Helping Older Family Members Handle Finances

PNW 344
Revised October 2005

A Pacific Northwest Extension Publication
Oregon State University • Washington State University • University of Idaho

Contents

Planning ahead **2**

Talking about money **2**

Be clear about your reason for talking 3

Look for natural opportunities to talk 3

Find a low-stress time and location 3

Acknowledge your family member's feelings 4

Express positive intentions 4

Anticipate the responses 4

Family finances: discussion points 5

Respect your family member's right to make choices 5

Financial tools **6**

When your relative can make sound financial decisions 6

Automatic bill payment 7

Joint bank accounts 7

Power of attorney 7

Living trusts 10

When your relative can't make financial decisions 10

Representative payee 10

Conservatorship 11

Guidelines for helping **12**

A final note ..... **back cover**

Authors

Vicki L. Schmall, Extension gerontology specialist emeritus, Oregon State University; Tim Nay, attorney at law, Nay and Friedenberg, Portland, OR; and Sally Bowman, Extension family development specialist, Oregon State University.

Acknowledgments

Photos by Rod Schmall, West Linn, OR.

When I visited my mother, I discovered her lights and heat were not working. I called the utility company and learned that Mom's electricity had been turned off recently because she had not paid her utility bills for several months. She thinks she's just fine, but it's evident she is not remembering to pay her bills.
Jon, 58-year old son

Dad is "sharp as a tack" and fully capable of managing his money. However, loss of vision makes it difficult for him to read his bills. He prides himself on the fact that he has never been late with paying a bill. So twice a month, I help Dad by reading his bills to him. With the help of a check-writing device for people with low vision, he still writes and signs all his checks. I record them in his check register, balance the checkbook, and file his bills and checks. But, Dad is definitely in charge!
Marla, 70-year-old daughter

My husband suffers from Alzheimer's disease. He is unable to manage our money or make wise financial decisions, yet he insists on trying to do so.
Martha, 78-year-old wife

Older people need various degrees of assistance with financial matters. Some need minimal help; for example, help with reading the fine print on bills and financial forms or preparing checks for signature. Others, who are homebound but able to direct their personal finances, may need someone to carry out their directives. A few older people with severe disabilites may need someone to manage their finances entirely.

In some households, the person who handled the finances may have died or become ill, and

This publication discusses:

- The importance of planning ahead
- Ways to talk to your family member about financial concerns
- Financial tools that can be useful to people who can make decisions on their own
- Financial tools available when a person lacks capacity
- Guidelines for helping older family members with their finances

the survivors need to assume responsibility for handling their finances. Some are ill-prepared to do so, particularly if they were not kept informed about their financial situation.

When a person has Alzheimer's disease or a related dementia, eventually someone else must take over the person's financial matters. In such situations, it is crucial to do financial and legal planning early.

Planning ahead

Many families don't discuss finances until a crisis occurs—and then it may be too late. Once a person is mentally incapacitated, options are reduced and procedures become more complicated and costly. In addition, professionals—from social workers, to lawyers, judges, and court-appointed guardians or conservators—may become involved.

Planning ahead is often difficult because it requires anticipating situations such as dependency, disability, incapacity, and death, and exploring ways to deal with them. It can create anxiety for everyone. Despite this, there are good reasons to plan. Although planning ahead will not reduce the emotional pain that accompanies disability, loss of mental capacity, or death, it can:

- Help you avoid having to make decisions in a crisis atmosphere
- Make decisions easier in difficult times
- Reduce emotional and financial upheaval
- Ensure that a person's lifestyle, personal values and philosophy, and choices are known
- Increase the financial management options
- Reduce disagreements among siblings about "what Mom and Dad want" and how to handle their assets

Talking about money

If you haven't talked about money matters before, you might be reluctant to begin. Talking about money has a high "discomfort index." It's often more difficult to talk about potential incapacity than to talk about death. None of us likes to think that some day a family member, or we ourselves, may not be able to make decisions or handle personal finances.

Most of us don't want to start a conversation with, "Dad, when you die…" or "Mom, if you

become unable to make decisions…." Perhaps you may hesitate to discuss financial concerns with a parent because you feel your parent's money is his or her business, not yours, or you fear that your parent will think your questions mean that you care only about your inheritance. The situation becomes even more complicated if there have been years of underlying tensions and misunderstandings.

