



**LEGAL SERVICES FOR THE ELDERLY**  
**Elder Rights Handbook**



**Legal Services for  
the Elderly:**  
Elder Rights Handbook

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# Preface

**L**egal Services for the Elderly (“LSE”) is a nonprofit organization that has been helping Maine seniors since 1974. LSE’s mission is to provide free, high quality legal services to Maine residents who are aged 60 and over when their basic human needs are at stake.

This LSE Elder Rights Handbook was created to help Maine seniors understand some of the legal risks and problems they may encounter as they age. An online version of this Handbook is available at [www.mainelse.org](http://www.mainelse.org) under the “Elder Rights” tab.

**This publication provides only general legal information. It does not provide legal advice. The information in this Handbook is not a substitute for getting help from an attorney. If you are seeking specific legal advice or assistance you should contact an attorney by calling LSE’s Helpline at 1-800-750-5353, the Maine State Bar Association Lawyer Referral Services at 1-800-860-1460, or another legal resource.**

To request additional copies of this Handbook, please call the LSE Administrative Office at (207) 621-0087 or contact your local Area Agency on Aging.



# How to use this Handbook

**G**o to the Table of Contents on the next page and find the topic that best relates to your issue. Topics are broken down by chapter and each chapter will help you identify and understand your rights as they relate to certain legal issues. The broad topics listed in the Table of Contents are broken down into smaller topics within each chapter.

Every chapter has at least one **Resources** section that directs you to trusted agencies that can help with the specific issues addressed within that chapter. Some chapters have multiple Resources sections. Others have only one Resources section that applies to the entire chapter.

At the end of some chapters, a **Notes** section provides the information you need to use a computer and go online to find more specific or up-to-date information. The Notes are identified throughout the chapters using small numbers at the end of sentences.



# Legal Services for the Elderly: Elder Rights Handbook



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**Learn what you can do now to stay in control later in life.**

# Planning for the Future

**T**his chapter will explain some steps you can take to plan for old age and death. Planning ahead can ease your mind and protect your interests. Good planning may also help guide your loved ones if they need to make difficult decisions for you in the future.

This chapter will discuss some of the steps you can take, including:

1. Indicating where you want your money, house and other things to go after you die by creating a Will.
2. Notifying people of your choices for medical care in case you become very ill and are unable to make your wishes known by creating a Health Care Advance Directive.
3. Naming someone you trust to make financial decisions and handle your money and assets or property for you by creating a Power of Attorney.

This chapter also discusses two things that a court might do if you can no longer take care of yourself or your property and you have not named an agent in a Power of Attorney (or Health Care Advance Directive). In that situation, a court might name a Guardian or Conservator to protect your interests. Finally, this chapter will discuss your options for planning your funeral.

## **WILLS AND PROBATE**

This section answers basic questions about Wills, Will alternatives, and the probate process.

## What is a Will and do I need one?

A Will is a legal document that states who you want to get your money and your property when you die. In Maine, anyone aged 18 or older who is of sound mind can make a Will. When you write your Will, you list all your property and who you want to give it to after you die (these people are called your *beneficiaries*). You may also designate your Personal Representative, the person who will carry out the wishes you specify in your Will and distribute your property. You can change your Will at any time so long as you are of sound mind. Otherwise, it's only final at your death.

A good Will can prevent family members and others from fighting about your property in probate court. Here's an example: let's say you have been married twice and your children are from your first marriage. According to Maine law, if you die without a Will, your second husband would have the right to only one-half of your estate. The remaining one-half would go to your children. This may or may not suit you. But, you have the power to change this if you have a Will.

If you want to make sure a certain person gets a special item such as jewelry, make a Will! If you want to leave money to a favorite charity, make a Will! If you want your close friend, not your only living relative, to have most of your money or property, make a Will!

## What happens to my things if I die without a Will?

If you do not have a Will, state law will determine where your things go after you die. This can be a fairly complicated process if you have a large or "blended" family. It is a good idea to talk to an attorney to make sure your wishes are understood by those who need to know.

## Do I need an attorney to draft my Will?

No, but it's risky to do it yourself. Laws are complex. This is especially true if you have a large or "blended" family or own real estate. An attorney can help make sure that your wishes are carried out after you die.

If you wonder whether you need a Will or if you have other questions, call the LSE Helpline to talk to an attorney for free. LSE may be able to refer you to a private attorney who can prepare your Will at a reduced fee. Hiring an attorney to write a good Will might be less expensive than you think.

