West State Street 256-3651
Ithaca, NY 14850 1-800-772-1213

www.ssa.gov

SSI is the Supplementary Security Income Program administered by Social Security which pays monthly checks to aged, blind and disabled people, who have limited resources, to assure a minimum income for eligible applicants. Eligibility changes yearly.

The Office for the Aging has current information about SSI eligibility and can assist with the application process, call 274-5482.

TOMPKINS COUNTY DEPARTMENT OF SOCIAL SERVICES

320 West State Street
Ithaca, NY 14850274-5323 or 274-5336

Financial Assistance includes Medicaid for medical bills and nursing home care, Food Stamps, Home Relief and Emergency Assistance for Adults, all requiring evidence of need and examination of income and resources. Protective Services for Adults (PSA) are for impaired adults unable to protect or care for themselves, and are given at all income levels. If necessary, the department can serve as representative payee for a person unable to manage benefit checks and in extremes may act as a guardian.

OTHER

SOCIAL SECURITY ADMINISTRATION

127 West State Street 256-3651
Ithaca, NY 14850 1-800-772-1213

www.ssa.gov

The Social Security Administration administers Social Security Programs (Old Age, Survivors and Disability Insurance); Medicare; and Supplementary Security Income (SSI).

TELEPHONE DISCOUNT(LIFELINE)

Verizon 1-800-555-5000

www.lifelinesupport.org

Lifeline Service is a discount that saves low-income Verizon customers receiving AFDC, Food Stamps, HEAP, HR, Medicaid or SSI, money on their telephone bills. Other local telephone companies operate their own programs for seniors.

TOMPKINS COUNTY RED CROSS (PROJECT SHARE)

201 West Clinton Street
Ithaca, NY 14850 273-6684

Project Share can provide financial assistance for an energy-related emergency for individuals 60 or older or disabled. The usual grant is no more than \$200 and may only be received once in an eighteen-month period. The Red Cross also operates an emergency shelter program and a disaster relief program.

NEW YORK STATE DIVISION OF VETERAN'S AFFAIRS

423 West State Street
Ithaca, NY 14850 272-1084

www.veterans.state.ny.us

This agency counsels veterans and their dependents and survivors on a wide range of problems and helps establish eligibility for veterans' benefits.

LEGAL ISSUES OF SUBSTITUTE DECISION MAKING

SUBSTITUTE DECISION MAKING PLANNING FOR INCAPACITY OR DISABILITY

How Others Can Assume Responsibility To Act
On Behalf Of An Impaired Adult

INTRODUCTION: WHY IS ADVANCE PLANNING FOR INCAPACITY OR DISABILITY IMPORTANT?

1. Advance planning permits you, in the event of incapacity or diminished capacity, to arrange how your financial, personal and health care decisions will be made.
2. Without advance planning, in the event of incapacity, or diminished capacity, these decisions will not necessarily be made in accordance with your wishes. If a court has to make the decisions, it can be emotionally difficult as well as costly for your family. Without your advance directives, a court cannot know what you would have wanted; the court will have to apply what the law calls- “the reasonable man standard: what would a reasonable man have wanted in this position?”

Most adults are well aware of the need for wills to communicate their desires to dispose of their property after their death. They know that without a will, the state decides for them to whom their property will be distributed. Thus, wills are important to permit us to direct where our assets will go.

Less well known, but no less important, are those devices which permit us to direct decision making about our finances and personal care during our lifetimes. In this age of advanced medical technology, if a person no longer has the mental capacity to take care of his or her finances, or the physical ability to communicate decisions about the healthcare he or she wants, somebody will have to make these decisions in place of the impaired person. Pre-planning permits an adult to determine in advance who will make decisions for him in the event of incapacity, what that decision will be, what guidelines will be applied to make that decision, and who must be consulted before

making specific decisions.

In the absence of pre-planning, decisions for an incapacitated person are made based on general societal standards, rather than that particular person's inclinations. For example, a person's private funds will be exhausted for medical expenses before an application for government assistance through Medicaid will be approved. An impaired person on a life support system will be maintained as long as there are any signs of life. This section details five methods commonly used to communicate and accomplish decision making for an impaired adult. They are:

1. Representative Payment for Government Benefits;
2. Health Care Proxy;
3. Power of Attorney;
4. Living Trust Guardianship.