Approaching a family member about financial issues takes thoughtfulness, caring, and determination. Using the following strategies increases the likelihood of a positive discussion.

Be clear about your reason for talking

Ask yourself why you are bringing up the subject of finances with your relative.

Do you want him to do what you feel needs to be done? Are there reasons to be concerned about his ability to manage his finances either now or in the future? Are you merely curious about his finances? Are you concerned about your inheritance or about your own financial future? Once you are clear about your purpose, you will be in a better position to discuss financial concerns with the person.

Look for natural opportunities to talk

One way to begin a discussion is to share your preferences and plans in the event of your own serious illness, incapacity, or death. Mental incapacity is not related just to aging and illness. A debilitating accident could happen to anyone, regardless of age. Parents may question the motives of adult children who express concern about parental finances and planning but have not made plans themselves.

Talking about plans you have made for yourself may help create an atmosphere in which your relative feels more comfortable sharing her thoughts with you. You might say, "I've been thinking, what if ____ happened to me…." Then ask, "What would you want done if you ever were in that situation?" Or, "I've been thinking about what would happen if I were…. I would like to talk with you about it."

Other natural opportunities for discussion might be when a friend moves into a care facility, a relative is hospitalized, or a friend or family member dies. An article in a newspaper or magazine about late-life financial concerns also might be a good way to start a conversation.

Find a low-stress time and location

When and where you have the discussion can have a tremendous impact on the outcome. Avoid emotionally demanding times, if at all possible. Raising

Approaching a family member about financial issues takes thoughtfulness, caring, and determination.

When starting a conversation, it's important to express good intentions and a willingness to listen.

the topic of finances during a relaxed, shared activity may help to diffuse tension.

Acknowledge your family member's feelings

It's difficult for many people to talk about finances, especially when discussing potential incapacity and the inability to manage one's finances. It may be even more difficult for a person who already is experiencing health changes and a loss of control. Feelings such as fear, grief, anger, frustration, or uncertainty may be running high even if they are not expressed.

Feelings are likely to be particularly strong if the person fears giving up more control. Be sensitive to and acknowledge feelings and preferences, recognize the person's need to be in control, and do all you can to maintain the person's dignity.

Try seeing how a situation looks and feels from your family member's perspective. Ask yourself, "How would I feel if I were in Mom's situation?" Give her your attention, listen to what she says, and communicate your understanding. A person who senses empathy and understanding is more likely to listen to what you have to say.

Express positive intentions

When starting a conversation, it's important to express good intentions and a willingness to listen. Set the right tone. Don't say or imply "I know what is best for you." Telling your family member what to do is likely to create anger, resentment, and resistance. Become well informed about options, resources, and possible problems that can result from not planning. Sharing that information is the best way to work with your family member.

Be sure you are acting out of concern for your family member, not self-interest. An effective way to express this concern is to use "I" messages: "I'm worried that if something happens to you, I won't know what needs to be done . . . ." Or, "With health care costs rising, I am concerned that a major illness could wipe out your life savings."

Anticipate the responses

Ask yourself, "How is my family member likely to respond? How has he responded to sensitive issues in the past? Is he likely to respond matter-of-factly, become emotional, deny and avoid discussion, become angry or suspicious, or create guilt by saying something like, 'All you care about is my money'?" Then try to prepare for the worst, as well as the best, that might happen.

Rehearse what you might say. Consider having someone else play the role of your family member, responding as you think he might respond. Consider strategies you can use to tone down

Family finances: discussion points

- Do you have a will? If so, where is it located?
- Have you granted anyone a durable power of attorney for finances? If so, who has that power, and where is the document?
- Have you prepared an advance directive or a power of attorney for health care? If so, who is your representative? Where is the document?
- Do you have a safe deposit box? Where is the box, and where is the key? Where is the list of contents?
- Where are your important papers; e.g., birth and marriage certificates, dissolution of marriage documents, and Social Security and military service records?
- Where do you keep your life, health, and property insurance papers?
- Have you made a list of investments (savings accounts, certificates of deposit, stocks and bonds, etc.)? What are the mailing addresses of the institutions that have the investments?
- Have you made a list of your personal and real property? Where is the list?
- Who are your financial advisers? What are their addresses?
- Have you developed a letter of last instructions? If so, where do you keep it?
- If you have a retirement program, is there a death benefit for the survivors? If so, whom should the survivors contact?