## Who makes sure that my Will is followed?

When you make a Will, you name the person who you want to take charge of your property after you die. This person is called the Executor or Personal Representative (PR). The PR finds and



**A WILL PROTECTS YOUR INTERESTS AFTER YOU'RE GONE.**

**If you want to make sure a certain person gets a special item like jewelry, make a Will!**

**If you want to leave money to a favorite charity, make a Will!**

**If you want your close friend, not your only living relative, to have most of your money or property, make a Will!**



## **DO-IT-YOURSELF WILL? DON'T DO IT!**

**For most people it's not a good idea to do your own will, even if you're using estate planning software or a pre-printed Will form.**

**Wills are complex legal documents. Get professional help for free by calling the LSE Helpline.**

reads your original Will. She decides whether the Will needs to be “probated,” a process by which a probate court reviews the Will and makes sure the directions in the Will are followed.

If you own very little property when you die, the PR can most likely give it to the people you name in your Will without going to probate court. If you own a good amount of property, the PR sends the original Will to the probate court. She asks to be “appointed” by the court as PR. Your family is notified about this request and if no one objects, the court gives her the authority to act as PR. The PR may also pay any bills left at your death if there is money to do so.

### **If I have a Will and it goes to probate, what will happen?**

Normally, it does not take long or cost a lot to probate a Will in Maine. Many people go through this process without an attorney. The probate court simply makes sure everything is in order and the Will is followed. Sometimes, people listed in the Will object to the way things are being handled. Often, it has little to do with the value of the property being probated. The probate judge will settle these disputes.

### **Are there ways other than a Will to pass my property to others?**

It depends on the type of property. Some property cannot be passed to others without a Will, and it is hard to know if you have taken care of everything without a Will.

If you are thinking about passing your property to others without a Will, call the LSE Helpline to talk to an attorney for free.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you have questions about your Will, or if you are trying to pass property to someone, call the Legal Services for the Elderly Helpline to talk to an attorney for free at 1-800-750-5353. [www.mainelse.org](http://www.mainelse.org)

## **HEALTH CARE ADVANCE DIRECTIVES**

When you need medical care, you have the right to make choices about that care. But there may come a time when you are so sick that you can't make your wishes known. You can stay in charge by putting your choices in writing ahead of time by completing an Advance Directive. This section will answer some basic questions about Advance Directives.

## What is an Advance Directive?

Any spoken or written decision or instruction about the health care you want in the future is called an Advance Directive. You can tell your doctor or family what you want, but it is best to write it down.

Advance Directives are sometimes called Living Wills or Durable Health Care Powers of Attorney. If you have already signed one, make sure your doctor, your hospital and your family have a copy. If you don't have one, the Maine Hospital Association has a free form you can use. You can get the instructions and the form on the Legal Services for the Elderly website.<sup>1</sup> This is a very straightforward form that provides easy-to-follow directions. However, the law does not require that a particular form be used, so you may use any form that you like when preparing an Advance Directive.

## Who can make an Advance Directive?

In Maine anyone 18 years old or older can complete an Advance Directive. If you are younger than 18 you may also be able to complete an Advance Directive under certain circumstances.

## Do I need an Advance Directive?

If you sign an Advance Directive, your family and your doctor will know who to talk to about your care or what kinds of treatment you want or do not want when you are too sick to decide. This could happen if you have a serious illness or are near the end of life. If your doctor does not know your wishes, they will treat you until they can ask your family what you want. If your family does not know your wishes, you may get treatments you do not want.

## What do I say in an Advance Directive?

The Maine Hospital Association form provides you with a number of choices, including:

1. Choosing someone to make all your health care decisions beginning either right away or when you are too sick to make decisions. That person is called your agent. Your agent can be a family member or friend. If you choose an agent, two (2) witnesses must sign your Advance Directive.
2. Choosing whether or not you want certain end-of-life treatments when you are very ill. For example, you can choose what you wish to have done if you are terminally ill or unconscious. Your agent must follow any choices you make in an Advance Directive.
3. Stating a desire to donate your organs. Indicate your wishes and any plans you have made to donate your organs.



