

## CARING FOR LEGAL & FINANCIAL MATTERS WHEN A PERSON HAS DEMENTIA

Adult Canadians are wise to plan their legal, financial and health affairs when they are well and able to make decisions regarding these personal matters. Giving a trusted family member or friend an enduring power of attorney, naming a health care proxy in a health-care directive, keeping your will up to date and maintaining financial affairs in good standing are important steps to take early in life.

### Enduring power of attorney

- An **enduring power of attorney** is a document that allows an individual to authorize another person to manage their financial or legal affairs should they become mentally incompetent and incapable of managing their own affairs.
- The person transferring the power is called *the donor*, and the person receiving the power is known as *the attorney*.
- It is recommended to confirm your Springing or Immediate power of attorney is enduring. This ensures that if the donor experiences dementia the power of attorney continues even if the donor becomes mentally incapable.

### Health-care directive

- A health-care directive is a written document that allows you to express your specific instructions as to the level and type of medical treatment you want performed if you are ever unable to indicate your wishes.
- A directive allows you to appoint a **health-care proxy**, who is someone you choose to make medical decisions on your behalf should you become unable to do so. The proxy's decisions will be based on the specific instructions in your health-care directive and their personal knowledge of your wishes. The proxy should be someone you trust who is well aware of your wishes and is willing to accept the responsibility.

### Wills

- A **will** is a written document that controls the disposal of a person's property after death.
- To be valid, the will must be in writing, and the person making the will (*the testator*) must be at least 18 years old and have the necessary mental capacity to understand what is being signed.
- A will is an effective way to ensure your personal wishes are followed with a minimum of expense and delay. It is also an act of kindness and consideration to surviving family members who will already be struggling emotionally.

Preparing these important documents shows that you wish to appoint a trusted person to manage your affairs if you become unable to do so. Wills and a power of attorney should be prepared by a lawyer, while health-care directives can be prepared on your own without a lawyer.

## ROLE OF THE SUBSTITUTE DECISION-MAKER

A substitute decision maker is an individual appointed by the Vulnerable Persons' Commissioner to make decisions for a vulnerable person who is unable to make certain decisions for themselves. A substitute decision-maker has the legal authority to make decisions for the vulnerable person in specific areas which are designated to them by the Commissioner.

The following are important principles that may guide the substitute decision-maker in performing their role:

- It is important that substitute decision-makers reflect the values and preferences of the person for whom they are making decisions. Ask the question, "What would the person have done in this or a similar situation?"
- Being a substitute decision-maker is a position with great responsibility. The attorney and health-care proxy are obliged to make their decisions in good faith and for the benefit of the person living with dementia.
- Once the attorney has begun to act, they cannot step away from their responsibility unless there is an alternate named in the power of attorney document or permission is granted by the Court of King's Bench.
- The attorney for an individual must present the power of attorney documentation in order to receive information about personal affairs. A spouse who does not hold power of attorney may not be granted access to confidential information.

*The material presented in this fact sheet is intended to provide general information only. Readers are advised that laws and regulations change periodically and that it is wise to consult the appropriate professionals for specific advice concerning any of the matters discussed in the remainder of this publication.*

## WAYS TO ASSIST A PERSON LIVING WITH DEMENTIA

Planning one's legal, financial and health-care affairs is especially important for a person diagnosed with dementia. Dementia can progressively impair a person's ability to remember, communicate and make decisions.

People diagnosed with dementia may be able to continue to participate in their legal, financial and health affairs following their diagnosis. Many individuals remain competent to grant power of attorney, name a health-care proxy and do business independently or with minimal assistance for an extended period.

The following are ways to assist the person living with dementia so they can continue their involvement in their affairs:

- Structure decisions so that choices can be dealt with in sequence and in a logical manner.
- Plan to hold meetings with advisors at the time of day when the person living with dementia is most able and in a place where the person is comfortable.
- Discuss the need to keep decision-making focused and as straightforward as possible before meeting with the advisor.

By enabling the person living with dementia to participate in the management of their own affairs, the person's dignity is preserved and their choices are respected.

