

SUPPORTING INDIVIDUALS TO LIVE FULL LIVES TOOL KIT



WISCONSIN BOARD FOR PEOPLE
WITH DEVELOPMENTAL DISABILITIES

Keeping Individuals with
Disabilities and Aging Adults
in Charge of Their Lives

Supported Decision-Making and Other
Alternatives to Guardianship



This tool kit provides you with important information about Supported Decision-Making as well as other alternatives you may consider.



Supported Decision-Making is a set of strategies that help individuals* with disabilities and aging adults have more control over their life and future. In Wisconsin, a Supported Decision-Making Agreement is also legal tool. Sometimes it takes multiple strategies to provide the best quality of life as possible. Supported Decision-Making also allows for multiple people to support the individuals wishes.

How to use this tool kit:

Think of this tool kit as a workbook. There is information and worksheets included as well as actual forms you can print and use to document your Supported Decision-Making Agreement.



*This document is also available in Spanish and Hmong.
Este documento también está disponible en español.*

<http://wi-bpdd.org/index.php/SupportedDecision-Making>



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This tool kit is made up of several individual documents that can be printed as stand-alone forms for convenience and distribution.

**For the purpose of this toolkit, the term “individual” refers to an individual with disabilities and/or an aging adult.*

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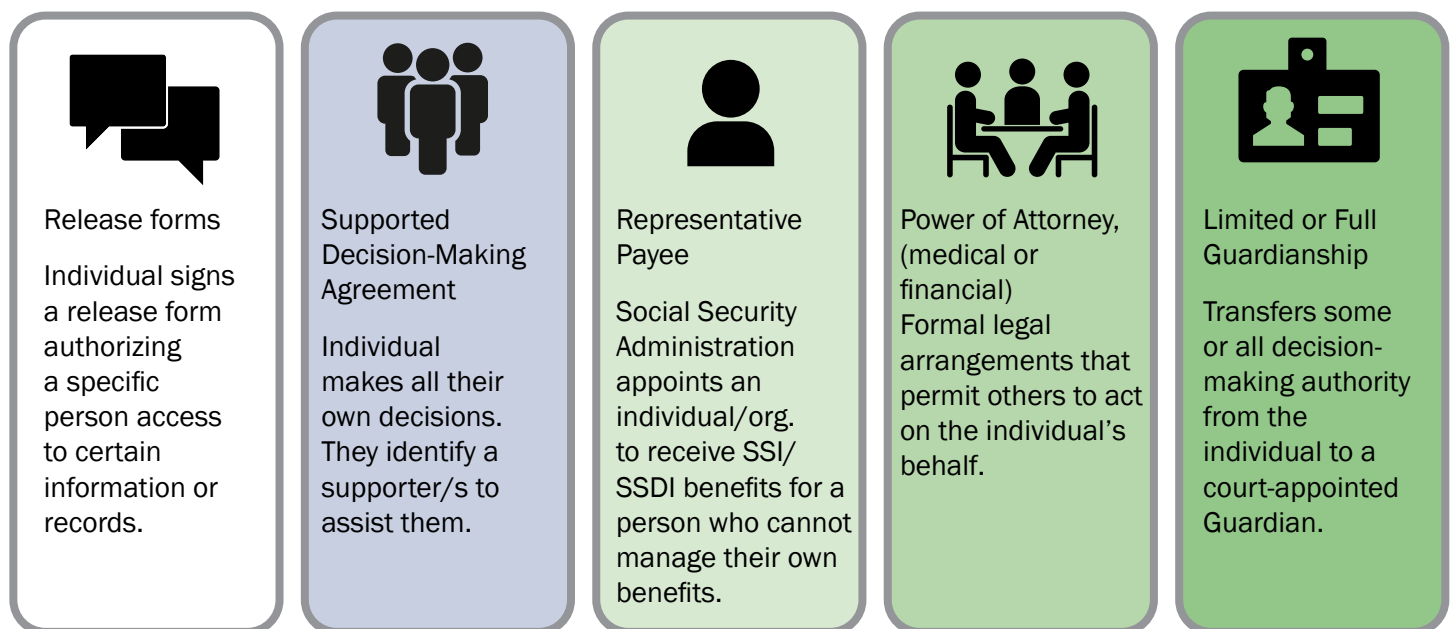
Supporting Individuals to Live Full Lives

Learning is a lifelong process and does not end at age 18. People with disabilities can learn new skills to increase their independence throughout their lives. Many families feel pressured into pursuing guardianship of a loved one by age 18 to retain access to medical or school records or believe that a guardianship will make the person safer. Alternatives to guardianship may provide the right supports for individuals with disabilities to live full lives while helping families reach safety and other goals.

Supported Decision-Making is an alternative to guardianship through which individuals get help from trusted family members, friends and professionals to help them understand the situations and choices they face, so they can make their own decisions. Supported Decision-Making enables individuals to ask for support where and when they need it. Supported Decision-Making agreements can be used for many kinds of decisions including medical, financial, housing and other life matters. Powers of attorney, representative payees and simple release of information forms can also help families provide the needed supports and safeguards without going to court and imposing guardianship restrictions.



Current Decision-Making Support Tools



Less limiting

More limiting

Let's Talk About Supported Decision-Making

Supported Decision-Making helps individuals* with disabilities and aging adults to make decisions about their lives. They choose the people they trust to help them gather and understand information, compare options, and communicate their decisions to others. It's how most people make decisions.

Planning for the future using Supported Decision-Making

Supported Decision-Making does not require one person to take on full Supporter responsibility. Multiple family members or other trusted persons can be Supporters, increasing the breadth of the support network and making transitions easier as family members age and roles change. Supported Decision-Making can be an important part of the person-centered planning process, which focuses on outcomes driven by the individual and implemented through the support of family, trusted allies and professionals of the individual's choosing to achieve those outcomes. Inviting Supporters to person-centered planning can help the discussion focused on the individual's talents, gifts, and dreams for the future.