**WHO'LL MAKE YOUR HEALTH CARE DECISIONS IF YOU'RE TOO SICK TO DECIDE?**

**An Advance Directive or Living Will protects your wishes regarding your care.**

**It's basically instructions for doctors, caregivers and family members regarding treatments you do and don't want to get. It's a simple form LSE can help you with.**



## **TALK WITH YOUR FAMILY AND DOCTORS ABOUT AN ADVANCE DIRECTIVE.**

**It's not a pleasant topic, but it's an important one to talk about.**

**Make sure your doctor, family and friends understand your wishes. Give them copies of the document. Review it every few years and see if it needs updating.**

### 4. Naming your primary doctor.

You can find an interactive version of the Maine Hospital Association's form and instructions on the Legal Services for the Elderly website.<sup>2</sup>

#### **What happens if I do not make an Advance Directive?**

If you do not name an agent or do not have an Advance Directive, the doctor will ask your family what treatment you would want, in this order:

- Spouse (unless legally separated) or similar relationship;
- Adult children;
- Parents;
- Adult brothers and sisters;
- Adult grandchildren;
- Adult nieces and nephews; and
- Adult aunts and uncles.

If the doctor can't reach a family member, the doctor may ask another adult relative or good friend who knows your values. If you do not want certain members of your family to be able to make decisions for you, you need to put this in writing and give it to your doctor or hospital.

Your family can tell your doctor to continue to treat you. They can also tell your doctor to stop or not give treatment to keep you alive (life-sustaining treatment) if you are terminally ill or unconscious. Certain family members may not, however, be able to make other decisions for you unless you name one of them as your agent in your Advance Directive.

#### **What rights do I have as a patient?**

When you need medical care, you have certain rights, including the right to refuse care. You have a right to know:

- What your medical problem is and what tests and treatments may be needed.
- What the doctor thinks can be done and what the usual risks are.

- If there are other ways to care for you.
- What may happen if you refuse care.

### **How do I make an Advance Directive?**

1. Get a free form and instructions from the Maine Hospital Association by visiting the Legal Services for the Elderly website.<sup>2</sup> Most health care facilities also have free forms that you can use for making an Advance Directive. Legal Services for the Elderly can also send you a copy of the Maine Hospital Association's form. If you'd like to get one, or if you would like help completing one, give the LSE Helpline a call.
2. Talk to your doctor. Ask your doctor about your health and what might happen to you. Take the form with you to the visit to help you think about the choices you have.
3. Fill out the form, sign it, and have 2 others sign as witnesses. The person you choose to make health care decisions for you cannot be a witness to your signature. You don't have to have an attorney to make an Advance Directive, unless you want to. You don't have to get it notarized, but it's a good idea to do so if you can.
4. Make copies and give one to each of your doctors or hospital. Ask your doctor to include it in your medical record. If you had an attorney help you with the form, give a copy to her. Also give a copy to the person you have named to make health care decisions for you. It's a good idea to keep the original yourself and give other copies to your family.
5. Keep on talking about what you want. Writing an Advance Directive is just the start of an on-going process. Look at your Advance Directive every five years or if you have a new health situation, to make sure it still reflects your wishes. Talk with your family, your doctor, and anyone else who is involved in your care about what you want. Make sure they agree to do what you want. It's not easy to think or talk about these things, but unless others know what you want you may get care you don't want, or your family could end up in court fighting about your care. If you aren't sure how to talk about this with your family, Legal Services for the Elderly can provide you with some materials that include suggested topics. Call the LSE Helpline to get a copy of these materials.



## **DOES MY DOCTOR HAVE TO FOLLOW MY CHOICES IN MY ADVANCE DIRECTIVE?**

**Yes. If your doctor, hospital, or other place of health care has any special rules about health care decisions, or if they will not carry out your decisions, they must tell you.**

**They must then arrange to move you to a doctor, hospital, or other place which will carry out your decisions.**

## **What happens to the Advance Directive after I have signed it and given it to my doctor?**

Your doctor will put the Advance Directive in your medical record, where it should be seen by everyone involved in your care. Later on, if you are terminally ill or unconscious, the doctor caring for you will follow the directions in your Advance Directive. If the doctor is not willing to follow your directions because of the doctor's own personal or religious beliefs, he or she must transfer you to the care of another doctor who will follow your directions.

## **When does my Advance Directive go into effect?**

Many people want their Advance Directive to go into effect immediately. If you do, you have to say so in your Advance Directive. If your Advance Directive doesn't say anything about when it will go into effect, it will be used only when you become "incapacitated," meaning you are too sick to choose your care or tell others what care you want. Your doctor will help decide if that time has come and when your Advance Directive should be used. If your doctor later states that you have recovered and have regained your ability to choose your care or tell others what you want, then your Advance Directive is no longer in effect.

## **How will I be determined to be incapacitated?**

Unless you state otherwise in your Advance Directive, your primary care physician will be responsible for determining incapacity. If your primary care physician is unavailable, then the physician who is providing you care at the time will make the incapacity determination.