It's not so important that family know the contents of the above documents but that they know the documents have been completed, the location of such documents, and who has been given responsibility for carrying out actions, if needed.

potential arguments and keep the discussion calm. Practice not becoming defensive.

If you know the discussion will not be easy, be prepared. Express your concern, then say, "Could we schedule a time to talk about my concerns?"

Respect your family member's right to make choices

Respect your family member's right to make choices as long as she is capable of doing so. Her view of what is best may differ from yours. This does not mean that anyone is wrong; differences of opinion may result from different experiences, values, and attitudes. For an open discussion, it's crucial to show respect for her choices, even if you disagree with them. Unless she simply can't make effective decisions, do not assume you know what is best for her.

If your family member refuses to talk about financial concerns or denies the need for discussion, you can't force communication.

What you *can* do is to acknowledge her feelings, share the reasons you are concerned, and ask her to consider the possibility of a discussion at a later date. Consider, too, that your family member may feel more comfortable talking about the concerns you have raised with another member of the family, an attorney, or a financial adviser.

Financial tools

Families provide most help informally. However, financial and legal tools also are available, including automatic bill payment, joint bank accounts, power of attorney (nondurable and durable), living trusts, appointment of a representative payee, and guardianship or conservatorship. The effects of each are very different, and so it's important to identify your relative's needs and the most appropriate tool(s).

The goal is to choose the least intrusive tool that allows your family member to remain as independent as possible. Court intervention should be used only as a last option.

The following discussion of available financial tools is not a substitute for legal advice. To be sure the steps you take have the desired results and benefits, with the least risks, you may need to consult a lawyer about your specific situation.

When your relative can make sound financial decisions

Four financial and legal tools—automatic bill payment, joint bank accounts, power of attorney, and living trusts—can make it easier to pay bills, plan for possible future incapacity, and/or give another person legal authority to conduct financial transactions on one's behalf.

These tools generally are uncomplicated, can be implemented quickly, are revocable in most cases, and do not affect your family member's right to self-determination. Tara found these tools useful in her father's situation.

My father is capable of making financial decisions. Because of severe arthritis and poor vision, it had become increasingly difficult for him to write checks and to transact business away from home. Three years ago he put my name on his checking

account and gave me power of attorney. It's worked well. Dad still has control over his money. I just do what he wants done.

Automatic bill payment

For the person who has difficulty writing checks or remembering to pay bills, automatic bill payment may be the answer. For example, you can arrange with utility, insurance, and mortgage companies, investment firms, and charitable organizations to have payments automatically withdrawn from a savings or checking account. Joanne shared the situation she experienced with her mother.

After Mother was hospitalized following a second mild stroke, we discovered that she had quit paying for her secondary health insurance and her long-term care insurance. Both were within days of being cancelled. Mom agreed to having her health insurance and other monthly bills automatically paid from her bank accounts. This was a relief for my brother and myself and for Mom, too.

Joint bank accounts

A joint bank account can be an easy way for you to sign checks and pay bills for a family member. Yet your family member still will have a sense of control, particularly if he keeps the checkbook.

Set up a joint account by putting your name on the account either as an "additional authorized signature" or as "joint owner with a right of survivorship." An account with the latter designation means that when one owner dies, the account belongs to the survivor(s); this designation might override what is written in a will.

A joint account is not without problems. Because anyone named on a joint account can deposit to and withdraw from the joint account, it requires considerable trust. Some states permit creditors of the joint owner—in this case, the helping relative—to seize some or all funds in a joint account. If not properly handled, a joint account can complicate tax situations, eligibility for government benefits (e.g., Medicaid and Supplemental Security Income), and disposal of funds at the death of either party. To avoid such complications, a helping relative should not deposit any of his money into the account or withdraw money for personal use.

Power of attorney

A power of attorney is a written document in which one person (called the "principal") gives one or more other persons (called "attorney in fact" or "agent") legal authority to act on the principal's behalf in financial transactions. It can be a useful tool for the person who is capable of directing his finances but needs help in conducting personal business. The principal does not lose the right to manage

The goal is to choose the least intrusive financial tool that allows your family member to remain as independent as possible.