## Management of the person's assets

- The attorney must keep records of all business transacted. (Ex. receipts of expenses)
- The Powers of Attorney Act requires that the attorney provide an accounting to any person named as recipient of the accounting by the donor.
- When a person's estate is being settled, beneficiaries may require the attorney to provide records of prior business transactions. The courts may also require an attorney to provide an accounting.

While caring for the business of a person living with dementia, the attorney may need to seek the opinions of professionals such as accountants, financial planners, insurance brokers and lawyers. When consulting, it is important to understand that the advice a professional can provide is dependent on the full disclosure of relevant information.

## Working with a financial institution

When the attorney begins to act, it is wise for them to make an appointment with the manager of the financial institution branch where the person's day-to-day financial resources are held. The attorney can have a discussion with the organization's representative about the changes the person living with dementia is experiencing and the need for the attorney to become involved in that person's business.

If the financial institution is hesitant to accept the need for the attorney's involvement, the attorney may request a letter from the individual's doctor indicating that the person living with dementia needs assistance.

In the attorney's initial meeting with the branch manager of the financial institution, provide the representative with the legally drawn power of attorney documentation. The financial institution personnel typically photocopy the power of attorney documents for file purposes. The attorney and the financial institution staff can develop a plan that allows the person living with dementia to remain involved while protecting the person's financial assets.

## Caring for expenditures

A person living with dementia may wish to have ongoing access to their finances for personal purchases and business matters. If the person remains able to act on their own behalf in a competent manner, this arrangement should be accommodated.

- Using direct deposit services for income and direct payment arrangements for recurring bills will assist the person to remain independent for a longer period.
- When the person begins to act in a way that might jeopardize their financial security, the attorney should make arrangements that balance the varied needs of the person. Indicators that the attorney may need to become more active in the person's affairs include the person losing a sense of the value of money, failure to pay bills or using money in a manner inconsistent with prior habits.

## Assets and financial instruments that require special attention include:

### Personal Accounts

To provide the person living with dementia with some financial independence, consider having an account that contains a limited amount of money that the person can access.

- The person may use this money as they choose, and if the funds are spent unwisely, all the person's assets are not placed at risk.
- A standing order can be left with the financial institution allowing it to transfer a set amount of money to this account on a scheduled basis, or the attorney may manage this function on their own.

- The attorney can open a second account, to hold most assets, to which the person does not have signing authority or that requires the signature of the attorney to accompany the signature of the person living with dementia. It is not recommended that an attorney establish a joint account with the person living with dementia.

If there are complex circumstances (i.e. the person living with dementia or their spouse or partner has children from a prior relationship who are to receive bequests arising from decisions that predate the current relationship), legal guidance should be sought in the arrangement of the financial affairs so that designated assets remain identifiable.

#### Debit and Credit Cards

The person living with dementia may struggle with proper care and management of debit and credit cards. The attorney should review the cards and consider cancelling services that could place the person or their assets at risk. The person becoming unable to understand the importance of protecting their personal identification number and their credit card account number is an indicator that there is a potential for risk. The attorney may also consider providing the person living with dementia with one card tied to an account with limited funds or provide them with cash as needed.

#### Investments

The attorney will need to manage the guaranteed investment certificates, mutual funds and stocks or bonds held by the person living with dementia. If necessary, guidance can be sought from investment professionals. Options include engaging a fee-for-service financial planner who is paid by the client for the consultation or working with a financial advisor whose remuneration comes from the company selling the product. Because investment restructuring and disposition may have tax consequences, it is wise to consult an accountant before acting on the recommendation of a financial planner.

#### Registered Retirement Savings Plans, Registered Retirement Income Funds and Other Retirement Benefits

Financial resources held in either a RRSP or a RRIF continue to be administered. A dementia diagnosis does not impact the status of these plans. The attorney will work with the financial and accounting professionals and the company holding the plans to ensure that the financial needs and affairs of the person are cared for appropriately.

If a person living with dementia is supported by another individual (spouse, partner, common-law) who is receiving retirement income, consultation with appropriate professionals is advised. Arrangements can be made to provide financial support for ongoing care should the person providing care predecease the person living with dementia.