We all want to improve our lives, not just maintain them.

Person-centered planning and Supported Decision-Making can:

- Help an individual with a disability share their hopes and dreams for the future and identify goals to improve quality of life.
- Identifies strategies and opportunities to help achieve a goal.

WISCONSIN STATE LAW

Wisconsin state law formally recognizes Supported Decision-Making agreements as legal arrangements that allow persons to retain their right to make their own decisions, while also choosing trusted people (called Supporters) to help them gather and understand information, compare options, and communicate their decisions to others.

¹ Wis. Stats. Ch 52. (2017 Wisconsin Act 345)

GETTING STARTED WITH SUPPORTIVE DECISION-MAKING

Supported Decision-Making can help individuals stay in control of their own lives. Each individual decides the amount and type of support he or she wants and needs. People with disabilities and aging adults need people they trust to support them in reaching their goals.

STEP 1: START THE CONVERSATION

Talk about goals and needed supports to achieve them. Think about an individual's current abilities and areas where growth can occur.

STEP 2: IDENTIFY PEOPLE WHO ARE WILLING AND ABLE TO ASSIST

A support person should know the individual well and be able to understand and communicate with her or him.

STEP 3: PLAN AND COMMUNICATE

Bring the support team together to determine how team members will communicate.

STEP 4: SET UP AN AGREEMENT

Supported Decision-Making agreements are as individual as the people using them.

STEP 5: LET EVERYONE KNOW

Once the Supported Decision-Making agreement is signed, share copies with doctors, financial institutions, schools, and others who are involved. (use a tracking form to keep yourself organized)

HOW SUPPORTED DECISION-MAKING AGREEMENTS WORK?

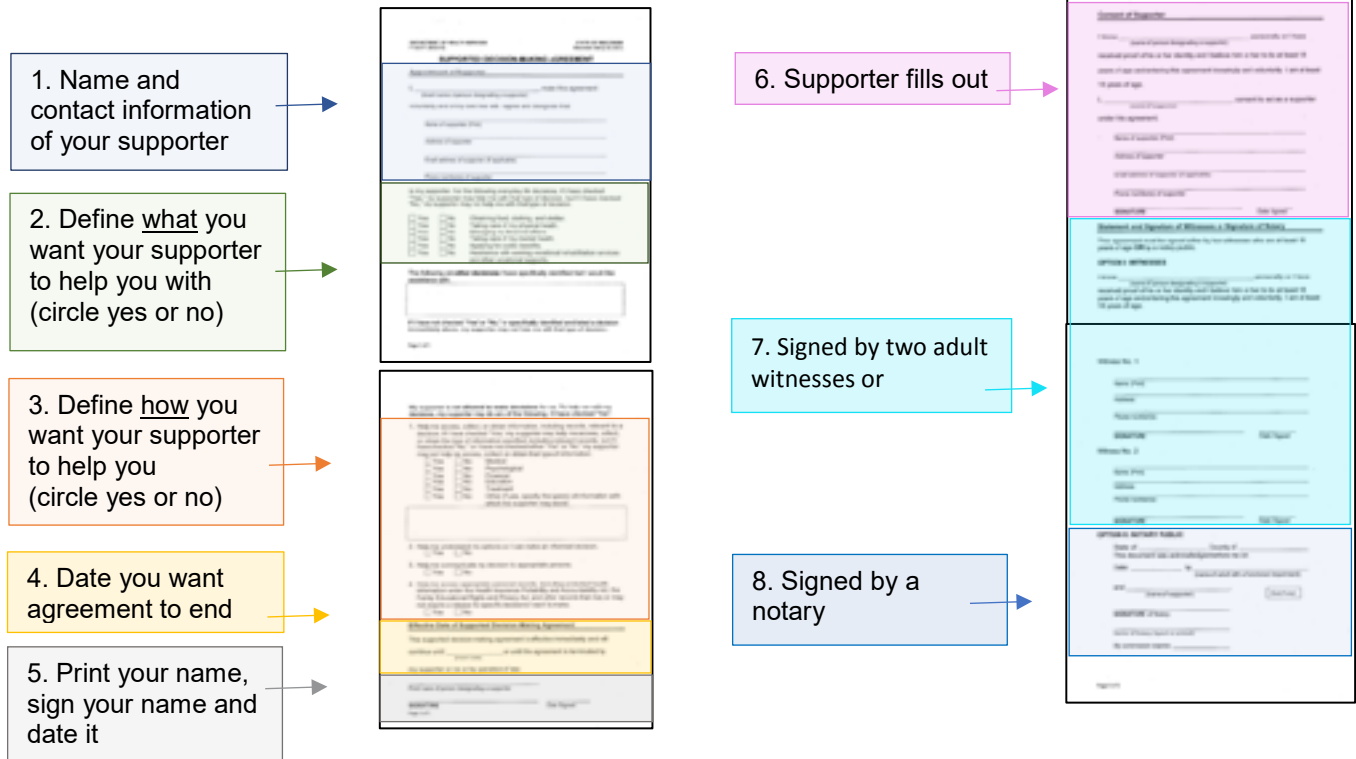
A Supported Decision-Making agreement includes a list of decisions the individual wants assistance in making and identifies a Supporter(s) they want to help them. Wis.Stats.Ch 52 includes the Supported Decision-Making agreement form and requires the following elements are included:

- Name and contact information
- Types of decisions which a supporter may assist with
- Role the supporter plays (ex: A supporter helps understand and figure out complex medical information)
- Signatures of the person and supporter(s), and two witnesses or a notary.



SUPPORTIVE DECISION-MAKING AGREEMENTS

HOW TO FILL OUT AN AGREEMENT



*Notary: Most banks and credit unions have Notaries and their services are free of charge.