It's critical to have absolute trust in the person to whom a power of attorney is given, because abuses are possible.

his finances; instead, he extends that right to someone in addition to himself. Generally speaking, one should not use a single document to create authority for legal/financial *and* for health care decisions. Two separate documents should be used.

It's critical to have absolute trust in the person to whom a power of attorney is given, because abuses are possible. As a protection, two or more people can be appointed as co-attorneys-in-fact, requiring two or more signatures on all transactions. Another way to increase security is for the principal to retain control over the original power of attorney document. Since financial institutions, such as banks and stockbrokers, will honor and recognize only the original power of attorney, retaining the original document reduces the potential for abuse. Some financial institutions recognize only a power of attorney drawn up on their forms; be sure to ask at your local financial institution whether that's the case.

The person who is given a power of attorney has only those powers that the principal has specified in the document. The principal granting the power of attorney determines the extent of the power granted. A power of attorney should state clearly and in detail what authority is being given. The power can be limited to a specific purpose (for example, selling the principal's car or signing checks only on a certain bank account). A "general" power of attorney creates broad authority; that is, it gives the attorney-in-fact or agent authority to conduct all financial transactions.

In granting a power of attorney, it's important to anticipate the temporary absence, illness, incapacity, or death of the attorney-in-fact or agent with a backup arrangement for an alternate or successor.

The principal must be mentally competent and fully understand the effect of the written agreement; that is, the responsibilities and powers he is giving to the other person at the time he signs the document.

The power of attorney must be written, signed, and notarized. Standard forms are sold in bookstores. If the power of attorney is for real estate transactions, it should be recorded in the county recorder's office in the county where the property is located.

The principal can revoke a power of attorney at any time. When revoking it, it's a good idea to send written notification to anyone with whom the attorney-in-fact/agent has done business, as well as to the attorney-in-fact/agent. Also, record the revocation in the county where the principal's property is located.

Unless the power of attorney is *durable* (see next page), it might end if the principal becomes mentally incapacitated. It also terminates upon the principal's death or upon the expiration date specified in the document if it expires before the death or incompetence of the principal.

Durable power of attorney A durable power of attorney does not terminate if the principal becomes mentally incapacitated. Usually a durable power of attorney is effective immediately upon signing. However, it also can be written to have "springing power"; that is, it goes into effect only if the principal becomes incapacitated or incompetent. However, such "springing" effectiveness can be difficult to recognize and might not be honored by banks and other institutions.

A durable power of attorney also must be executed while the principal understands the effect of the power of attorney.

State laws vary on a durable power of attorney; thus an attorney licensed to practice in the state where the principal lives should draw it up. In many states, all powers of attorney are presumed to be durable under state law unless limited in the wording of the power of attorney document. Kelly shares the benefits a durable power of attorney had in her mother's situation.

My mother suffers from Alzheimer's disease. She is no longer able to manage her money or make financial decisions. Although it was tough to see a very capable woman become so forgetful that she couldn't remember to pay her bills, it was easier because

Unless the power of attorney is durable, *it might end if the principal becomes mentally incapacitated.*

It's crucial to obtain a lawyer's help in setting up a trust to protect everyone's interest.

Mom had executed a durable financial power of attorney when her mind was sharp. We were told that if this hadn't been done, we might have had to go to court. This would have been really hard.

The durable power of attorney can avoid conservatorship or guardianship court proceedings in the event of incapacity.

Living trusts

A living trust is one way a person can assure management and protection of assets if she becomes incapacitated in the future. A trust is a three-party arrangement for transfering designated assets from one person (the grantor) to another person (the trustee) who holds and manages the assets for the benefit of the third (the beneficiary). The grantor, trustee, and beneficiary may be the same person. The trust agreement contains specific instructions about how assets are to be managed and distributed to the beneficiary.

Trusts are either *revocable* or *irrevocable*. A revocable trust remains in the grantor's control during his lifetime, then passes to the beneficiary upon the grantor's death. The trust can be revoked or cancelled at any time. With an irrevocable trust, the trustee has control of the assets; the grantor loses control of the assets. Assets in a living trust avoid probate.