#### Real Property

The Homesteads Act provides that the family home, whether solely or jointly held, cannot be sold without the consent of both spouses. In the case of common-law relationships, consent is required from both parties if they have registered under the Vital Statistics Act, have lived together for three or more years or if they have lived together one or more years and have had children together. If one of the owners has dementia and the spouse is the attorney for the affected person, the attorney cannot offer consent for the sale of the family home on behalf of the other spouse or partner. In light of this potential circumstance, the power of attorney document should cite an alternate attorney for sale of real property or approval of a sale must be sought from the courts.

## JOINT BANK ACCOUNTS

Financial institutions such as banks, credit unions and trust companies may offer customers the option to set up a joint bank account.

### What is a joint bank account?

A joint bank account allows two or more people ownership rights over the same account. These rights grant all account holders permission to deposit, withdraw or deal with the funds in the account.

It's not uncommon for individuals to have a joint bank account with a spouse, partner or adult child.

Joint accounts may also provide administrative support for individuals being cared for.

### How does a joint account work?

As a joint account holder, you share equal rights and access to the account and responsibility for all transactions made through the account. In most cases, one account holder can make transactions without consent from all other holders. It may also be possible to specify that all account holders must give consent before an account holder can access the funds in the account.

Joint accounts often include the right of survivorship. This means that if one of the account holders dies, the surviving account holder becomes the account owner, with the right to deposit, withdraw and deal with the funds in the account. This can be a challenge if you have a joint account with a family member who is not your spouse because the money may not go back to your estate and may not be divided or administered as you want it to.

### Why set up a joint account?

There are many reasons someone may consider opening a joint account. Couples may set up a joint account to pay household bills or deal with other shared expenses – this is one of the most common uses of joint accounts.

People living with dementia may consider a joint account as an option if they require help from family members or friends to pay bills, manage finances or make purchases such as groceries. For example, someone living with dementia may find it difficult to log into their online banking or manage their personal banking on their own. A person living with dementia may forget to pay bills or ensure there is enough money in a chequing account to pay for expenses.

A family member, such as an adult child, may consider setting up a joint account with someone living with dementia if the spouse who used to handle the household finances has passed away.

### Risks of a joint account

If you already have or are considering setting up a joint account, it's important to be aware of the potential risks to account holders.

It is important to note that a joint account set up to help someone manage their finances may cause the need for costly and complicated trust account tax filing under new tax rules for 2024 and onward.

Control over the joint account:

- Any person named on the joint account can withdraw money from the account at any time unless stated otherwise in the banking agreement.

Relationship breakdown:

- If your relationship with the joint account holder breaks down, they may handle your finances in a way you don't want them to.
- The money may not be recovered, or it may be a lengthy and expensive legal process to recover.

Legal disputes:

- If your joint account holder (is not your spouse) and they separate or divorce their partner, the money in the account can be claimed in the separation or divorce settlement.
- Money in a joint account may cause confusion on your death about who is entitled to the money. The money will not enter your estate and may not be distributed under your will or in a way that you expect or plan.

Creditors:

- If your joint account holder declares bankruptcy or has creditors, your money will be viewed as 'their money' and creditors have a claim to it.

Financial institutions will often suggest a joint account to caregivers, as it's easier for the financial institution to deal with than a power of attorney, despite the risks that may exist to you. It's important that you be aware of the risks so you are able to make informed decisions about the best options for your unique situation.

Talk with your financial planner to determine if a joint account is the right choice for you.

## **MAXIMIZING INCOME AND BENEFITS**

Depending on the age of the person living with dementia and their ability to manage their financial affairs, the attorney may need to assist the person or, on the person's behalf, ensure that all possible sources of income and benefits are accessed. This may include applications for:

- Old Age Security Pension
- Guaranteed Income Supplement
- Canada Pension Plan Retirement Pension
- Canada Pension Plan Disability Benefit (for those under age 65)
- Veterans Independence Program and other Veterans benefits
- Private Pensions
- Disability Insurance
- Employment Insurance Sickness Benefits

A provision that may be helpful in increasing the income of the person living with dementia and their care partner is Involuntary Separation, a designation for income purposes only, under the Canadian Old Age Security Program. When a person and their spouse or common-law partner receive the Guaranteed Income Supplement (GIS) and are living separately for reasons beyond their control, the Involuntary Separation program allows each individual to be considered a single person, resulting in a higher GIS payment. Information about Involuntary Separation and the forms required to apply can be obtained by calling Service Canada, Income Security Programs (1-800-277-9914).

