



POWER OF ATTORNEY FOR FINANCES FACT SHEET

A Power of Attorney for Finances is a document that is completed and signed by an individual (the “principal”) naming another individual (the “agent” or “attorney in fact”) to manage the principal’s finances if s/he is unable to do so. The document states specifically what authority the agent has and what property and finances the principal wants the agent to manage on his or her behalf.

The agent’s authority to act on behalf of the principal can take effect immediately after the document is signed, or it can take effect only when certain circumstances occur, such as incapacity. If you want your agent’s authority to take effect only after you have been found incapacitated, you will be able request that a special instruction in your Power of Attorney state the circumstances under which you want the Power of Attorney to be activated.

In general, “incapacity” is defined under Wisconsin statues as the inability of an individual to manage their property, finances, or business affairs because the individual meets on or more of the following criteria:

1. He or she has an impairment in the ability to receive and evaluate information or to communicate decisions even with the use of technological assistance (as determined by a licensed physician or psychologist).
2. He or she is determined by an attorney, judge or appropriate government official to be missing.
3. He or she has been detained, including incarceration in a correctional facility (as determined by an attorney, judge or appropriate government official).
4. He or she is outside the United States and is unable to return (as determined by an attorney, judge or appropriate government official).

Without these special instructions, the Power of Attorney document immediately gives your agent the authority to act on your behalf; however, you retain the legal right to handle your own property and finances as long as you are willing and able to do so. Your agent cannot take control of or take away your property, and your agent must manage the finances or property for your benefit. You and/or your agent have the authority to make decisions about your finances and property.

A Power of Attorney for Finances allows your agent to act on your behalf even if you become temporarily or permanently unable to make your own decisions for whatever reason (incapacity, out of the United States and unable to return). If you do not complete a Power of Attorney for Finances and later become incapacitated, there may not be anyone with legal authority to make financial decisions and complete transactions for you such as paying bills, selling real estate or stocks, filing tax returns, signing contracts, cashing in CDs, or opening and closing bank accounts. Even when a husband and wife own a home jointly, one spouse cannot sign for the other if the house is sold. Without a Power of Attorney for Finances, your family or others may need to ask the Court to appoint a Guardian of the Estate for you. This process can be costly and time-consuming, and it may not result in the person you would have chosen being appointed as Guardian for you. In addition, a Court-appointed Guardian may not know how you would like your finances and property managed.

Creating a Power of Attorney for Finances allows *you* to choose the individual you want to make these decisions on your behalf. It is very important to discuss your financial plans and wishes with that person so that s/he can manage your finances and property as you would like. Should something happen to you, your agent will be able to step in immediately. If your incapacity is only temporary, as might be the case due to illness, an accident, or absence from the country, when you are able to do so, you may resume management of your finances and property. In addition, as long as you remain capable of making financial decisions for yourself, you can terminate a power of attorney or appoint a different person to act as your agent. You may wish to consult with an attorney before terminating a power of attorney or appointing a new person to act as your agent to get advice on any effect this will have on your financial arrangements.

An attorney can help you understand the consequences of executing a Power of Attorney for Finances and Property and can customize the document to meet all of your financial needs. If you have complex or sizeable assets, or if you foresee family conflict if you are no longer able to manage your assets, obtaining an attorney's assistance is strongly recommended. An attorney can help you decide which powers to delegate and the scope of those powers and any limits to place on your agent's authority, such as limits on making gifts to others or disposing of property.