It's crucial to obtain a lawyer's help in setting up a trust to protect everyone's interest. Be sure the person drafting the living trust is knowledgeable about restrictions on Medicaid eligibility for beneficiaries of living trusts, particularly if there is any possibility the person eventually may need long-term care.

When your relative can't make financial decisions

If plans have not been made and a person becomes incapacitated, options are fewer, more complex, and more intrusive. Two legal tools available in this case are *representative payee* and *conservatorship*.

Representative payee

If a person is unable to manage his checks from Social Security, veteran's pension, railroad retirement, or public benefit programs, a representative payee may be appointed. Checks then are written to the payee on behalf of the beneficiary. The representative payee is not empowered to gain access to the person's savings accounts or other assets.

This financial tool is most useful when the beneficiary's expenses can be covered by the benefit check(s). If lack of trust in the helping relative is not an issue, direct deposit of the monthly income checks into a joint account is generally convenient.

To arrange for a representative payee status, get an application

form and instructions from the agency that is issuing the payments. You'll need medical confirmation that the person is unable to manage benefit payments. The benefits office determines whether a representative payee is appropriate, based on evidence of the person's incapacity. Notice is sent to the payee, who can object. The representative payee receives instructions on how funds are to be held, managed, and disbursed, and any accounting that is required.

Conservatorship

A conservatorship also can be called a *guardianship of the estate* or *guardianship of the property*. It involves a court process: an individual asks the court for the right to manage another person's financial affairs after that person has become unable to do so and if a durable power of attorney or living trust is not in operation. Obtaining a conservatorship is a serious step and should be used only as a last resort. Ambrosia stated:

My grandmother's income was $1,000 per month, but she was spending nearly $2,000 each month ordering magazine subscriptions, entering prize contests, and shopping by television. Her savings were quickly disappearing, and her credit card balances were growing. She had 50 magazines coming each month, including four subscriptions for the same magazine. Grandma was adamant she had won "the big prize." She showed me the statement "You Are a Winner" in big, bold letters on the flier she received. It did no good to show Grandma the small print that read "…if you have the winning number." I tried many times to talk with her. Nothing I did worked. This behavior was so unlike her! I felt I had no choice but to seek a conservatorship over my grandmother. It was emotionally painful, but necessary.

Only the court can create a conservatorship. An attorney must file a petition with the court, and a judge decides whether the older person is legally competent to manage his own affairs or whether a conservator should

When considering a conservatorship

The *Oregon Nursing Home Guidebook* offers important advice to families who are considering a conservatorship.

It is always important for family members to examine their motives for seeking conservatorship. Sometimes it is very hard to separate concerns about inheritance from concerns about protecting an older person's money for his own needs and wants.

It is also important, though sometimes difficult, to accept that in a person's old age, they may choose to spend their money in ways that do not meet with their children's approval. An older person may legitimately choose to do things that he would never have considered in his younger years. Families considering conservatorship must try to be sure that the problem they are attempting to resolve is not simply a conflict between personal values.

Mary Radtke Klein. 1986. Oregon Nursing Home Guidebook. Portland, OR: Gray Panthers of Portland and Oregon State Public Interest Research Group. Used with permission.

be appointed. In many states, a court hearing is held only if someone objects in writing to the court.

A person generally is considered competent if he understands the nature and consequences of his actions. Poor judgment, a non-traditional lifestyle, or neglect of personal care does not constitute incapacity.

A family member may serve as a conservator. For a large or complex estate, an attorney may be appointed. A public guardian may be appointed as a conservator when no one else is available. A person can designate in advance the individual he wants the court to appoint as conservator, should the need arise.

Once a conservator is appointed, the impaired person loses the right to make decisions about his finances. However, other rights (to vote, marry, write a will, and other personal decisions) remain intact unless a *guardian of the person* has been appointed.

The conservator is responsible to the court and must make an annual accounting to the court. Most states require the conservator to buy an annual surety bond (insurance policy) equal to the value of the impaired person's estate. Thus, there are several expenses associated with a conservatorship—filing fees, legal fees, bonds, and accounting costs. A conservator may receive a fee, set by the court, for services and reimbursement for expenses incurred for estate management and for the accounting. The court that appointed the conservator may remove and replace the person if necessary.