Advice about maximizing income and benefits can be sought from accountants, lawyers and benefit advisors at the person's former employer.

## Management of the Person's Income Tax

Canadians receiving income must file a tax return with Canada Revenue Agency (CRA) annually. A person living with dementia's tax return may be filed on the person's own behalf or by the person's legally appointed power of attorney. In order for the attorney to conduct business with CRA, they must register for **Represent a Client**, a service that provides the attorney with secure and controlled online access to both individual and business tax information. To do this visit 'Represent a Client' on the CRA Government of Canada website. Create a CRA user ID and password or sign in with a Sign-In Partner. Register with this service and obtain authorization. After you are authorized, you can access information and services on behalf of individuals.

People living with dementia may qualify for the **Disability Tax Credit**. The Disability Tax Credit (DTC) is a non-refundable tax credit that helps persons living with disabilities or their supporting family members reduce the amount of income tax they may have to pay. A person living with dementia may be eligible for the DTC. You may be eligible for the DTC if a medical practitioner certifies that you have a severe and prolonged impairment in one of the categories, significant limitations in two or more categories or receive therapy to support a vital function. Once an individual has been approved for the DTC, the disability amount can be claimed on their tax return(s) for the applicable year(s). Being eligible for the DTC can allow you to claim certain deductions, credits and benefits, which are mentioned in this guide.

To apply for the DTC, you must submit a Form T2201, Disability Tax Credit Certificate, to the Canada Revenue Agency (CRA). Form T2201 is divided into two parts. Part A is for you to fill out, and Part B is for your medical practitioner to fill out.

For the purposes of the DTC, medical practitioners are audiologists, medical doctors, nurse practitioners, occupational therapists, optometrists, physiotherapists, psychologists and speech language pathologists. Medical practitioners can use the new DTC digital application to fill out Part B of Form T2201. The application can be found at [Disability tax credit \(DTC\) - digital application | canada.ca](#)

Canada Revenue Agency forms can be obtained by calling the CRA regional office or from the agency's website: [Canada Revenue Agency | canada.ca](#). When working with an accountant or tax professional, forms may be provided as a part of their service.

When filing income tax returns, the attorney should ensure all medical expenses related to the care of the person living with dementia are claimed. Expenses may be claimed on the person living with dementia's return or the spouse or common-law partner's return.

Examples of expenses that may be claimed include the cost of trips for medical appointments, medication, medical devices, cost of modifications to the residence, premiums paid for uninsured services, wages paid to care attendants and other care-related expenses. Tax professionals or accountants can assist the care provider in maximizing these deductions. A list of eligible expenses can be found at: [Eligible medical expense you can claim on your tax return | canada.ca](#)

## Management of the Person's Insurance

Insurance protects people and property from a variety of risks. The attorney is responsible for making sure the insurance needs of the person are covered.

### Home and Personal Property Insurance

Depending on the person living with dementia's place of residence, the attorney may need to provide property and liability insurance on the home and contents or the contents alone. If a person is absent from their home for a time period, it is important to check with the individual's insurance broker to ensure that their coverage stays in force. Unreported unoccupancy and/or vacancy of a home can void the entire policy.

It is recommended that the attorney stay in contact with the person's insurance broker on a regular basis to keep them informed about the occupancy status of the person's home. Even if the home is temporarily occupied by another family member, changes to the form of coverage may be required to ensure that the policy remains in force.

### Auto Insurance

Families may decide to have a vehicle licensed in the name of the person living with dementia for use in the person's transportation, even though the person may no longer hold a valid driver's license. The attorney can sign the annual vehicle registration and purchase the required insurance.