If you want to name a specific person or someone other than your primary care physician to determine incapacity, then you must state this in your Advance Directive. Some alternative options might be:

- Your primary care physician makes an initial determination about your incapacity, but then must obtain a confirming second opinion from another doctor before your Advance Directive becomes effective; or
- A probate court judge can make the incapacity determination.

## **Does my doctor have to follow my choices in my Advance Directive?**

Yes. If your doctor, hospital, or other place of health care has any special rules about health care decisions, or if they will not carry out your decisions, they must tell you. They must then arrange to move you to a doctor, hospital, or other place which will carry out your decisions.

## **Will my Advance Directive be followed by emergency responders?**

Sometimes emergency medical personnel administer life support to people who have Advance Directives that say they don't want life supports. This may happen because, in an emergency, the staff will have to act quickly. They may not have time to read the Advance Directive before responding to the emergency. And, even after they read the Advance Directive, they would need even more time to make sure that the patient is in a terminal condition and that it is indeed appropriate to withdraw treatment.

If you are already in a terminal condition and feel strongly that you do not want to be given life support under any circumstances, you should talk to your doctor. Your doctor may be able to notify the ambulance service and the emergency room that they should not give life support and that they should only give you treatment that will ease your pain and keep you comfortable.

## **What happens if my heart stops?**

If you are in the hospital and your heart or breathing suddenly stops, drugs, machines, and other means will be used to try to restart them. This is called *cardiopulmonary resuscitation* or CPR. CPR is always done unless your doctor writes an order called a "Do Not Resuscitate" order or DNR. If you have concerns about CPR, discuss them with your doctor while you are well. If you make an Advance Directive that says you do not want CPR, it may not be possible for the hospital to follow your decision all the time. For example, if you come to the emergency room and your heart has stopped, there may be no time to check your Advance Directive before CPR is started. If you do not want CPR, your doctor must write a DNR order for you and put it in your hospital record. Your doctor will then give you a special orange bracelet designed to alert ambulance crews and hospital emergency personnel that you do not want CPR.

## **What if I suffer from a mental health problem?**

You may choose to sign a different form, called a Mental Health Directive, which allows you to choose what treatment you want if you become very mentally ill and are unable to make health care decisions. This is similar to making a Health Care Advance Directive, but there are questions that are specific to mental health determinations that will affect what you write in your Mental Health Directive. You should contact the Maine Disability Rights Center and talk to an attorney about this process. Call the Maine Disability Rights Center at 1-800-452-1948.

### **Does a Guardian have to follow my Advance Directive?**

Yes, unless the probate court specifically decides otherwise. Under the “Uniform Health Care Decisions Act,” Guardians have to follow Advance Directives unless the court orders that the Guardian’s decisions need to be followed instead.

### **If I make an Advance Directive in Maine, will it be followed if I am in another state?**

It is possible that you may get sick, injured, or need to go to a hospital while visiting in another state. You should carry a copy of your Advance Directive with you in your wallet or purse, since your medical record will not be available right away to the doctors there. You should also have your Advance Directive witnessed by a notary public or attorney if you travel sometimes and are concerned about how your Advance Directive will be treated in another state. Whether the doctors there follow your directions depends on whether that state has an Advance Directive law similar to the law in Maine.

### **Will signing an Advance Directive affect my insurance?**

The law says that insurance companies are not allowed to base anything in an existing or future life insurance policy on whether a person does or does not have an Advance Directive.

### **What else should I know about Advance Directives?**

Every hospital and many other places that provide health care in Maine have Advance Directive forms or can tell you how to get them. Just ask your doctor or nurse. They can explain the forms, but they cannot give you legal advice.

No one can make you sign a form or stop you from signing it. You also have the right to change or cancel a form at any time. The Advance Directive form does not allow others to control your money or property. It does not allow anyone to violate laws against mercy killing and euthanasia.

### **What can I do if I don’t think my medical provider followed my Advanced Directive?**

If you have a complaint about how a hospital or other health care facility handled your Health Care Advance Directive, you may contact:

**Division of Licensing and Regulatory Services**  
Maine Department of Health and Human Services  
State House Station 11, 41 Anthony Ave.  
Augusta, ME 04333  
Tel: (207) 287-9300 OR 1-800-383-2441

If you have a complaint about how a physician or physician assistant handled your Health Care Advance Directive, you may contact:

**Maine Board of Licensure in Medicine**

137 State House Station

Augusta, ME 04333-0137

Tel: (207) 287-3601 or Complaints: 1-888-365-9964

OR

**State of Maine Board of Osteopathic Licensure**

142 State House Station

Augusta, ME 04333-0142

Tel: (207) 287-2480 or Complaints: 1-888-365-9964

If you have a complaint about how a nurse practitioner handled your Health Care Advance Directive, you may contact:

**Maine State Board of Nursing**

158 State House Station

Augusta, ME 04333-0158

Tel: (207) 287-1133

## RESOURCES

### Legal Services for the Elderly

If you are a Maine resident who is 60 or older and you are interested in writing an Advance Directive or would like a printed Advance Directive form, call the Legal Services for the Elderly Helpline to talk to an attorney for free at 1-800-750-5353. [www.mainelse.org](http://www.mainelse.org)

You can get a copy of the Maine Hospital Association's Advance Directive form and instructions by calling the LSE Helpline or by visiting the LSE "Elder Rights Handbook" website.

<http://mainelse.org/content/health-care-advance-directives>

### The Maine Hospital Association

You can find an Advance Directive form and instructions on the Maine Hospital Association's website. The website also has additional resources available. [www.themha.org/](http://www.themha.org/)

### Maine Disability Rights Center

If you have a mental illness or cognitive impairment and you are interested in learning more about making an Advance Directive or a Mental Health Advance Directive, call the Maine Disability Rights Center at 1-800-452-1948. [www.drcme.org/](http://www.drcme.org/)



## ADVANCE DIRECTIVE FORMS

You can get a copy of the Maine Hospital Association's Advance Directive form and instructions by calling the LSE Helpline, or going to [www.mainelse.org](http://www.mainelse.org).

### **Maine Office of Aging & Disability Services**

The Office of Aging and Disability Services is a great resource for seniors in the process of planning for their future. The publication “**Aging: Taking Care of Business**” covers: Health Care Advance Directives, Durable Powers of Attorney for Finances, Guardianship/Conservatorship, as well as other related information.

Go online to get the Guide.

[www.maine.gov/dhhs/oads/aging/aging\\_tcb/index.htm](http://www.maine.gov/dhhs/oads/aging/aging_tcb/index.htm)

### **Consumer’s Toolkit for Health Care Advance Planning**

Created by the American Bar Association, this Toolkit contains a variety of self-help worksheets, suggestions, and resources. There are 10 tools in all, each clearly labeled and user-friendly. The toolkit does not create a formal Advance Directive for you. Instead, it helps you do the much harder job of discovering, clarifying, and communicating what is important to you in the face of serious illness.

Get the toolkit at the following website:

[www.abanet.org/aging/toolkit/home.html](http://www.abanet.org/aging/toolkit/home.html)

## **POWERS OF ATTORNEY**

This section will answer some basic questions about Powers of Attorney.

### **What is a Power of Attorney?**

A Power of Attorney is a document that gives someone else (usually a trusted relative or friend) the authority to make certain decisions and act on your behalf. The person to whom you give these powers is called an “agent” or “attorney-in-fact.” You are called the “principal.”

The most common type of Power of Attorney is called a Durable Power of Attorney. The word “durable” means that you created your Power of Attorney while you still had capacity, and that you intended for the document to remain in effect if you become “incapacitated.” You are “incapacitated” when you are too sick to choose your care or tell others what care you want. Without the document expressly stating that it is a Durable Power of Attorney, the agent could lose her authority if you are later determined to be incapacitated.

### **If I sign a Power of Attorney, do I give up the right to handle my own affairs?**

**No.** You can still manage your own affairs as long as you are willing and able. Signing a Power of Attorney does not mean you can no longer make your own decisions. Signing a Power of Attorney means that someone else can handle your affairs if you ask them to or when

you cannot. It **does not** mean you give up any rights to your money, your property or your ability to make your own decisions.

If your agent does start handling your affairs, they must handle your money and property the way you want. As long as you are capable of making decisions, the agent must follow your directions. The law says that your agent must do what is in your best interests. You can revoke the Power of Attorney at any time if you become unhappy with what the agent is doing so long as you still have capacity, meaning that you understand what you are doing.

If your agent is telling you that you can't do something because they have "Power of Attorney over you," he or she might not understand what it means to be your agent, or worse, might be abusing his or her authority as your agent.

**REMEMBER: when you sign a Power of Attorney, you do not give up your rights and freedoms.** If you are unhappy with your agent or want to revoke your Power of Attorney, call the Legal Services for the Elderly Helpline to talk to an attorney for free and confidential help.

### **How do I get a Power of Attorney?**

Talk to an attorney who can help you decide what's best for you. If you're 60 or older, an attorney from Legal Services for the Elderly can answer your questions and may be able to create a Power of Attorney for you.

