

# Legal Transition to Adulthood for Young People with I/DD



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# Disclosures

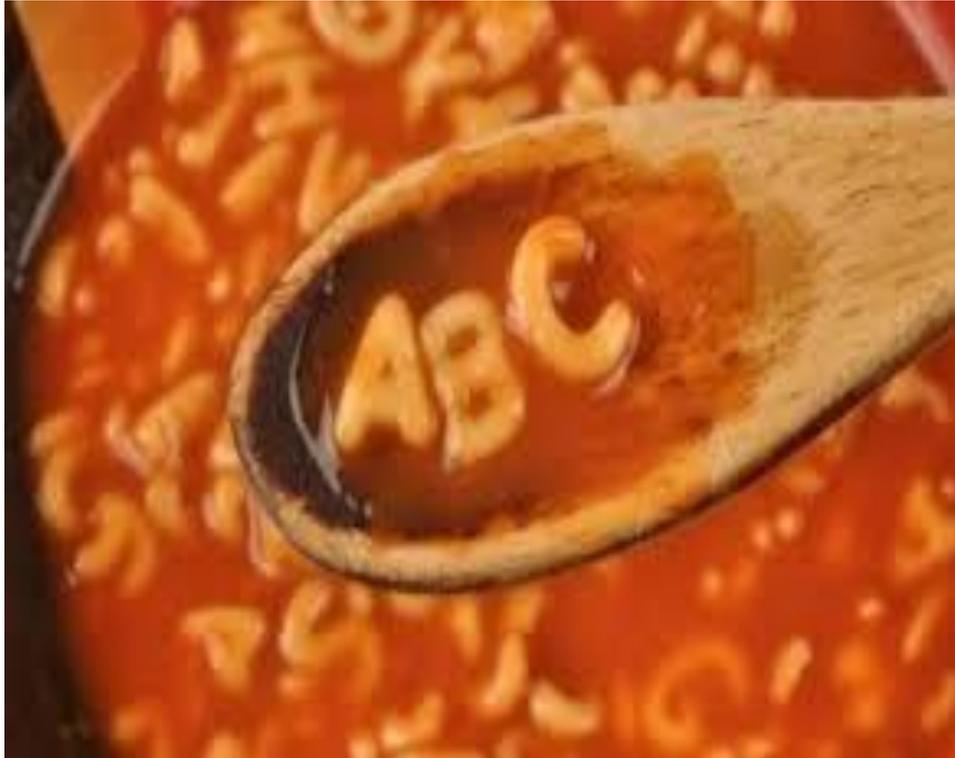
- Lindy MacMillan and Ashley Greenberg have no financial relationships relevant to this presentation to disclose.
- All planners have no relevant financial relationships to disclose.

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# Objectives

1. Overview of obtaining and preserving state and federal public benefits for young people with I/DD turning 18
2. Overview of decision-making options to support young people turning 18 with I/DD
3. Resources for providers and families

# Public Benefits: DDA, Medicaid, and SSI



## STATE BENEFITS:

**Developmental Disabilities Administration (DDA):** Supports and services for eligible people diagnosed with I/DD.

**Medicaid/Washington Apple Health (WAH):** Publicly funded health insurance for low-income people and people with disabilities, through HCA (MCOs).

## FEDERAL BENEFITS:

**Supplemental Security Income (SSI):** \$794/month cash benefit for low-income people with disabilities.



# DDA and MEDICAID: SOME LEGAL ISSUES

**If a service is medically necessary for a child, or if they need a service or support to live safely in the community, they should receive it in a timely manner.**

## **LEGAL CONCEPTS:**

- Recipients of benefits should receive written notice of any change in services (Due Process)
- Young adults under age 21 should receive all medically necessary benefits. (Early and Periodic Screening, Diagnosis & Treatment (EPSDT))
- Community Integration – individuals with disabilities of all ages should be integrated into the community (Americans with Disabilities Act (ADA))



# DDA and MEDICAID: Tips for appeals

- DDA and Medicaid MCOs will sometimes make changes to benefits in writing – should still appeal any changes to benefits. Document appeal in writing (email works)
- If a young adult (under age 21) needs but is not receiving medical services, can appeal timely access to covered services (like long ABA waitlists). There will not be a denial notice for this. Document appeal in writing.

# SUPPLEMENTAL SECURITY INCOME (SSI): TRANSITION TO ADULTHOOD



## SSI:

- Federal benefit paid by the Social Security Administration (SSA)
- \$794 per month in 2021

*\* Tip: if parent is “payee” they should title child’s bank account to be clear it is for benefit of child and not commingle (mix) funds*

## LEGAL ISSUES:

- Age 18, child becomes their own “household”
- Pay rent to avoid 1/3 reduction for “in-kind support and maintenance”
- Age 18 disability redetermination – adult disability standard, potential termination/overpayment

## APPEALS/WAIVER OF OVERPAYMENT:

- 60 days to appeal denials/reductions/terminations, do it in writing
- Multiple levels of appeal
- For overpayments, “waiver” is an additional option, can be filed anytime
- Must file within 10-days of receipt of notice to preserve benefits during appeal

# Legal Decision-Making Options

**People age 18 and up are presumed, under the law, to have capacity to make their own decisions.**

- Health care
- Education
- Finances and credit
- Who they see
- Voting

**What if someone wants help understanding information or making decisions, or what if someone can't understand the nature and consequences of potential decisions?**

A person's legal capacity, as well as their wants and desires, determine what type of decision-making help is appropriate

# Durable Power of Attorney (DPOA)



## What is a DPOA?

- The “principal” (person signing the DPOA) appoints an “attorney in fact” (e.g., parent) to help them get information and make certain decisions
  - The principal must have capacity to understand what the DPOA does and what they’re asking their parent to do *AND*
  - The principal must want their parent’s help
  - Not a court process
  - DIY packet on [washingtonlawhelp.org](http://washingtonlawhelp.org)

# Guardianship

## What is a Guardianship?

- A court process which takes about 60 days from filing the court documents
- A judge determines that a person with disabilities does not have capacity to safely make their own decisions and appoints a legal guardian to make certain decisions for the person with disabilities

Extremely restrictive on the person with disabilities: all other options should be explored first

- DPOA
- Social Security “payee”
- Joint bank accounts
- Releases of information/authorized representative

# Resources

- [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org)
  - Durable Power of Attorney:  
<https://www.washingtonlawhelp.org/resource/questions-and-answers-on-powers-of-attorney>
- Northwest Justice Project - CLEAR: 888-201-1014 or online application for public benefits/health benefits issue:  
[www.nwjustice.org/apply-online](http://www.nwjustice.org/apply-online)

# Questions

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**THANK YOU!**

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