### Life Insurance

If a person living with dementia has a life insurance policy, it is important to keep the policy up-to-date, as it is difficult to reinstate a lapsed policy, especially for a person living with dementia. The attorney should discuss the insurance coverage of the person living with dementia with the insurance agent to investigate policy provisions, such as the disability waiver, that might apply.

Some life insurance policies have a critical illness clause that allows policy benefits to be paid out prior to the death of the insured, in order to provide care for the policyholder. The attorney can consult with the insurance company to determine whether the policy has a clause of this type and the requirements for accessing the proceeds.

## **ASSISTANCE FOR CARE PROVIDERS**

**EI caregiving benefits** provide financial assistance while you're away from work to care for or support a critically ill or injured person or someone needing end-of-life care. You could receive 55% of your earnings, up to a maximum of \$650 a week. As a caregiver, you don't have to be related to or live with the person you care for or support, but they must consider you to be like a family member.

- You can receive benefits during the 52 weeks following the date the person is certified by a medical doctor or nurse practitioner to be critically ill or injured or in need of end-of-life care. You can take the weeks of benefits within this time frame either all at once or in separate periods. The weeks of benefits can be shared by eligible caregivers, either at the same time or one after another.
- Apply through the following link: [EI caregiving benefits | canada.ca](https://www.canada.ca/en/social-development/services/ei-caregiving-benefits.html)

### **The types of EI caregiving benefits**

<b>Benefit name</b>	<b>Maximum weeks payable</b>	<b>Who you're providing care to</b>
<b>Family caregiver benefit for adults</b>	up to 15 weeks	A critically ill or injured person 18 or over
<b>Compassionate care benefits</b>	up to 26 weeks	A person of any age who requires end-of-life care

The **Canada Caregiver Credit** is a non-refundable tax credit that is available for family caregivers that meet certain criteria. You may be able to claim the Canada Caregiver Credit if you support your spouse or common-law partner with a physical or mental impairment. To view eligibility requirements visit: [Canada caregiver credit | canada.ca](https://www.canada.ca/en/social-development/services/caregiver-credit.html)



An individual is considered to depend on you for support if they rely on you to regularly and consistently provide them with some or all of the basic necessities of life, such as food, shelter and clothing. The CRA may ask for a signed statement from a medical practitioner showing when the impairment began and what the duration of the impairment is expected to be. You do not need a signed statement from a medical practitioner if the CRA has an approved Form T2201, Disability Tax Credit Certificate, for a specified period.

The **Manitoba Primary Caregiver Tax Credit** provides recognition and financial support to individuals who serve as primary caregivers for more than 90 days. This program builds upon regional home care services and is intended to help care recipients remain independent as long as possible. Care recipients may have cognitive, physical or behavioural barriers. Therefore, they require assistance in completing personal care and home-making activities and in using community resources, so that they can remain in the community longer.

The primary caregiver may be a spouse, other relative, neighbour or friend who provides care without payment. The individual must be assessed (by Home Care Case Coordinator, Physician or Nurse Practitioner) as requiring Care Levels 2, 3 or 4 while living at home. Examples include those with a disability, people with life-threatening illnesses and others needing care and supervision for periods of more than 90 days, such as needing assistance with decision making and transportation.

As of the 2018 tax year, an individual tax filer may claim a flat tax credit of \$1,400 per year for providing the unpaid care. This credit is refundable and not income tested. This means you can claim it even if you do not have taxable income. The credit may offset your caregiver expenses such as shopping, transport, outings and respite.

## **INSTRUCTIONS FOR COMPLETING THE PRIMARY CAREGIVER TAX CREDIT REGISTRATION FORM:**

1. Submit a copy of the [registration form](#) to the Manitoba Tax Assistance Office.

Mail: Manitoba Tax Assistance Office  
110A – 401 York Avenue  
Winnipeg, MB R3C 0P8

Phone: 204-948-2115  
Toll free: 1-800-782-0771  
Email: [TAO@gov.mb.ca](mailto:TAO@gov.mb.ca)

2. Claim the Primary Care Giver Tax Credit on your personal income tax return beginning in the year of registration.
3. Keep original copies of all relevant documentation in case it is requested by Manitoba Finance or the Canada Revenue Agency to substantiate your tax credit claim.