I. REPRESENTATIVE PAYMENT FOR GOVERNMENT BENEFITS

Government benefits paid by the Social Security Administration, Department of Veterans Affairs (VA), U.S. Civil Service Commission, and other agencies generally are paid directly to you as the named beneficiary. However, if you are impaired, these agencies may make payments on your behalf to another individual for your use and support.

SOCIAL SECURITY AND SUPPLEMENTAL SECURITY INCOME

The Social Security Administration will elect a person called a representative payee to receive benefits on behalf of a beneficiary who is unable to manage his or her own benefits.

When will a representative payee be appointed?

A representative payee will be appointed for you if you are found to be mentally incompetent or physically incapable of managing benefit payments. To determine whether a representative payee is necessary, Social Security first considers whether a court has found you to be legally incompetent. If no such determination has been made, Social Security considers medical evidence, such as your physician's opinion. In addition, Social Security should consider statements of relatives and friends and

Prior to appointing a representative payee, Social Security will notify you in writing of its proposed action. You then have the opportunity to object and submit additional evidence to show that a payee is not necessary. In addition, even after Social Security's decision to appoint a representative payee is finalized, you can make a formal appeal of the decision.

What are the responsibilities of a representative payee?

The representative payee must use the benefit payments to serve your best interest. The payee must first apply the benefits to your current support and maintenance. If all your current support and maintenance needs are met, the representative payee may apply part of the payments for the support of your legal dependents, such as your spouse or child. If there are still benefit payments remaining, the representative payee may retain them in investments for you. All such investments, such as bank accounts, must show clearly by their title, that the representative payee holds the property in trust for you. The representative payee must maintain records of the receipt and use of benefits on your behalf. He or she may also have to submit regular written reports to Social Security accounting for the benefits received. These reports would include the amount of benefits received, how the benefits were used, how much of the benefits were saved and how they were invested, and the amount of your other income.

The representative payee must also notify Social Security of changes in your circumstances that may affect the amount of benefits you should receive.

Who is selected as a representative payee?

In order to select the representative payee who will best serve your interest, Social Security has established a list of potential payees in the following order of preference:

First, a legal guardian (in New York this would include a conservator or committee), spouse or other relative who lives with you or who demonstrates strong concern for your welfare;

Second, a friend who lives with you or who demonstrates strong concern for your welfare;

Third, a public or nonprofit agency or institution in whose custody you have been placed;

Fourth, a private institution in whose custody you have been placed;

Fifth, another person willing and able to carry out the responsibilities of a representative payee.

VERTERANS' BENEFITS

The Department of Veterans' Affairs (VA) will select a responsible individual, referred to as the fiduciary, to receive benefits on behalf of an incompetent beneficiary. However, the incompetent beneficiary may receive benefits directly. The payment may be made directly to the incompetent beneficiary only in amounts that the VA determines the beneficiary is able to manage. For example, an incompetent beneficiary who is entitled to a large sum of retroactive benefits, may be able to receive the benefits over a period of time in smaller increments, if the VA determines (s)he can manage the smaller amounts.

What Are The Responsibilities Of The Fiduciary Receiving Benefits On Behalf Of The Incompetent Beneficiary?

If your benefits are paid to a fiduciary on your behalf, (s)he must apply the benefits in your best interest. Generally this requires their use for your current support and maintenance, and that of your dependents. The VA encourages fiduciaries to serve without a fee. However, if no appropriate fiduciary can be found to act without a fee, the VA may authorize a fee to be paid from your funds. Relatives will not be permitted to charge a fee except under unusual circumstances.

Some fiduciaries may be required to post a bond to protect your interest. The VA may also require an accounting from the fiduciary of the benefits paid.

Who May Act As A Fiduciary For An Incompetent Beneficiary?

If you are found to be an incompetent beneficiary, the VA may appoint one of the following individuals as a fiduciary for you:

- 1 Your spouse;
- 2 Your court-appointed fiduciary, such as your conservator or committee (See Section V below);
3. The chief office of an institution where you receive care and treatment;
4. An individual with whom you live or who has informally managed your affairs.

II. HEALTH CARE PROXIES

The health care proxy law became effective on January 18, 1991. It grants competent adults the right to appoint someone they trust to make decisions about medical treatment on their behalf, when they are not able to make such decisions for themselves. The person appointed to make health care decisions is known as a health care agent.