THE ROLE OF THE SUPPORTER

A Supporter is available to help when needed. The individual chooses who they would like to support them and determines when and for what reason they would like the assistance of a Supporter.

A Supporter can:

- Help the person read and/or understand their options
- With permission from the person, access information needed to help the person make the decision
- Attend meetings and assist the person in asking questions
- Help communicate the person's decisions and preferences to others.






The Supported Decision-Making Agreement Form is available from the Department of Health Services: <http://dhs.wisconsin.gov/forms/f02377> or on page 10 of this document.

What Do I want my Supported Decision-Making Agreement to Look Like?

Supported decision-making as a great way to get the help you need to make decisions in your life. With Support decision-making you remain in control of your own choices, but you can select people in your life to be a Supporter. You choose what kinds of decisions you want support with, and how you want to be supported. You can ask a Supporter to assist with 1) getting information you need to make your own decision 2) helping you understand your options so you can make your own decisions 3) communicating your decisions to others. This worksheet will help you the kinds of decisions where you may want a Supporter, who are the people in your life who could serve as Supporters, and how to talk with your Supporter on what you would like help with and what you want to do on your own.

WHAT DO I ALREADY MAKE DECISIONS ON SUCCESSFULLY?

There are already many decisions that you are making on your own in lots of different areas of your life. List things you routinely make decisions on (we've included some examples in each category):

| Health | Home | Money | Service Systems | Other |
|---|--|---|---|---|
|  <ul style="list-style-type: none">• eating• exercise• physical health care• Other... |  <ul style="list-style-type: none">• where I live• who I live with• what I like in my home• Other... |  <ul style="list-style-type: none">• working• what I spend \$ on• Saving \$• Other... |  <ul style="list-style-type: none">• hiring help• what's in my care plan?• programs I am in• Other... |  <ul style="list-style-type: none">• transportation• activities for fun• having relationships• Other... |

WHAT KINDS OF DECISIONS DO I WANT SUPPORT WITH?

Sometimes you may not have experience making a certain kind of decision, and you may want more support until you are comfortable making these decisions yourself. Sometimes you may want support from a person who you think has more experience or knows more about a topic than you do when you are making a decision. Think about the areas in your life where you would like support when you need to make decisions (use the box below to list them).

HOW DO I WANT TO GET HELP?

Supporters can support you in your decision making in three key ways:

1. Help you gather and understand information you need to make a decision.
2. Help you understand your options, responsibilities, and potential results of your decision.
3. Help you communicate your decisions to others.

You can have a Supporter help you in one, two, or all three of these ways.

Think about the decision area, what support you want, and the kind of tasks (requesting information, making phone calls, reading and explaining materials etc.) that you want a Supporter to help you with?

Gather Information



Understand Options





Communicate to Others



WHAT AM I LOOKING FOR IN A SUPPORTER? (WHAT SKILLS DO I WANT THEM TO HAVE?)

Sometimes you may not have experience making a certain kind of decision, and you may want more support until you are comfortable making these decisions yourself. Sometimes you may want support from a person who you think has more experience or knows more about a topic than you do when you are making a decision. Think about the areas in your life where you would like support when you need to make decisions (use the box below to list them).

| | | |
|---|--|--|
|  MUST HAVE | |  SHOULD NOT HAVE |
|---|--|--|

WHO CAN I CHOOSE TO BE MY SUPPORTER?

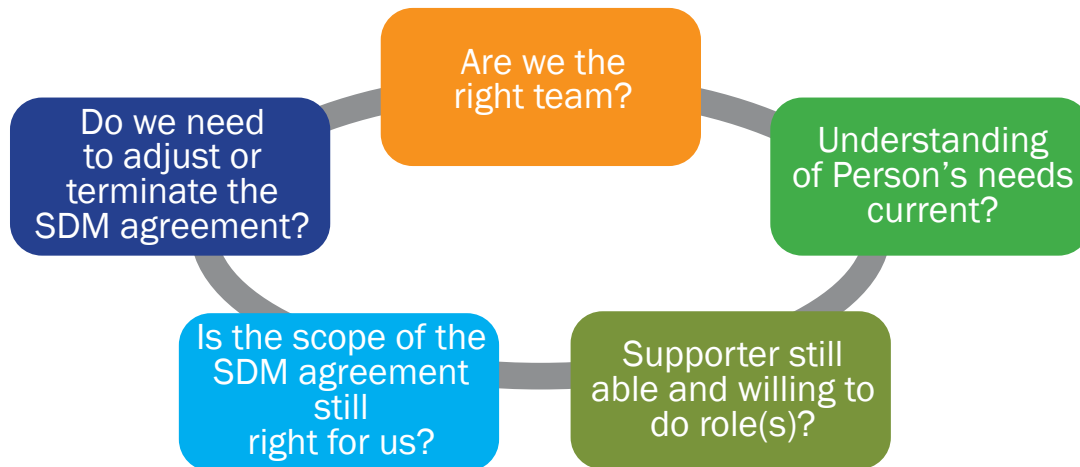


ROUTINELY DISCUSS YOUR SUPPORTED DECISION-MAKING AGREEMENT WITH YOUR SUPPORTER

Sometimes things can change in your life or in your Supporter's life. Supported decision-making agreements should be revisited on a routine basis to:

1. Make sure that the Supporter is the right fit
2. Make sure the Supporter has a current understanding of your needs, preferences/wishes, and expectations
3. Make sure you have an understanding of any changes in the Supporter's life that may impact their availability to do the role outlined in the Supported Decision-Making agreement
4. Update the Supported Decision-Making agreement as necessary, including evaluating whether the current Supporter is the right person to be the Supporter for decision type(s) and whether you want more or less support
5. Resolve conflicts in cases where the Supported Decision-Making agreement between you and your Supporter is not working, including reducing the Supporter's scope (fewer decision areas, fewer roles) or terminating the agreement

It is important to have ongoing conversations about:



Now you're ready to fill out the Supported Decision-Making Agreement. You can find the agreement on page 10 and at <https://www.dhs.wisconsin.gov/library/f-02377.htm>

You can use the Supported Decision-Making Tracking form to help you keep track of who to share the agreement with. You can find this document on page 15.