Do not use a pre-printed form from an office supply store, a library, or the internet. Some of these forms are not legal in Maine. Even if the form is legal, it may not give you the best legal protection. Most pre-printed forms give agents the broadest possible authority with few limits. Unfortunately, some agents abuse this authority and help themselves to your money and property. An attorney can help draft a Power of Attorney that includes protections to avoid or reduce this risk.

If you have already used one of these forms to create a Power of Attorney, you might want to talk to an attorney. An attorney can help you put some limitations on the agent's authority if you decide it is a good idea. Legal Services for the Elderly can answer your questions for free. Call the LSE Helpline.

### **Does the court need to be involved?**

No. The benefit of signing a Power of Attorney is that it gives someone else the legal power to do things for you when you can't, without going through any type of court process. But, if you don't have a Power of Attorney and something happens to you, your family



**WHEN YOU SIGN  
A POWER OF  
ATTORNEY, YOU  
DO NOT GIVE UP  
YOUR RIGHTS AND  
FREEDOMS.**

**If you are unhappy  
with your agent  
or want to revoke  
your Power of  
Attorney, call the  
LSE Helpline to talk  
to an attorney for  
free.**



**TO GET A “POWER OF ATTORNEY” YOU SHOULD TALK TO AN ATTORNEY.**

**It’s not a do-it-yourself type of thing. Don’t use a pre-printed form from an office supply store, or from a library or the internet. Some of these are not legal in Maine.**

**Talk to an attorney to protect your best interests.**

will need to go to court and ask the court to give them the authority to handle your affairs.

**How do I choose an agent?**

The person you choose to be your agent or attorney-in-fact has to do certain things. The agent’s most important job is to always act in your best interest.

Although your agent is only supposed to do things that are in your best interest or for your benefit, your agent has great freedom to do as he or she pleases. Because your agent will have so much power, it is important to choose someone whom you trust. Before choosing an agent, ask yourself the following questions:

- Do I trust this person?
- Does this person understand my feelings and my point of view? Will he or she follow my wishes if I am ever incapacitated?
- Is this person willing to do the work and spend the time handling my affairs?
- Is this person available to visit me or to keep in contact by phone?
- Is this person knowledgeable about finances? If not, would this person seek the help of experts?
- Would I trust this person to handle my money if no one was watching him or her?

An agent must keep your money separate from his or her own. He or she must not be personally involved in or stand to profit by any action taken on your behalf.

An agent is not allowed to give away or transfer any of your money, personal property, or real estate to himself or herself **unless** the Power of Attorney document says this is OK. You and your agent must remember that certain gifts can affect your eligibility for long-term care benefits under Medicaid and can result in other serious consequences. Because of these risks, it is especially important that people with property (such as a house or a camp), savings (such as bank accounts, stocks, bonds, certificates of deposit), and income (such as salary, pension, and Social Security benefits) get an attorney to help them make a Power of Attorney.

You should call the LSE Helpline to talk to an attorney about your

situation. It's free and easy. The attorney can help you decide what you should do.

### **Is the agent required to keep records?**

Yes, unless you say otherwise in your Power of Attorney. The agent should keep separate and accurate records and make them available to you or anyone you choose.

### **Does an agent get paid?**

This depends on the relationship of the agent and the principal and the duties involved. Normally, in family situations where the agent's duties are simple, no payment is provided. However, if an agent has to run a business or manage complicated financial affairs, then payment is appropriate. Legally, no payment is required. If payment is intended, it should be clearly stated in the Power of Attorney document.

### **Where should I keep my Power of Attorney?**

If your agent is going to start taking actions for you immediately, you should give him or her the Power of Attorney. You should keep a copy for your records. You may also choose to keep the original yourself if you do not want your agent to start conducting your business right away. Keep the original in a safe place at home where it can be found if it is needed.

### **Can I create a Power of Attorney when I am mentally incapacitated?**

No. In order to create a Power of Attorney, you must know and understand what you are doing. A person who is mentally incapacitated cannot make a Power of Attorney.

### **Can I create a Power of Attorney if I cannot sign my name?**

Yes. If you are mentally capable but unable to sign your name, any mark made with the full intention that it be your signature is acceptable.

### **Can I revoke my Power of Attorney?**

Yes. If for any reason you are no longer comfortable having your agent handle your affairs, you have the right to revoke the Power of Attorney at any time, as long as you are of sound mind. You might want an attorney to help you do this. Call the LSE Helpline to talk to an attorney for free.