Guidelines for helping

It's difficult for most people to accept help with their personal finances. Giving up control over money often is difficult because it means another loss of responsibility, independence, and freedom. You may find it's a delicate balance between providing assistance and assuming control.

In helping a family member, your intent should be to assist, not to take away control. By following these guidelines, you may reduce tension and misunderstandings.

Give your family member as much control as possible

For most people, it's important to have money in their pockets, control how financial decisions are made, and decide what money goes where. Use your relative's capabilities. Too often when a person becomes frail, we tend to focus on what she can no longer do. It's equally important to focus on what she *can* continue to do. For example, while your mother may need help managing property and paying large bills, she may be able to pay for groceries and small purchases.

Involve and inform your family member

To the degree possible, involve your family member in planning and making decisions. Even when he may not be able to make or remember a decision, keep him informed (unless giving such information tends to create anxiety or agitation). This often will help ease the person's mind.

Respect financial privacy

Although it may be frustrating, older adults who are healthy and capable have a right to determine whether or not other family members will be involved in their financial affairs. They have a right to financial privacy. They have a right to choose not to talk about their personal finances with the "kids."

Accommodate changes

Review options periodically as your family member's capabilities, assets, and situation change.

Keep accurate and complete records

If you help manage a family member's money, develop a good bookkeeping system in which you record all income and expenditures. If you are unsure about how to do this, ask an accountant. Letting other family members know that books are open to their inspection usually helps to build trust.

Keep your family member's money separate from your own

To avoid confusion, keep a separate account and records for your family member's money. Mixing your family member's money with your money is likely to open the door to trouble and questions.

Balance financial statements

Reconcile bank statements each month with the checkbook. Some people have found it helpful, when possible, to have the older person (or another relative) review the checkbook and initial bank statements.

A final note

Taking away a person's control over finances is a very serious matter. When you must take action, take only those steps absolutely necessary to help the person.

If you suspect a time may come when either you or a family member may not be able to manage personal finances, make plans now. Consider what legal instruments will be best for your particular situation. And, seek legal advice to help you make the wisest decisions. Although it's often difficult to talk about these matters, people facing disability generally are relieved to learn there are ways to retain control.

For more information

Sensory Changes in Later Life, PNW 196

Aging Parents: Helping When Health Fails, PNW 246

Hiring and Working Successfully with In-home Care Providers, PNW 547

Depression in Later Life: Recognition and Treatment, PNW 347

Driving Decisions in Later Life, PNW 510

Making Decisions about a Nursing Home, PNW 563

Helping Memory-impaired Elders, PNW 314

Contact the offices or websites below for information on availabilities, prices, quantity discounts, sales tax, and shipping and handling charges.

Publication Orders
Extension & Station Communications
Oregon State University
422 Kerr Administration
Corvallis, OR 97331-2119
Fax: 541-737-0817
Tel.: 541-737-2513
puborders@oregonstate.edu
http://extension.oregonstate.edu/

Bulletin Office
Cooperative Extension
Washington State University
P.O. Box 645912
Pullman, WA 99164-5912
Fax: 509-335-3006
Tel.: 1-800-723-1763
bulletin@coopext.cahe.wsu.edu
http://pubs.wsu.edu/

Educational Communications
College of Agricultural and Life Sciences
University of Idaho
P.O. Box 442332
Moscow, ID 83844-2332
Fax: 208-885-4648
Tel.: 208-885-7982
calspubs@uidaho.edu
http://info.ag.uidaho.edu/

© 2005 Oregon State University

Published and distributed in furtherance of the Acts of Congress of May 8 and June 30, 1914, by the Oregon State University Extension Service, Washington State University Extension, University of Idaho Cooperative Extension System, and the U.S. Department of Agriculture cooperating.

The three participating Extension Services offer educational programs, activities, and materials—without regard to race, color, religion, sex, sexual orientation, national origin, age, marital status, disability, and disabled veteran or Vietnam-era veteran status—as required by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973. The Oregon State University Extension Service, Washington State University Extension, and University of Idaho Extension are Equal Opportunity Employers. Published August 1989; revised October 2005. $2.50