State of Wisconsin

Department of Health Services

To Whom It May Concern:

Enclosed is the Supported Decision-Making Agreement form you requested. The Supported Decision-Making Agreement makes it possible for persons to choose trusted people (called supporters) to help them gather and understand information, compare options, and communicate their decisions to others. Supported decision-making agreements DO NOT restrict the person's rights to make decisions; the person makes all their own decisions.

Supported decision-making is a way for people with disabilities to get help from trusted family members, friends, and professionals, to help them understand the situations and choices they face so they can make their own decisions. Supported decision-making enables people with disabilities to ask for support where and when they need it. Supported Decision-Making is NOT a form of guardianship or a power of attorney.

When entering into a supported decision-making agreement, those who can provide help in making decisions are called supporters. Supported decision-making agreements DO NOT take away any rights from the person asking for support. Supporters agree to help explain information, answer questions, weigh options, and let others know about decisions that are made. Supporters DO NOT make the decisions.

The form includes a list of decisions the person with a disability wants assistance in making and identifies supporters they trust to help them with those decisions. Be sure to read all four pages of the form carefully and understand it before you complete and sign it. The agreement must be signed with two witnesses who are at least 18 years of age OR by a notary public.

More information is available to assist you in filling out this form. The Board for People with Developmental Disabilities has additional information on supported decision-making available on its website:

<http://wi-bpdd.org/index.php/SupportedDecision-Making/>

SUPPORTED DECISION-MAKING AGREEMENT

Appointment of Supporter

I, _____, make this agreement
(insert name of person designating a supporter)

voluntarily and of my own free will. I agree and designate that

Name of supporter (Print)

Address of supporter

Email address of supporter (if applicable)

Phone number(s) of supporter

is my supporter. For the following everyday life decisions, if I have checked "Yes," my supporter may help me with that type of decision, but if I have checked "No," my supporter may not help me with that type of decision:

- | | | |
|------------------------------|-----------------------------|---|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Obtaining food, clothing, and shelter. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Taking care of my physical health. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Managing my financial affairs. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Taking care of my mental health. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Applying for public benefits. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Assistance with seeking vocational rehabilitation services and other vocational supports. |

The following are **other decisions** I have specifically identified that I would like assistance with:

If I have not checked "Yes" or "No," or specifically identified and listed a decision immediately above, my supporter may not help me with that type of decision.

My supporter is **not allowed to make decisions** for me. To help me with my decisions, my supporter may do any of the following, if I have checked "Yes":

1. Help me access, collect, or obtain information, including records, relevant to a decision. If I have checked "Yes," my supporter may help me access, collect, or obtain the type of information specified, including relevant records, but if I have checked "No," or I have not checked either "Yes" or "No," my supporter may not help me access, collect, or obtain that type of information:

- | | | |
|------------------------------|-----------------------------|--|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Medical |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Psychological |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Financial |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Education |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Treatment |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Other. If yes, specify the type(s) of information with which the supporter may assist: |

2. Help me understand my options so I can make an informed decision.

Yes No

3. Help me communicate my decision to appropriate persons.

Yes No

4. Help me access appropriate personal records, including protected health information under the Health Insurance Portability and Accountability Act, the Family Educational Rights and Privacy Act, and other records that may or may not require a release for specific decisions I want to make.

Yes No

Effective Date of Supported Decision-Making Agreement

This supported decision-making agreement is effective immediately and will continue until _____, or until the agreement is terminated by
(insert date)

my supporter or me or by operation of law.

Print name of person designating a supporter

SIGNATURE

Date Signed

Consent of Supporter

I know _____ personally or I have
(name of person designating a supporter)
received proof of his or her identity and I believe him or her to be at least 18
years of age and entering this agreement knowingly and voluntarily. I am at least
18 years of age.

I, _____, consent to act as a supporter
(name of supporter)
under this agreement.

Name of supporter (Print)

Address of supporter

Email address of supporter (if applicable)

Phone number(s) of supporter

SIGNATURE

Date Signed

Statement and Signature of Witnesses or Signature of Notary

This agreement must be signed either by two witnesses who are at least 18
years of age **OR** by a notary public.

OPTION I: WITNESSES

I know _____ personally or I have
(name of person designating a supporter)
received proof of his or her identity and I believe him or her to be at least 18
years of age and entering this agreement knowingly and voluntarily. I am at least
18 years of age.

Witness No. 1:

Name (Print)

Address

Phone number(s)

SIGNATURE

Date Signed

Witness No. 2:

Name (Print)

Address

Phone number(s)

SIGNATURE

Date Signed

OPTION II: NOTARY PUBLIC

State of: _____ County of: _____

This document was acknowledged before me on

Date: _____ by _____
(name of adult with a functional impairment)

and _____
(name of supporter)

(Seal, if any)

SIGNATURE of Notary

Name of Notary (typed or printed)

My commission expires: _____

SUPPORTED DECISION-MAKING AGREEMENT TRACKING FORM

This tool can be used to help you keep track of who has a copy of your Support Decision-Making agreement. It is important to make sure the same people/organizations receive an updated agreement if your situation changes and you have a different supporter.

| I have entered into a Supported Decision-Making agreement with: | I have Shared the Supported Decision-Making agreement with the following people/organizations: |
|---|--|
| [NAME of Supporter] | |
| Ex. Joe Smith | Dr. O'Maly, St. Joseph's Hospital, and ABC Managed Care Organization. |
| Rhonda Collins | Summit Credit Union, Social Security Administration |
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What I want you to know about my Supported Decision-Making Agreement

Wisconsin law (Wis. Stats. Ch 52) formally recognizes Supported Decision-Making (SDM) agreements. People who difficulty taking care of major life activities themselves or communicating – including certain people with disabilities, older adults and people with chronic conditions--qualify to use SDM agreements.