The mechanism for appointing a health care agent is intended to be as straightforward and as simple as possible. The legal requirements are minimal. An attorney is not needed.

Is a health care proxy form the same as a living will?

No. Generally speaking, a **living will** is a document in which an individual gives directions about health care to be followed in the event the individual has a terminal illness and is unable to provide further instructions.

The health care proxy law establishes a decision making process. It does not require individuals to make a written statement regarding decisions about health care treatment in advance. The agent can make those decisions when the time comes.

How do you create a health care proxy?

It is not difficult or complicated to create a health care proxy. A health care proxy is simply a written document, indicating that you (the 'principal') wish to appoint another person (the 'health care agent') to act on your behalf to make your health care decisions. It must be signed by you, dated, and witnessed by two adults. The new law provides a sample health care proxy, which may be helpful as a model. A copy is available at the Office for the Aging, 320 North Tioga Street, Ithaca.

After you execute the health care proxy, you should of course give a copy to your health care agent. It is also wise to give copies to your family doctor, attorney and close relatives.

What are the rights, duties and authority of a health care agent?

A health care agent is authorized to make any decision concerning your health care that you, the principal, could have made for yourself when you were competent to do so.

Your agent must make all decisions in accordance with your wishes, religious and moral beliefs. How will your agent learn of your wishes and beliefs? Your agent may rely on any sources available to him or her. You may state your wishes in the health care proxy itself. You may discuss them with your agent. You may write a separate note to your agent. For example, you may specify that in certain situations you wish to forgo life-sustaining measures, or continue extraordinary treatments. If your wishes and beliefs are unknown, your agent must make decisions governed only by your best interest. However, your agent cannot make any decisions concerning the artificial feeding or administration of fluids unless your wishes in these areas have been made known, either in the health care proxy itself, or by some other means.

So that he or she can make an informal decision, the agent is entitled to see the medical records that could be shown to you, and to receive the same medical information as you would receive.

Who can appoint a health care agent?

Any competent adult can appoint a health care agent. However, a person who has already been adjudged to be incompetent by a court, or has had a guardian or committee appointed to oversee his or her affairs, may not appoint a health care agent.

Who can be a health care agent?

You may generally appoint any adult to be your health care agent. However, people directly involved in your health care, such as your doctors, hospital employees and other health care providers, can only be appointed in certain situations specified in the new law.

When does the health care proxy take effect?

A health care agent may make decisions on your behalf pursuant to a health care proxy only when your attending physician determines that you lack the capacity to make health care decisions for yourself. Your physician must notify you orally and in writing of his determination, and the reasons for the determination. In addition, notice must also be given to your health care agent. You can object to a determination that you are incapable of making your own health care decisions. Then, your medical provider must follow your wishes, unless a court directs otherwise.

Who will pay attention to my agent?

Hospitals, doctors, and other health care facilities are legally required to honor your agent's decisions. If a hospital objects to certain choices, they must tell you or your agent in advance.

What if my agent is not available when decisions have to be made?

You can appoint an alternate agent. If you don't and your agent is not available, health care providers must follow the instructions you gave them while you were still able to do so. In that situation, any instructions you have written on your Health Care Proxy form will be a helpful guide for the providers.

What are the advantages and disadvantages of a health care proxy?

The principal advantage of a health care proxy is that it will provide you with the ability to maintain some control about your health care if you become incapacitated. It also may relieve the burden on families, doctors, and courts, of making decisions without knowing your wishes.

To be truly protective of your wishes, health care proxies must be carefully thought out. Before you execute a health care proxy, you may wish to consult other professionals, such as your physician, spiritual advisor or clergy person, and attorney. They can help you learn what health care decisions your agent would be likely to face, and to best express your wishes for these situations. It is also a good time to discuss these issues with family and friends who may be directly involved if you experience critical illness.

The greatest disadvantage of a health care proxy is that if you don't make your wishes known to your health care agent, it may be very difficult for your agent to act in accordance with your wishes.

What if I change my mind?

You can cancel ('revoke') that proxy, either orally or in writing, but it is better to do it in writing and to give everyone who has a copy of the proxy a copy of the revocation. If you want to choose a different agent or give new instructions, just fill out a new form. (Be sure to give everyone who has a copy of the old form a copy of the new form.)