In order to revoke a Power of Attorney, you simply write or type a statement which includes the following:

- Name and date;



## **BE CAREFUL ABOUT YOUR BANK ACCOUNTS!**

**If you want to control your money, be wary of joint accounts. Someone else's name on your account gives them access to your money.**

**Joint accounts may also affect your MaineCare eligibility. Call the LSE Helpline to talk to an attorney about joint bank accounts.**

- You wish to revoke the Power of Attorney;
- Specify the date the original Power of Attorney was executed;
- Specify the person or persons named as your agent(s); and
- Your signature.

Give copies of that statement to your agent and to any institutions and agencies that had notice of your Power of Attorney, such as banks and hospitals. After you revoke the Power of Attorney, you can 1) execute a new Power of Attorney naming someone else your agent to handle your affairs; or 2) handle your own affairs.

### **Is my Power of Attorney effective after I die?**

No. A Power of Attorney ends upon your death. Your Will, or if you don't have a Will, Maine law, governs the handling of your estate. A Power of Attorney document is not a substitute for a Will.

### **Are there alternatives to a Power of Attorney?**

Yes, Guardianship and Conservatorship are alternatives. However, you lose many freedoms and rights under Guardianship or Conservatorship and only a probate court can appoint a Guardian or Conservator. If you want the court to be able to review your affairs, you might want to have this formal arrangement. However, managing your affairs by either alternative can be accomplished more easily and cheaply with a Power of Attorney.

### **Can I just add a relative's name to my bank accounts instead?**

**This is very risky.** When you put someone's name on your bank account, that person becomes the co-owner of all the money in the account. This means the other person does not need your permission to withdraw some, or all of the money, regardless of who deposited it. It also means that if the other person runs into money problems or gets a divorce, then you risk losing some, or all of the money to his or her creditors or in the divorce settlement. Sometimes co-owners abuse the trust placed in them and take all the money. Also, adding someone to your bank account can impact your ability to get MaineCare to cover your long term care costs. This is why joint accounts are very risky.

If you are still interested in having a joint account, you should talk to your bank. It might be able to offer a safer alternative to a joint bank account that accomplishes what you want.

If you already have a joint account and you think the co-owner is

taking money when they shouldn't, you should get an attorney to help. Or, if you are unsure as to whether you should add someone's name to your account, you should talk to an attorney. Call the LSE Helpline to talk to an attorney for free.

## RESOURCES

### Legal Services for the Elderly

If you are a Maine resident who is 60 or older and you want help making or revoking a Power of Attorney, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free and confidential help. [www.mainelse.org](http://www.mainelse.org)

### Maine Office of Aging & Disability Services

The Office of Aging and Disability Services is a great resource for seniors in the process of planning for their future. The publication “Aging: Taking Care of Business” covers: Health Care Advance Directives, Durable Powers of Attorney for Finances, Guardianship/Conservatorship, as well as other related information.

Go online to get the Guide.

[www.maine.gov/dhhs/oads/aging/aging\\_tcb/index.htm](http://www.maine.gov/dhhs/oads/aging/aging_tcb/index.htm)

## CONSERVATORSHIP & GUARDIANSHIP

There might come a time where you are suffering from an illness or disability and you are no longer able to adequately care for yourself, your money, or your property. Close family members or friends might be worried about your well-being. If you have not planned ahead for this event by creating a Power of Attorney or naming a person to act as Guardian then your friends or family might decide that the best way to help you is to ask the court to appoint a Conservator or Guardian. This section will answer some basic questions about Conservatorship and Guardianship.

### Conservatorship

A Conservatorship is a legal relationship where one person (the Conservator) is appointed by the probate court to manage the money and property of another person (the protected person) if that person is unable to do so due to illness or disability. The purpose of a Conservator is to make sure that your property and finances are protected and used only in your best interest. Unlike a Guardian, a Conservator only has authority over your money and finances, not your personal life.

Your Conservator is required to use your money to provide for your



## **A CONSERVATOR HELPS YOU MANAGE YOUR MONEY AND PROPERTY.**

**If someone is trying to become your Conservator and you don't think you need one, you should get an attorney to help you.**

**Call the LSE Helpline to talk to an attorney for free.**

needs. He or she **may not** use your money for their benefit, and must keep your money separate from his or her own. If you have a Conservator who is not also the Guardian, the Conservator must consult with the Guardian regarding your needs and how best to spend your money.