SDM agreements allow individuals to retain their civil rights to make their own decisions while allowing friends, family and trusted allies (Supporters) to support them as they make their own decisions.

Please remember these things when interacting with me:

- Sometimes I need help making decisions, but that doesn't mean I can't make my own decisions.
- Sometimes my Supporter will come to my appointment with me. Please talk to me, not to my Supporter.
- My Supported Decision-Making agreement tells you the role of my Supporter.
- Sometimes my service provider will bring me to my appointment. My Provider is someone from an agency that provides me services for my disability.
- Please talk to me, not my service provider. They don't make decisions for me.
- Explain things in a way that I can understand.
- Check to make sure that I understand what you are saying; Ask me if I have any questions.
- Give me important information in writing. Make sure it is written in a way that I can understand.
- Give me time to think about what you are saying.
- When I am upset, worried, or confused, it may take me longer to make decisions. Get to know me; ask me how I might react when I am upset worried or confused, and what might calm me.
- Ask me if I would like to talk with my Supporter; Give me time to talk to my Supporter, if I want to.
- My Supporter may ask questions to help me understand my options.
- My Supporter may help me tell you what my decision is. The decision is mine.
- Please respect my decision.

The Wisconsin Department of Health Services houses the official SDM agreement form:

<https://www.dhs.wisconsin.gov/forms/f02377.pdf>

More information and resources about SDM agreements are available:

<https://wi-bpdd.org/index.php/supporteddecision-making/>

Some information adapted from A Letter to My Doctors:

<https://thearc.org/wp-content/uploads/2019/08/Making-My-Own-Health-Care-Decisions--A-Letter-for-to-My-Doctors.pdf>

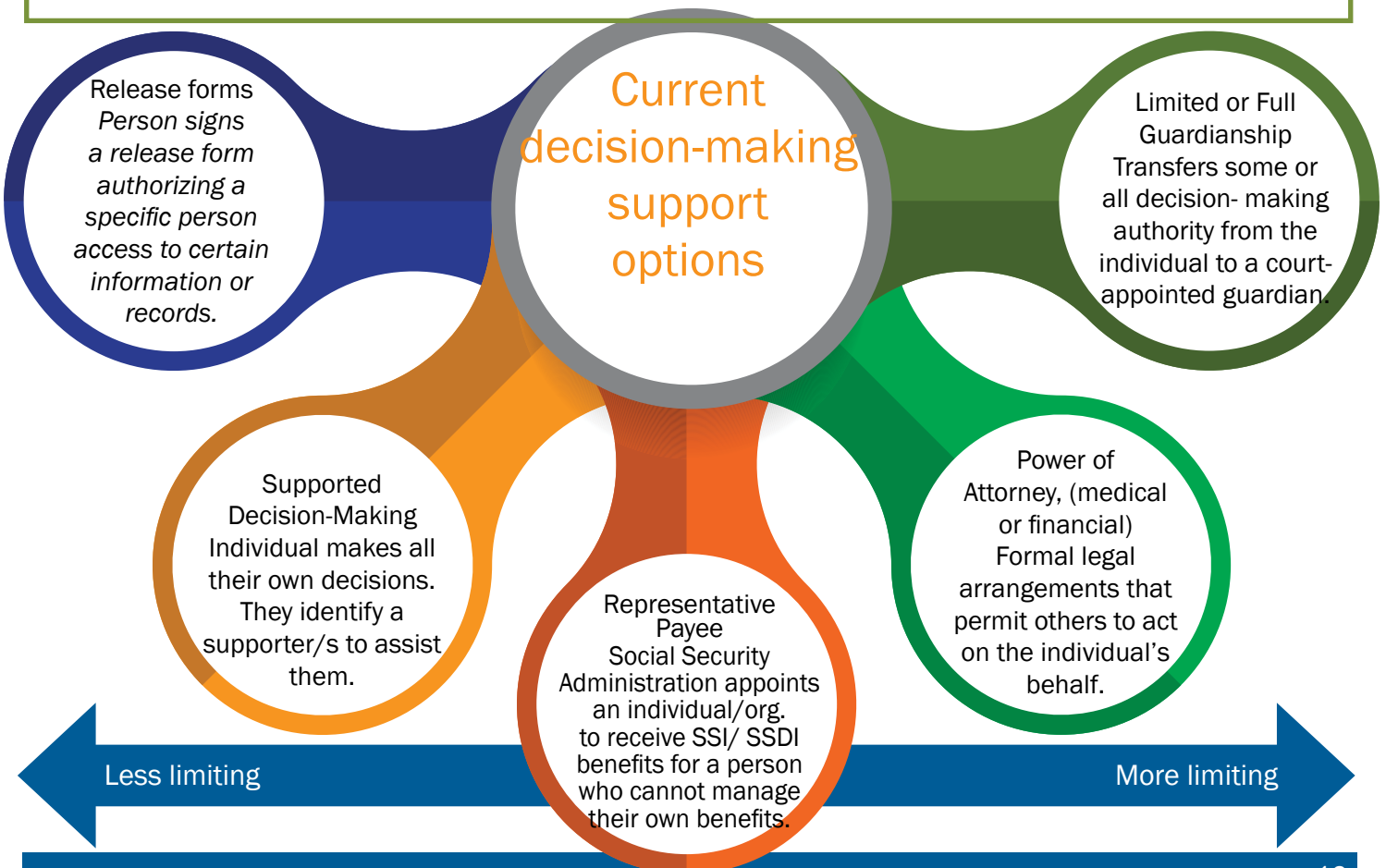
Let's Talk About Guardianship Alternatives

Learning is a lifelong process and does not end at age 18. People with disabilities can learn new skills to increase their independence throughout their lives. Many families feel pressured into pursuing guardianship of a loved one by age 18 to retain access to medical or school records or believe that a guardianship will make the person safer. Alternatives to guardianship may provide the right supports for individuals with disabilities to live full lives while helping families reach safety and other goals.