III. POWER OF ATTORNEY

What is a Power of Attorney?

A power of attorney is a written contract in which you appoint someone to act on your behalf to manage your affairs. When you sign a power of attorney, you become the principal and the person you appoint to act as your agent is called the attorney-in-fact. Although you have then given your attorney-in-fact the authority to act on your behalf for the transactions specified in the power of attorney, you have not given up your own rights to continue to handle your own affairs.

What are the Powers of an Attorney-in-fact?

A power of attorney can be used to appoint someone to act on your behalf in a wide variety of matters. The standard power of attorney form permits your appointed attorney-in-fact to act on financial and business matters, such as banking transactions, investments and sales of property. The Power of Attorney form can be purchased in office supply stores, and is used by many attorneys.

You may, however, want to consider a power of attorney that personalizes the standard form. For example, if you want to enable your attorney-in-fact to file claims for your Social Security, Medicaid, Medicare, or VA benefits, or to sign your tax returns on your behalf, you can so specify on the power of attorney form. Or you may enable him or her to make gifts to family members, or fund living trusts (see Section IV below). This can be very useful for estate and tax planning or financial planning for long term health care. You may also want your attorney-in-fact to be able to arrange for personal care services in your home if you need them. None of these powers are included in the standard form power of attorney. However, these and other powers tailored to your needs can be included if you want them.

Whom should you appoint as your Attorney-in-fact?

You can appoint one or more persons as your attorney-in-fact. If you appoint more than one agent, you should specify whether you want each person appointed to be able to act independently, or whether you will require that all your attorneys-in-fact must consent to each transaction. Generally it's wise to choose a trusted family member or friend as attorney-in-fact. Or if your financial affairs are complicated, you may decide to appoint a banker or attorney whom you know well.

How is a Power of Attorney created?

The procedure of executing a power of attorney is simple. You, as the principal, only need to sign the form before a notary public. However, an attorney should be consulted to make sure that the form you sign is appropriate for your needs.

Who can create a Power of Attorney?

In order to sign a power of attorney appointing someone to act on your behalf, you must be competent. You must be able to understand that you are giving the agent the power to act for you, and you must wish to do so.

When does the Power of Attorney terminate?

The power of attorney is generally terminated if you, the principal:

1. Revoke (cancel) it;

2. Become incompetent; or
3. Die.

If you cancel your power of attorney, it is a good idea to do it in writing, and to send a copy of the revocation to everyone who has a copy of the power of attorney.

Can I set up the Power of Attorney so that my attorney-in-fact can act for me after I become incompetent?

Yes, if the power of attorney states that the power shall continue even if the principal becomes incompetent, it will remain effective. That kind of power of attorney is called a ‘durable’ power of attorney.

The newest power of attorney forms say right at the top if they are ‘durable’ (remain effective after the principal becomes incompetent) or ‘nondurable’ (can’t be used after the principal becomes incompetent), so make sure you are using the right form.

Another form you can use is a Durable Power of Attorney Effective at a Future Time. You use that form if you want someone to become your attorney-in-fact at some time in the future, on a particular date or when some specified event happens.

What are the Advantages and Disadvantages of Power of Attorney?

The advantage of making a complete and durable power of attorney is that you can, in advance, make explicit directions about who may handle your affairs and how your affairs will be handled in the event of incapacity. It also may avoid the need for a court appointed guardian discussed in Section V in this pamphlet. As long as you remain competent, you will still be able to handle your own affairs. By signing a power of attorney, you do not give up your rights to conduct your own affairs.

A power of attorney is also simple to execute and widely recognized. However, some institutions or individuals, with whom you may have dealings, may be reluctant to accept the authority of your attorney-in-fact to act. You may want to discuss this in advance with your attorney to ensure that the institutions you deal with will accept your power of attorney

In addition, although you can inexpensively purchase a standard power of attorney form from an office supply store, and simply sign it before a notary public. Consulting an attorney briefly to ensure that the form is right for your needs is generally a wise course of action.

The greatest disadvantage of a power of attorney is that it gives the agent you appoint the broadest powers to act on your behalf without any supervision and few guidelines. As a result, it may be easy for your appointed agent to take financial advantage of you. Therefore, it is important that you only appoint someone who you infinitely trust as your agent.

IV. LIVING TRUST

What is a Living Trust?

