



## *It's Your Money: What's Your Back-Up Plan?*

Contributed by Attorney Elizabeth Baum

**It's your money and you have the right to make all financial decisions about how to use it.** This is true as long as you have the mental ability to take care of your finances. What is also true is that anyone of us may need help managing our finances, or become unexpectedly incapacitated because of an illness or a sudden accident. That's why it is important to have a **back-up plan** in which you choose a person(s) to help with your financial affairs and give instructions on how you want your finances to be managed. It's the best way to ensure that your choices about your financial future and care are known and honored.

### What's in Your Back-Up Plan?

Here are some options to consider in making your back-up plan. You can consult a financial planner or an attorney to discuss your personal situation and to plan for the future.

#### **1. Bill Payor**

You can choose a trusted person to help you pay your bills and manage your banking. If you have a physical reason why you cannot bank for yourself or write your own checks or just want some help, you can retain decision making control over your money and authorize someone else to perform the physical part of paying your bills and banking. One option is to ask a close friend or family member to help you. If you do not have a trusted person to help you, then you could consider a 'bill payor'. Many senior centers have a list of recommended bill payors, some of whom may be volunteers, and other professionals who would charge a fee for their services.

#### **2. Joint Ownership Bank Account**

You can choose a trusted person to have joint ownership of a bank account. You can open a new joint ownership bank account, or change the title of your single account(s) to a joint ownership account. This would allow the joint account holder to write checks from your account in order to pay your bills. However, this option should be chosen **ONLY** if you absolutely trust the person whose name you are adding to your account **AND** if you want that person to receive all money from that joint account upon your death. It is recommended that you consult an attorney or a financial professional to fully understand joint ownership accounts before changing the title of an account or opening a new jointly owned account.

#### **3. Power of Attorney**

You can choose a trusted person to make decisions about your money, your property and financial matters on your behalf. You can execute a Power of Attorney which would take effect only if and when you become incapacitated and are unable to make financial decisions yourself (by a letter from your physician if you wish). The Power of Attorney is a legal document in which you would name the person you trust, called an Attorney In Fact, to manage your finances should you become incapacitated. Within this document, you also can dictate the limits of the authority which you give to your Attorney In Fact. It is recommended you execute this legal document in consultation with an attorney.



#### **4. Durable Power of Attorney**

You can choose a trusted person to make decisions about your money, your property and other financial matters on your behalf by executing a [Durable Power of Attorney](#). This document authorizes the person whom you designate (your “Attorney In Fact”) to manage your financial affairs immediately and remains in effect even if you become incapacitated.

Both a **Durable Power of Attorney** and a **Power of Attorney** are legal documents which you draft and sign while you have the ability to consider whom you would want to manage your affairs, should you ever become disabled or incapacitated. You can choose to give the Attorney In Fact broad powers or more limited powers over your financial affairs. Talk with your Attorney In Fact, so that s/he knows exactly what assets and income you have, and how you want your finances managed. You also can name the person you would want to act as your Guardian and/or Conservator, in case one was ever needed. If you decide to change your Attorney in Fact, you can revoke either of these documents by stating in writing that you have revoked them, so long as you have the mental capacity to do so.

#### **What can happen if I don’t have a financial back-up plan?**

##### **If I don’t have a “back-up plan”, and become disabled or incapacitated and unable to manage my finances, who will make decisions about my money?**

If you do become unable to manage your financial affairs due to a mental decline, and you have not implemented any of the above options, then the risk you face is that someone else may end up making those decisions for you. A family member, a medical facility or another interested party may petition the Probate & Family Court, asking the Judge to appoint a Conservator to manage your financial affairs and pay your bills. A [Conservator](#) is a court-appointed fiduciary who, once appointed, has the authority to collect and then manage the finances (pay the debts, sell property, invest the assets, etc.) of the Protected Person, and who may charge a fee to manage finances.

##### **What happens if I only receive social security or veteran’s benefits I don’t take any steps and become disabled or incapacitated?**

If your only source of income is Social Security, the appointment of a Conservator may not be required, and a trusted friend or family member can apply directly to the Social Security Administration to be appointed as a Representative Payee. A Representative Payee then has the responsibility to receive the Social Security Income, manage these funds by paying the bills of the incapacitated person. A separate bank account must be set up in the name of the incapacitated person to collect the Social Security funds. A similar Payee can be appointed to manage an incapacitated person’s Veteran’s Benefits.

*Elizabeth Baum, J.D., M.P.H., The Law Office of Elizabeth Baum, PC, has over 25 years experience helping adults and families with complicated medical, residential, financial, family and supportive services issues, including end of life decision-making and planning. [Read more here.](#)*