SUPPORTING INDIVIDUALS TO LIVE FULL LIVES

WHAT IS IT?

There is a continuum of options for adults with disabilities (individuals) to get the support they need to live a full and productive life. A simple release of information form, obtaining a representative payee, or a power of attorney, can assist families to provide the support and safeguards an individual need without evoking full guardianship restrictions. Release forms and Supported Decision-Making enable the individual to maintain decision making authority. Representative Payees and Powers of Attorneys (POA) do grant decision making authority to another person in certain circumstances but have a much narrower scope of authority than limited or full guardianship.



CONSIDER LEAST RESTRICTIVE ALTERNATIVES FIRST

Less limiting



PROVIDING SUPPORT AT MEETINGS

Sometimes there are very simple solutions to address communication and information sharing concerns. As adults, individuals with disabilities have the right to choose anyone they wish to attend an IEP, vocational, medical, Financial, or any other appointment. **The individual does not give up their decision-making authority when they invite others to meetings.**

RELEASE OF INFORMATION FORMS

A signed release can give access another individual access to information when the person is not present.

- Most organizations will have release forms. If not, you can create your own.
- Hospitals and medical facilities have HIPPA forms that give permission to share information about health care with a family member or trusted friend.

The individual does not give up their decision-making authority by signing a release form.

SUPPORTED DECISION-MAKING

Wisconsin law formally recognized Supported Decision-Making agreements as legal documents that allow individuals to retain their right to make their own decisions, while also choosing trusted people (called Supporters) to help them gather and understand information, compare options, and communicate their decisions to others.

Supported Decision-Making agreements can be used for any decisions the individual feels they need additional support—such as housing, health care, financial affairs, or other areas the Person identifies on the Supported Decision-Making agreement. Supported Decision-Making Agreement Form is available from the Department of Health Services: <http://dhs.wisconsin.gov/forms/f02377> or on page 10 of this document.

More limiting



FINANCIAL ALTERNATIVES

Less limiting



DUAL SIGNATURE BANK ACCOUNTS

- The individual shares decision-making authority with another person they have approved. Financial decisions are made together.
- Financial institutions can work with individuals to set up auto withdrawal, deposits, and/or payments. They can also set up credit cards with low lines of credit.

REPRESENTATIVE PAYEE

- A Representative Payee can be appointed to assist an individual in managing their Social Security or Supplemental Security (SSI) benefits. The “rep payee” has authority to decide what the best use of the beneficiaries’ fund are; paying for rent, food, medical and other living expenses are priorities. Rep Payees are accountable for all SSI funds and must provide an annual report to the Social Security Administration on how they have used the funds to benefit the individual.
- Form and additional information is available from the social security office. <http://www.ssa.gov/payee/>.

The individual gives up decision-making authority of their Social Security benefits.

POWER OF ATTORNEY (POA) FOR FINANCES

- Financial POAs can allow another person (POA) to make financial decisions on the individual’s behalf. POAs can be written in a variety of ways; what authority is granted and remains in effect unless revoked. If you wish to change a financial POA you must revoke the old one, complete a new form, notify your agent who assisted you in creating it and anyone else affected by the form (i.e. financial institution).
- Free forms are available on line.

The individual gives up decision-making authority on financial and property decisions.

“ Instead of guardianship of our daughter, we chose Powers of Attorney in the areas of medical and financial. These were much easier to obtain and didn’t require going to court and having a judge tell her she could no longer make her own decisions. So far, these legal documents have been just as effective as having the guardianship. ”

– Parent



More limiting



HEALTH CARE ALTERNATIVES

POWER OF ATTORNEY (POA) FOR HEALTH CARE

- Health care POAs allows another individual to make health care decisions on the person's behalf under certain circumstances. POAs can be written in a variety of ways; what authority is granted, when, and for how long are all decisions that may be outlined in a POA agreement.

Free forms are available on line <http://www.dhs.wisconsin.gov/forms/advdirectives/f00085.pdf>

LIVING WILL

- Allows the friend or family member to make end of life decisions when the individual is not able to make them for themselves. End of life decisions include things like life support, tube feeding, pain management and more.
- Free forms are available on line or from a health care provider.

Allows someone to make health care decision for you if you are not able to make them yourself.

FUTURE PLANNING

There are several ways to work with a financial adviser, attorney or financial institution to assist with futures planning.

SPECIAL NEEDS TRUSTS

- Managed by a trustee. Funds must be used to benefit the individual.

Can be set up through a bank or through WISPACT <https://www.wispact.org/content/wispact-trusts> .

ABLE ACCOUNTS

- Allows eligible individuals with disabilities to save money in a tax-exempt account that may be used for qualified disability expenses.

Individuals with disabilities can save money while keeping their eligibility for federal public benefits <http://ablenrc.org/step-5-how-do-i-enroll>

OTHER RESOURCES:

Future planning: <https://futureplanning.thearc.org/pages/learn/future-planning-101>

Specific links can be found at the Wisconsin BPDD website www.wi-bpdd.org/index.php/SupportedDecision-Making/

Guardianship Support Center: <https://gwaar.org/guardianship-resources>

FAQ: Supported Decision-Making

What is Supported Decision-Making?

Supported Decision-Making can sound like a new, foreign idea. But most families, people with disabilities, and advocates are already using supported decision-making, even if they don't call it that. In fact, most people without disabilities are also already using supported decision-making.

Throughout our lives, all of us consult a trusted, self-selected network of friends, colleagues, family, neighbors, and professionals when making all sorts of life choices. These choices could be about where to live, what to do during the day, how to spend money, or when to see a doctor. We confer and consult with others, and then we decide on our own. Everyone needs support to make decisions.