A trust is an agreement which provides that one individual, the trustee, will hold and manage the property of the creator of the trust, the grantor. The trust agreement provides for the use and benefit of the trust property for individual(s), called the beneficiary(ies). The grantor may be the beneficiary or one of the beneficiaries of the trust. A living trust is one created during the lifetime of the grantor.

What are the Powers of the Trustee?

The trustee has whatever powers are specified in the trust. The trust agreement is a document generally drafted by an attorney, to meet the particular needs of the grantor. Thus the trustee's powers may be as broad or as limited as the grantor wants.

The trust can be set up and the grantor can put some or all of his/her property into the trust (fund the trust) immediately, or the grantor can set up a standby trust, which will not be funded until some event specified in the trust agreement occurs, such as the grantor's incapacity.

Why would someone want to set up a Living Trust?

A living trust can provide maximum flexibility in managing your property through your lifetime, and even after your death. It should be tailored to the specific needs of you and your family. It will be managed in accordance with your own instructions which will be continued in the trust agreement.

Some common reasons for setting up living trusts are

1. To minimize estate taxes;
2. To minimize the cost of long term nursing home care by permitting eligibility for benefit programs such as Medicaid;
3. Avoid the appointment of a guardian upon incapacity and ensure uninterrupted management of your assets upon disability or death;
4. To avoid probate and have assets transferred to your intended heirs quickly, and with greater privacy; and
5. To supplement the income of your disabled adult children who are dependent on government benefit programs.

Who should be the Trustee?

You can appoint one or more persons as trustees. If you appoint more than one, you should specify that either trustee can act for the trust, or that some or all the trustees' consent is necessary for any transaction. You can even specify that for some transactions, any one trustee's action will be sufficient, but that other transactions will require the consent of all trustees.

Generally, it's wise to choose a trusted relative or friend as a trustee. At times, however, when your trust agreement or financial affairs are complicated, a bank or an attorney may be considered as a trustee or co-trustee. The grantor, himself, can also be co-trustee along with another co-trustee.

What are the Advantages and Disadvantages of a Living Trust?

The major advantage of a living trust is its flexibility. As many trusts can be created as there are people with different needs. The disadvantage is the cost involved in setting up a trust, which is generally the cost of retaining an attorney to set up a trust tailored especially for you.

V. GUARDIANSHIP

In New York, a court may appoint a guardian to manage the property and/or personal needs of an impaired adult at the request of that adult or another interested person. The person appointed to manage an adult's property and/or personal affairs is called a guardian. The guardian system,

which took effect April 1, 1993, replaces the old New York conservatorship and committee laws.

When will a Court appoint a Guardian?

A court can appoint a guardian for you if it determines that you need a guardian to manage your property and/or personal needs, including food, shelter and health care. You need not be mentally incapacitated for the court to appoint a guardian for you; you can simply request one. However, the court will only appoint a guardian when it's sure one is necessary. For example, if you have already signed a power of attorney, or created a living trust that manages your affairs, a guardian may not be necessary.

If you do become mentally incapacitated, the court can appoint a guardian at the request of another person. To appoint a guardian due to incapacity, the court must determine that you are likely to suffer harm because (1) you are unable to provide for your property management and/or personal needs, and (2) you cannot adequately understand the nature and consequences of this inability.

What are the Guardian's Powers?

The guardian can have authority over as much of your property and/or personal needs as the court directs. The court defines and sets the limits of the guardian's powers. A guardian normally will not receive total control over your property or personal needs. The court will make an assessment of your individual needs and will give the guardian only those powers necessary to manage your property and/or personal needs. The court is required to ensure that you retain the greatest amount of independence possible in light of your abilities and limitations.

Once appointed, the guardian must submit regular reports to the court. The guardian may also be responsible for your personal well-being, such as arranging necessary personal and social services. The court may also give the guardian the power to consent to or refuse medical care on your behalf.

Who may be appointed Guardian?

Any person over 18 years old who is otherwise suitable may be appointed guardian. Most often, spouses, adult children, parents, and siblings are appointed guardians. You retain control over who is appointed guardian. Even if the petition for guardianship is brought by someone else, the court must appoint *your* choice of guardian unless it determines the person you choose is unsuitable for some reason.

What is the procedure for appointing a Guardian?

