



Milestone Ages in Special Needs Planning: Key Considerations at Ages 18 and 21

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Families supporting a child with disabilities often describe the transition to adulthood as both meaningful and challenging. Turning 18 and 21 bring significant legal, financial, educational, and benefits-related changes, many of which require advance planning to avoid gaps in decision-making authority or essential services. This article highlights these two milestone ages and outlines core issues when a child becomes a legal adult.

AGE 18: LEGAL ADULTHOOD

At age 18 in most states, a child legally becomes an adult. This change triggers new rights and responsibilities related to health care, finances, and public benefits. For many families, this milestone arrives faster than expected, and careful preparation helps ensure continuity of care and support.

1. Medical Decision-Making

Once a child turns 18, parents no longer have access to confidential medical information, and the young adult with capacity becomes the sole decision-maker. Capacity generally means the ability to understand the question presented, available alternatives, and the ability to communicate an informed choice. Individuals are presumed to have capacity until an incapacity finding is made by a court. Accordingly, parents no longer have automatic access to medical information or have authority in medical decision-making for the child once he or she reaches the age of 18.

Key legal planning tools include:

- **Health Insurance Portability and Accountability Act (HIPAA) Release**

A HIPAA release, signed by a young adult with capacity, allows designated individuals to receive protected medical information. It does *not* grant decision-making authority, but without it, providers cannot share medical records or discuss care with family members.

- **Durable Power of Attorney for Health Care (HCPOA)**

A young adult with capacity may execute an HCPOA appointing an agent to make medical decisions if they later lose capacity. The HCPOA becomes effective at a later date when a licensed medical professional certifies that the patient cannot make or communicate medical decisions on a temporary or permanent basis.

- **Surrogate Decision-Making (where permitted by state law)**

If a young adult has not executed an HCPOA and lacks the capacity to do so, some states authorize a surrogate to make emergency decisions on a temporary basis and define the class of people who qualify as surrogates.

2. Financial Decision-Making

Once a child turns 18, the young adult becomes the sole financial and legal decision-maker. The young adult can enter into contracts, take out loans, and withdraw money without the parents' consent.

• **Financial Power of Attorney (FPOA)**

A young adult with capacity may execute an FPOA authorizing an "agent" to make or help with financial decisions. The authority in the document generally takes effect immediately, and may be used immediately, or later not be used for some time. If the FPOA is durable," the agent can continue to make financial decisions after the adult loses capacity. In addition, an FPOA can give general and broad authority to an agent to handle financial matters or be limited. A specialized power of attorney, or FERPA (Family Educational Rights and Privacy Act), can be signed to assist a young adult with educational matters.

3. Guardianship (state-specific terminology varies)and/or Conservatorship

HCPOAs, HIPAA forms, and FPOAs are agency documents signed by competent adults; however, sometimes a young adult does not have the capacity to execute these documents. In these cases, a guardian may be needed to make medical or financial decisions. A guardianship requires a court order that makes a finding of incapacity. The court then appoints an individual to serve as the incapacitated person's guardian and/or conservator. Typically, the court must find that an individual's medical and financial well-being is at risk without a guardian and/or conservator in charge.

- Guardianship over the person may be needed when an adult cannot understand or sign a HCPOA or HIPAA. Guardianship over the person provides decision-making authority over personal and medical matters, including residential living and treatment arrangements.
- Guardianship over the estate, also called Conservatorship in some states, may be needed when an adult cannot make financial decisions independently or needs financial protection. Guardianship over the estate, or conservatorship, authorizes the guardian/conservator to make all financial decisions for the incapacitated adult. Note that if the individual's only income is from the Social Security Administration (SSA), the appointment of a representative payee by the SSA may avoid the need for guardianship of the estate.

4. Supported Decision-Making (SDM) (where permitted by state law)

SDM redefines how adults with disabilities make decisions. An adult with capacity can sign a written SDM agreement naming supporters, including family and friends, to assist with decision making. SDM keeps the individual in charge of their own decisions but allows them to direct their choices with or through the help of personally selected supporters. SDM is not a substitute for HCPOAs, HIPAA or FDPOAs for competent adults.

5. Public Benefits at Age 18

Turning 18 can open access to these benefits when eligibility is based solely on the young adult's income and resources.

• **Supplemental Security Income (SSI)**

SSI is a monthly federal cash assistance program administered by the SSA. Eligibility is based on disability and financial need. At age 18, only the young adult's income and resources are considered for eligibility purposes, even if the individual is living with parents. Upon turning 18, the young adult should reapply for this benefit even if previously denied SSI payments are adjusted annually and may be

reduced if the individual receives support for items otherwise intended to be covered by the SSI payments.

• Medicaid Programs

If the young adult has previously not qualified for Medicaid because of the parents' income or resources, he or she should apply as an adult because the parents' income and resources are no longer deemed to the young adult. Even if receiving Medicaid as a child, the young adult may need to reapply for adult disability-based Medicaid programs as eligibility criteria change at certain ages from 18 to 21, depending on the program and state. Preparing in advance for changes in your state's Medicaid medical assistance programs ensures continued access to critical services, including home care, medical visits, dental, mental health, medications, and therapies.

AGE 21: TRANSITION TO ADULT MEDICAID AND POST-SECONDARY EDUCATION RIGHTS

Ages between 19 and 22 are second milestone ages, depending on the state or the program, but particularly for health care and education.

1. Transition to Adult Medicaid

Children's Medicaid programs sometimes provide comprehensive coverage to the minor. It is important to be aware that some Medicaid recipients may terminate at age 19, while others may continue until age 21. While the child's Medicaid protections remain in place, families need to evaluate the different types of adult Medicaid programs to determine which program best meets the individual's needs.

Planning Tip:

Before a children's Medicaid program ends, families should work with providers to complete any dental treatment, vision exams, or other services that may not be covered under an adult Medicaid program.

2. Special Education Services and Post-Secondary Transitions

Students may continue receiving special education services through their high school graduation or age 22. As students move beyond high school, families should keep in mind a young adult's new responsibilities in managing their education and accommodations. Some factors to consider include:

- Colleges do not have the same obligations as K–12 schools
- Students must self-identify, self-advocate, and often pay for their own evaluations
- Accommodations may include alternative formats, note-taking support, quiet exam rooms, or accessible housing, but alteration in academic standards may not be required

Conclusion

The transition to adulthood is a milestone for young people, including those with disabilities. Ages 18 and 21 bring meaningful life changes in autonomy, legal rights, public benefits, health care coverage, and educational support. Early and informed planning helps ensure the continuity of care, access to services, and a strong foundation for independence.

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