Let's create better supports so people with disabilities can lead more independent lives!



Supported decision-making means helping a person understand their options when making choices and communicate their own decisions.

What are Supported Decision-Making Agreements designed to do?

Supported Decision-Making agreements are designed to help the Person interact and communicate their decisions with third parties. People with disabilities and older adults can use their network of trusted family members, friends and professionals and formally identify Supporter(s) in a Supported Decision-Making agreement to help them gather information, understand and evaluate options, and communicate their decisions to others.

A Supported Decision-Making agreement includes a list of decisions the person with a disability wants assistance in making and identifies a Supporter(s) they want to help them.

The Supported Decision-Making agreement lets teachers, doctors, bankers, and other professionals know that the Person has given the Supporter consent to hear, receive, and discuss information with them, and/or it is ok to release records to the Supporter (provided applicable releases are signed).

Wis. Stats. Ch 52 outlines who and how supported decision-making agreements can be used in Wisconsin. The statute includes the Supported Decision-Making agreement form; the exact language from the statute has been transferred to a downloadable form available here: <http://dhs.wisconsin.gov/forms/f02377>

Who can use a Supported Decision-Making Agreement?

Under Wisconsin law, only certain people can use Supported Decision-Making agreements. People who can use Supported Decision-Making agreements are defined within Wisconsin's law as people with "functional impairments" and include:



- ▶ People with physical, developmental, or mental conditions that substantially limit one or more of an individual's 1) Capacity for independent living, 2) Self direction, 3) Self care, 4) Mobility, 5) Communication, 6) Learning. (also referred to as major life activities)
- ▶ People experiencing degenerative diseases or other like incapacities.
- ▶ Conditions incurred at any age that substantially interfere with the Person's ability to provide self-care.

The statute does not require that the existence of a functional impairment needs to be determined or "certified" by health care professionals

Who can be a Supporter?

The person chooses their own Supporter. Supporters can be friends, family members, co-workers, colleagues, people with professional expertise, or others within the person's trusted network of support.

What is the Supporter's role?

The possible roles of the Supporter are limited to:

1. Access, collect, or obtain information relevant to a decision area the Person has chosen. Note: the law limits access to personal information. Only information that is relevant to the decision with which a Supporter has been asked to assist is accessible by the Supporter, and a Supporter is allowed to access records that require a release only if the Person has signed a release allowing the Supporter to see the information.
2. Helping the person understand that information;
3. Helping the Person understand their options, responsibilities, and consequences of that person's life decisions, without making those decisions on behalf of that person
4. Assisting with communicating the Person's decision to others

Supported Decision Making agreements do NOT give Supporters any new rights. The Supporter has no authority to make the person's decisions (the Person makes all their own decisions). Supporters cannot sign legal documents for the Person or bind a Person to a legal agreement. Supporters have only the authority/role granted by the Person under the terms of the supported decision-making agreement.

Supported decision-making agreements do NOT restrict a Person's rights to make any decisions. Having a supported decision-making agreement does not preclude the Person from acting independently of the agreement or making decisions that the Supporter does not agree with. The Person is always in control of their own decisions



What types of decisions can a Supported Decision-Making agreement help with?

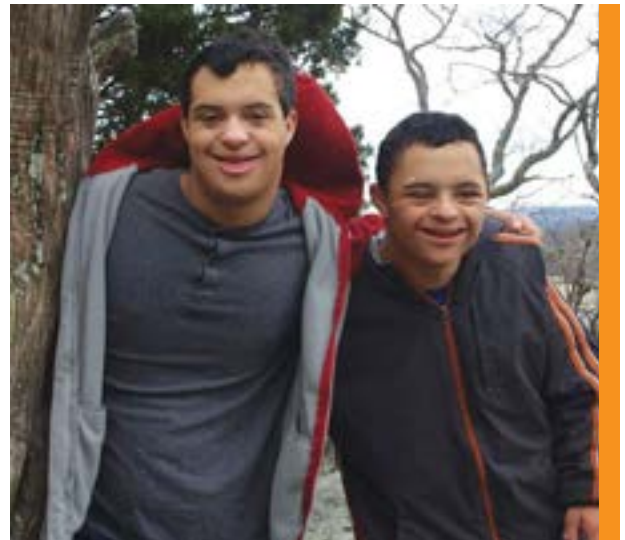
Supported Decision-Making agreements can be used for any decisions the Person feels they need additional support—such as housing, health care, financial affairs, or other areas the Person identifies on the Supported Decision-Making agreement form.

Types of decisions included on Supported Decision-Making agreement from within the statute include:

- ▶ Obtaining food, clothing, and shelter
- ▶ Taking care of my physical health
- ▶ Managing my financial affairs
- ▶ Taking care of my mental health
- ▶ Applying for public benefits
- ▶ Assistance with seeking vocational rehabilitation services and other vocational supports

The form also includes a customizable field “other decisions I have specifically identified that I would like assistance with” that allows the person to write in other types of decisions they wish a Supporter to assist with.

The law presumes if the person does not check Yes or No (i.e. both options are unchecked) that the Person does not want the Supporter to help with that kind of decision.



Is there a cost to set up a Supported Decision-Making agreement?

No.

Here is a link to the Supported Decision-Making Agreement Form: <http://dhs.wisconsin.gov/forms/f02377>

Can a Supported Decision-Making agreement be changed?

The Person is always in control of their own decisions and their Supported Decision-Making agreement.

The Person can include a specific date when the agreement ends.

Either the Person or the Supporter can revoke a Supported Decision-Making agreement at any time.

Supported decision-making agreements are automatically revoked if the Supporter has a substantiated allegation of neglect or abuse of the person, the Supporter has been found criminally liable for abuse or neglect, or there is a restraining order against the Supporter.



Does information remain confidential under Supported Decision-Making agreements?