To start the guardian appointment process, either you, a relative, or anyone else concerned with your welfare submits a petition to the Supreme Court or County Court for the county where you live. Ordinarily, representation by an attorney is necessary to draft the petition. If the petition is submitted by someone other than yourself, you will receive a copy of the petition and will have an opportunity to object to it.

Once the petition is submitted, the court will schedule a hearing to determine your need for a guardian. An independent investigator, called the Court Evaluator, will be appointed by the court to help the judge reach a decision. The Evaluator will meet with you to explain the proceeding and answer any questions you may have. At this stage of the process, you may be entitled to free legal advice if you do not already have a lawyer and you do not have money to pay a lawyer.

You are required to appear at the hearing unless the court determines that you are unable to take part in the proceedings. If you are physically unable to come to the hearing, the hearing will be conducted in your home.

What are the Advantages and Disadvantages of Guardianship?

The guardianship has the advantage of having the protection of a court's watchful eye on your affairs. In addition, institutions will most likely accept your guardian's authority to act on your behalf. Further, the appointment of a guardian need not be based on finding of incapacity. Therefore

Therefore you need not, in most cases, give up any civil rights, such as the right to vote or to contract with others.

Unfortunately, like any other court action, the guardianship proceeding may take some time, usually about four to six weeks after the petition is submitted. In addition, payment of attorney's fee and court costs is usually required.

ADVANCED CARE PLANNING

ADVANCE CARE PLANNING LIFELONG

119 West Court Street
Ithaca, NY 14850273-1511
www.tclifelong.org

SHARING YOUR WISHES

HEALTH PLANNING COUNCIL OF THE HUMAN SERVICE COALITION

100 West Seneca Street, Suite 300
Ithaca, NY 14850273-8686
www.hsctc.org

Both of these agencies provide one on one counseling regarding Advance Care Planning and can schedule group presentations on the subject. Life-long periodically holds presentations on Advance Care Planning.

Advance Care Planning can include the completion of a Health Care Proxy to appoint a health care agent, the completion of a Living Will, issues and laws regarding the Non-Hospital DNR (Do Not Resuscitate) and the proposed MOLST (Medical Orders for Life Sustaining Treatment) Form.

LEGAL SERVICES AND ADVOCACY

**NEW YORK STATE BAR ASSOCIATION LAWYER REFERRAL
PROGRAM** 1-800-342-3661

COMMUNITY DISPUTE RESOLUTION CENTER/WISE TALK

120 West State Street
Ithaca, NY 14850 273-9347
[Www.cdre.org](http://www.cdre.org)

Confidential mediation services are provided by trained volunteers as an alternative for solving disputes. Office hours are Monday through Friday,

9 a.m.–4:30 p.m., but mediation can be arranged at times and places convenient to disputants. Mediation provides a cooperative process for solving a wide range of disputes. The mediator, a trained volunteer, assists people in conflict in shaping a solution that leaves all parties satisfied.

CORNELL LEGAL AID

Myron Taylor Hall

Cornell Campus

Ithaca, NY 14853 255-4196

Cornell law students give free legal services under faculty supervision. They handle civil cases only, mostly problems in obtaining unemployment insurance, public assistance, food stamps, Medicaid, Supplementary Security Income or Social Security benefits. Service is limited to low-income people. Primary source of clients come from local agencies.

LEGAL ASSISTANCE PROGRAM-OFFICE FOR THE AGING

320 North Tioga Street

Ithaca, NY 14850 274-5486

www.tompkins-co.org/cofa

The Office for the Aging contracts with Tompkins Tioga Neighborhood Legal Services to provide free legal consultation, in civil matter, for Tompkins County residents age 60 and older. Appointments can be made by calling 273-3666. More specific information on the program can be obtained by calling the Office for the Aging at 274-5486. Fee-generating cases and criminal cases are prohibited by law. Contributions are accepted and used to expand the service.

TOMPKINS TIOGA NEIGHBORHOOD LEGAL SERVICES

DeWitt Building

215 North Cayuga Street

Ithaca, NY 14850 273-3666

www.lawny.org

Tompkins Tioga Neighborhood Legal Services, a division of Legal Assistance of Western New York, is a federal program that provides free legal services for people of low-income. Only civil, not criminal, cases are accepted. Cases are in areas of Social Security, and other public benefits.