## **In Conclusion**

It is strongly recommended that a person living with dementia, their family, their health care proxy and their power of attorney discuss legal, financial and health matters as early as possible after a person has been diagnosed.

Involving the person living with dementia as much as possible in their ongoing decision making helps the substitute decision-makers reflect the values and preferences of the person in the decisions that will be made. Requesting advice from accounting, financial and legal professionals will help the person living with dementia and the power of attorney make decisions that are in the best interest of the person.

## FOR INFORMATION ABOUT THE FOLLOWING SERVICES CONTACT:

### My Service Canada:

- [My Service Canada Account | canada.ca](#)
  - Visit 'My Account' on My Service Canada to view, and track applications
  - Click below for how to set up a My Service Canada account:
    - With a GC Key: [How to register for MSCA with GCKey | canada.ca](#)
    - With your bank: [How to register for MSCA with your bank | canada.ca](#)

### Employment Insurance: Service Canada (toll free) 1-800-206-7218

- Compassionate Care Benefit and Family Caregiver Benefit for Adults: [EI caregiving benefits | canada.ca](#)
- Sickness Benefit: [EI sickness benefits | canada.ca](#)

### Income Tax: Canada Revenue Agency (toll free) 1-800-959-8281

- Website: [Taxes | canada.ca](#)
- Represent a Client: [About Represent a Client | canada.ca](#)
- Disability Tax Credit: [Disability tax credit \(DTC\) | canada.ca](#)
- Canada Caregiver Credit: [Canada caregivier credit | canada.ca](#)

### Canada Pension Plan Retirement Pension, Old Age Security Pension, Guaranteed Income Supplement:

Service Canada (toll free) 1-800-277-9914

- Canada Pension Plan Applications: [CPP Retirement pension | canada.ca](#)
- Old Age Security: [Old Age Security | canada.ca](#)
- Old Age Security Guaranteed Income Supplement: [Guaranteed Income Supplement | canada.ca](#)
- Old Age Security Allowance: [Guaranteed Income Supplement - Allowance | canada.ca](#)
- Old Age Security Survivor's Allowance: [Allowance for the Survivor | canada.ca](#)

### Canada Pension Plan Disability Benefits

- Website: [Canada Pension Plan disability benefits | canada.ca](#)

### Veterans Affairs Canada - Programs and Services

Veterans Affairs Canada (toll free) 1-866-522-2122

- Website: [veterans.gc.ca](#)
- Veterans Independence Program: [Veterans Independence Program | veterans.gc.ca](#)

### Manitoba Primary Caregiver Tax Credit

Manitoba Government Inquiry: 1-866-626-4862 or Manitoba Health: 204-788-6646

- Website: [Primary Caregiver Tax Credit | gov.mb.ca](#)

For information on claiming this tax credit through the income tax system, contact the Manitoba Tax Assistance Office at 204-948-2115, 1-800-782-0771 toll free or email [TAO@gov.mb.ca](mailto:TAO@gov.mb.ca)

## Manitoba Health Care Directives

- Website: [Health Care Directives in Manitoba | gov.mb.ca](https://www.gov.mb.ca/health/care-directives)
- Download Health Care Directive form: [Health Care Directive PDF | gov.mb.ca](https://www.gov.mb.ca/health/care-directives/pdf)

## Legal Informational Guide For Seniors

- [A Legal Information Guide for Seniors PDF | gov.mb.ca](https://www.gov.mb.ca/legal/information-guide-for-seniors)

## Enduring Power of Attorney Guidebook for Donors and Attorneys

- [Public Guardian and Trustee of Manitoba PDF | gov.mb.ca](https://www.gov.mb.ca/legal/public-guardian-trustee)

Call the **Alzheimer Society of Manitoba** for information and support.

**204-943-6622** or **1-800-378-6699**

Or contact the regional office nearest you.

Website: [alzheimer.mb.ca](https://www.alzheimer.mb.ca)

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