

FINANCIAL DECISION-MAKING 2024

This program is meant to help educate, but not direct you as to the Wisconsin law and options for decision-making when an adult is temporarily or permanently unable to manage or would like assistance in managing his/her finances.

1. Who can make financial decisions for a person unable to do so?

The general answer for an adult in Wisconsin is no one; not a spouse or an adult child, not a parent or anyone else, if financial accounts are solely owned and no person has been given access to accounts by power of attorney, or if no court appointed guardian of the estate is in place.

2. Why is this important?

Because your bills, expenses, and taxes may not be paid; your investments, financial accounts, and other property may not be properly managed; and you might be subject to financial abuse.

3. My spouse and I are listed as co-owners of our bank and other financial accounts, our motor vehicles, and real estate/home. Is this enough?

Most jointly owned bank, savings and loan, and credit union accounts located in Wisconsin may be accessed and used by any joint owner, so the “incapacity” of one joint owner does not limit other joint owners from accessing and using the account. However, this is generally not the case for other jointly or other co-owned property such as real estate, vehicles with title, and some investment accounts. So, for example, while you may jointly own your home with your spouse, a sale or mortgage of it requires both of you to sign all the paperwork.

4. I have one of my children listed on my bank accounts to pay bills. Is this good enough?

It depends what you mean by “listed on my bank account”. If someone is added to your bank account in Wisconsin as a “joint tenant”, that person becomes a joint owner of the account and can not only access the account to pay bills, but also can use the account as they wish. Upon your death, that joint owner also receives sole ownership of the account regardless of what your will says. If you add a person as a power of attorney agent to such an account, that person in general does not have an ownership interest in the account, but can use it for your benefit and to pay your bills. In either instance, you should only add a person to your account who you completely trust.

5. How do I add a power of attorney agent to a financial account?

Most banks and other financial institutions allow you to add one or more persons as power of attorney agents to your bank, investment, or other financial account; and have their own forms you complete to do so. You cannot add such an agent to real estate or other personal property, but you can prepare and execute a financial *durable* power of attorney (POA) appointing one or more persons to make decisions for you with regard to some or all of your property.

6. Can I do a financial POA (FPOA) myself?

Wisconsin has a statutory FPOA (Uniform Power of Attorney for Finances and Property) which anyone can use, however, I suggest you have a Wisconsin lawyer advise and help you through the process of executing a FPOA, as knowledgeable lawyers may have better options to the Wisconsin uniform FPOA given your current and possible future needs. I never recommended or used the Wisconsin statutory financial POA in my law practice, as my goal was to tailor a FPOA to the needs of the client.

7. What are the steps in appointing a financial POA agent?

-Decide the scope of authority you want the agent to have. If having access to your bank account to pay bills is the only thing you want, having your bank add the person as an agent may be sufficient. If you want to appoint the agent to help you, if needed, with all your financial needs (real estate, personal property, all financial accounts, sign tax returns, rental and service agreements, etc.), execute a durable FPOA giving appropriate authority to your agent(s).

-Decide who you trust to make wise financial decisions for you as agent.

-Talk to your prospective agent(s), and make sure they understand your wishes and are willing to serve as your financial agent.

-Decide the scope of authority you want to give your financial POA agent(s).

Whether the financial POA gives immediate authority (durable FPOA) or is more limited. Sometimes authority for only a single financial transaction is needed, but other estate/financial planning may require broad authority such as transfer of assets/ gifting authority, beneficiary designation other. Regardless, but you never should give complete authority to an agent unless you completely trust the agent's competence and honesty. If you have questions about the degree of financial authority you should give to an agent, consult an attorney who prepares FPOAs.

-Read the financial FPOA document/designation agreement and be sure you understand it. If you are using the Wisconsin statutory financial POA make sure you know how to properly complete and execute it

-After the FPOA is completed, make sure your agents have copies of it. A copy of an original executed Wisconsin FPOA is generally as valid as the signed original; but from my experience, some financial service providers only accept signed original POAs. I suggest you also keep electronic copies of your executed FPOA.

8. Does executing a financial FPOA take away your rights to make your own financial decisions? No, in fact, an agent under a financial POA is supposed to follow your wishes and directions regarding your property and finances.

9. Where can I get Wisconsin power of attorney Statutory forms? [Advance Directives: Forms | Wisconsin Department of Health Services](#)

10. What else should I do?

-Discuss your plans and wishes with family and agents and periodically review and update. Both your circumstances and the law can change over the years.

- Consider creating a trust if you have substantial property in/out of Wisconsin.