Wisconsin law limits access to personal information to only information that is relevant to the decision with which a Supporter has been asked to assist and establishes clear parameters on how records protected by confidentiality can be accessed by a Supporter with the permission of the Person.

Wisconsin law requires Supporters to ensure all personal information they access in the course of fulfilling a Supported Decision-Making agreement is kept privileged and confidential and is not subject to unauthorized access, use, or disclosure.

Are people who use Supported Decision-Making at risk for financial or other exploitation?

With Supported Decision-Making the Person is always in control of their own decisions and their Supported Decision-Making agreement; they can choose to revoke a Supported Decision-Making agreement at any time.



Supported Decision-Making agreements are automatically revoked if the Supporter has a substantiated allegation of neglect or abuse of the person, the Supporter has been found criminally liable for abuse or neglect, or there is a restraining order against the Supporter.

Anyone who suspects that a Supporter is abusing, neglecting, or financially exploiting an older adult or person with a disability can report their concerns to the elder or adult at risk agency, or appropriate law enforcement agency.

How is a Supported Decision-Making agreement different from Powers of Attorney?



Powers of Attorney are limited to certain kinds of decisions—health care or financial. Powers of Attorney (POA) designate another individual (a POA) to make certain kinds of decisions on the Person's behalf.

POAs can be set up in different ways. Some POAs are activated only when a person is incapacitated. Or a POA can be written so an individual other than the Person is always the designated decision maker in certain areas.

Health care POAs can allow another person (a POA) to make health care decisions on the individual's behalf under certain circumstances. What decision-making authority is granted, when, and for how long are all items that may be outlined in a POA agreement.

Financial POAs can allow another person (a POA) to make financial decisions on the individual's behalf. What decision-making authority is granted can be customized in the POA agreement. Financial POAs remain in effect

unless revoked. Changing a financial POA can only be accomplished by revoking the old one, completing a new financial POA, notifying the agent who assisted in creating it and anyone else affected by the financial POA form (i.e. financial institution).

Supported Decision Making agreements can cover many decision types not typically covered by traditional Powers of Attorney like housing/living arrangements, choosing a service provider (examples internet, cellphone, cleaning service), filing taxes etc.

With Supported Decision-Making agreements, older adults and people with disabilities remain fully in charge of their decisions. The Person chooses trusted relatives, friends, and people with expertise in an area to help them gather information, understand options, and communicate decisions to others, but the Person always makes their own decisions.



How are Supported Decision-Making agreements different than Guardianship?

Limited and full guardianships restrict or remove entirely the Person's right to make decisions in some or all areas of decision-making. Authority to make decisions on the person's behalf is transferred to a court-appointed Guardian.

Once guardianship is granted by the courts it is difficult (and costly) to modify or reverse the guardianship; any changes must be made through a formal court process.

With Supported Decision-Making agreements, older adults and people with disabilities remain fully in charge of their decisions.

Can Supported Decision-Making agreements be used in combination with other legal arrangements?

Yes.

Supported Decision-Making agreements can be used in combination with other legal arrangements, including Power of Attorney and limited guardianship. These options are not mutually exclusive and can be used to complement each other.

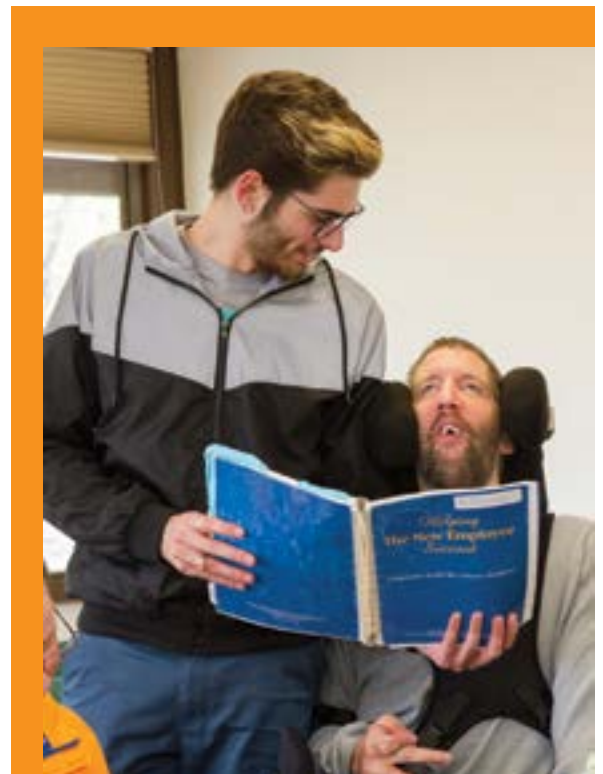
Supported Decision-Making as a concept is a valuable tool even when the legal right to make some or all decisions has been transferred to a guardian. Wisconsin has a limited guardianship system. Guardians are charged with placing the least possible restrictions on the person's ability to make choices, be part of the community, and identify and honor the individual's preferences. Using Supported Decision-Making can help guardians understand their ward's wishes



For many people Supported Decision-Making may be the only tool they need to have trusted people provide support as they make their life decisions.

RESOURCES:

- Wisconsin Board for People with Developmental Disabilities- Supported Decision-Making materials
<http://wi-bpdd.org/index.php/SupportedDecision-Making>
- Supported Decision-Making Agreement Form
<http://dhs.wisconsin.gov/forms/f02377>
- Supported Decision-making Agreement Form- Spanish
<https://www.dhs.wisconsin.gov/forms/f02377s.pdf>
- Wisconsin Guardianship Support Center:
<https://gwaar.org>
- Future planning:
<https://futureplanning.thearc.org/pages/learn/future-planning-101>



7/2022



101 E. Wilson Street, Room 219, Madison, WI 53703

Local: 608-266-7826, toll-free: 888-332-1677

Find out more at www.wi-bpdd.org



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