

Guardian of the Estate - Video 10

Financial Options

(Introductory music and images)

Speaker appears in comfortable, neutral “home” setting. At times words and pictures will appear next to them or in place of them to support the dialogue.

In Pennsylvania, guardians of the estate have a duty to maintain and, whenever possible, improve the incapacitated person's financial situation. In this video bank accounts, estate planning, PA ABLE savings accounts, burial reserves, and trusts will be discussed. If you have any questions about the incapacitated person's financial situation, it is recommended that you consult with an attorney or financial professional.

It is important to maintain a separate guardianship bank account for the incapacitated person with their name on the account and your name listed as their guardian to manage the account and write checks. Do not move or deposit the incapacitated person's money into your account or a joint account. This is known as comingling of funds and is strictly prohibited. The incapacitated person's money is to be used only for their care and benefit and must be easily distinguishable from the guardian's own personal funds.

If the incapacitated person receives Social Security benefits and you are their representative payee, you may have their benefits deposited into a representative payee account. This account is like a regular checking account, except the incapacitated person is the account owner and as the representative payee, you manage the account for them. This type of account should only be used if the only source of the incapacitated person's income is from Social Security benefits.

You will need to establish either a guardianship bank account or representative payee account when you are appointed guardian. You will need to speak to the incapacitated person's financial institution to discuss which account is right for the incapacitated person's funds. Make sure to provide the financial institution a copy of the order appointing you guardian when establishing the account.

If the incapacitated person is your spouse and you share a joint bank account or co-own property with them, it is important to inform the court. Whether you decide to continue to co-own the account or property or split it, the court needs to approve the plan. If the incapacitated person owns joint assets with others, such as joint ownership of a business, this must also be disclosed to the court.

If the incapacitated person's estate has a lot of money, property, and other assets, you may need to work with a financial planning expert to conduct estate planning. A petition will need to be filed with the court to allow you to conduct estate planning on their behalf and the final plan will need the court's approval. Estate planning allows you to make changes to the incapacitated person's investments and assets in order to preserve and protect their wealth as they age. The court may authorize you to establish a trust, make certain gifts, disclaim interest in property, and take other actions as the situation

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requires. An attorney, investment advisor, accountant, or other financial professional may assist you in estate planning.

Pennsylvania's Achieving a Better Life Experience, or ABLE, accounts are savings accounts available to qualifying individuals, allowing them to save up to \$17,000 per year without affecting their eligibility for state or federal benefits like Social Security. Other people can contribute on behalf of the qualifying individual as well. Withdrawals, including interest earned, are tax exempt if used for qualifying expenses related to the individual's disability, such as housing or health expenses.

To qualify for a PA ABLE account, the individual's qualifying disability must have been diagnosed prior to their 26th birthday. If a PA ABLE account seems like it may be a good option for the incapacitated person, you can find more information at paable.gov or by calling (885)529-ABLE (2253). In some cases establishing a PA ABLE account may be an effective alternative to Guardianship.

If the incapacitated person has adequate resources and has not made any arrangements for their burial, you may want to establish a burial reserve account. These accounts allow a person to pre-pay for all expenses related to a funeral and burial. When funds are placed in an account solely for funeral and burial expenses, and this account is designated as "irrevocable" – meaning it cannot be revoked and the funds cannot be used for a different purpose -- the funds will not be considered part of the incapacitated person's resources for medical assistance eligibility purposes. Establishing a burial reserve account is an approved way to "spend down" a person's savings to qualify for state or federal benefits. The maximum amount allowed in a burial reserve account varies by county. It is advisable to consult with an attorney, funeral director, or other professional regarding questions about setting up this type of account for the incapacitated person.

A trust is a fiduciary arrangement that allows a third party, or trustee, to hold assets on behalf of a beneficiary or beneficiaries. Trusts can be arranged in many ways and can specify exactly how and when the assets pass to the beneficiaries. There are several types of trusts, such as a Special Needs Trust and Supplemental Needs Trust, that may be good options for an incapacitated person. For more information about establishing a trust, contact an attorney or financial expert.

While these and other financial tools may be beneficial, it is important to fully understand any potential risks or drawbacks when managing an incapacitated person's money. Attorneys and financial professionals can help you make choices that will protect and grow the incapacitated person's estate while avoiding risky situations.

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