### **Do I need a Conservator?**

If you are having a hard time managing your money and property due to illness or disability, your family or close friends might worry about your well-being. If you do not have an agent under a Power of Attorney, they might decide to ask the probate court to appoint a Conservator to help you. When you have a Conservator, you lose certain rights to decide what will happen to your money and property. You can avoid losing these rights by planning ahead and creating a Power of Attorney. For more information on how to make a Power of Attorney, see the section of this chapter titled “Powers of Attorney.”

If someone is trying to become your Conservator and you don't think you need one, you should get an attorney to help you. Call the LSE Helpline to talk to an attorney for free.

### **Who will be the Conservator?**

The court will appoint someone to act as Conservator for you. Generally, the judge will try and find a close relative or friend who knows you well and who might have a good idea of how you would want your money managed. If that is not an option, a caseworker working through a state agency may be appointed.

Certain people **may not** be your Conservator. For example, if you live in a nursing home or residential facility, the owner may not be appointed Conservator unless he or she is also your relative. The same is true for any administrator or employee of your nursing home or residential facility.

### **What authority will the Conservator have over me?**

The Conservator will be responsible for managing your money and finances. He or she has broad powers regarding how to do this. Primarily, the Conservator must make sure that money is available for your care and support and also must file taxes on your behalf. Any additional money must be invested or managed in a way that is in your best interest and in keeping with how you would want your money spent. This means that the Conservator can make investments with your money, buy property with your money, and in some cases, make gifts or donations to charity.

The Conservator **may not** use your money for his or her benefit and may not draft a Will for you.

### **What can I do to avoid having a court-appointed Conservator?**

If you wish to avoid having a court-appointed Conservator, you can plan ahead and choose the person you wish to manage your finances. You can name this person as your agent in your Power of Attorney. For more information on how to make a Power of Attorney, see the section of this chapter titled “Powers of Attorney.”

### **Guardianship**

A Guardianship is a legal relationship where one person (the Guardian) is appointed by the probate court to manage the personal affairs of another person (the ward) who the court has deemed incapacitated. If a Conservator has not been appointed, a Guardian might also manage a person’s financial affairs.

A Guardianship is unlike an Advance Directive or a Power of Attorney because in those instances, you chose to give authority to others; a Guardianship can be created over your objection if the court finds that you are incapacitated and need someone to make decisions for you.

### **Do I need a Guardian?**

If someone is trying to obtain a Guardianship over you, the probate court will decide whether or not you are considered incapacitated. The court will grant a Guardianship only if you are unable to make decisions for your own well-being and safety. Once a Guardianship has been granted, you lose certain individual freedoms and rights. The Guardianship will not be removed unless you can prove to the court that:

1. It is no longer needed; or
2. That the Guardian is not acting in your best interests.

### **Who will be the Guardian?**

If the court determines that you need a Guardian and you have not already chosen someone to hold this role in your Power of Attorney or your Advanced Directive, the court will choose and appoint someone. The court will appoint a Guardian in the following order of preference:

- The person or organization nominated in writing by the person in need of a Guardian;



**A GUARDIAN IS SOMEONE APPOINTED BY THE COURT TO MAKE DECISIONS FOR YOU.**

**Once a Guardianship is granted, you lose certain rights. If someone is trying to obtain a Guardianship over you, you have the right to an attorney.**

**If you don’t want a Guardian, you need an attorney to help you. Call the LSE Helpline to get free legal help.**



**A GUARDIAN'S  
AUTHORITY IS LIKE  
THAT OF A PARENT  
OVER A YOUNG  
CHILD.**

**A Guardian  
greatly limits your  
individual rights  
and freedoms.**

**Talk to an attorney  
before you make  
any decisions about  
getting a Guardian.**

- The spouse;
- The domestic partner;
- An adult child;
- A parent, including a person nominated by a Will or other writing signed by a deceased parent;
- A person who served as Guardian, Permanency Guardian, or Legal Custodian of the incapacitated person when the incapacitated person was a child, if the person was actively serving in that capacity immediately before the incapacitated person's 18th birthday;
- Any relative with whom the person in need of a Guardian has lived with for more than six months before the papers were filed in Court to have a Guardian appointed; or
- A person nominated by someone who is caring for the incapacitated person or paying benefits to him or her.

**What authority would a Guardian have over me?**

A Guardian has similar powers and authority over you that a parent has over a minor child. A Guardian can make decisions about how you spend your money, where you live, what activities you participate in, and unless addressed by an Advanced Directive, what medical care you receive. If the court appoints a Guardian for you, your individual rights and freedoms become greatly limited.

**Are there different types of Guardianship?**

Yes, in Maine there are two types: full or limited Guardianship. The type of Guardianship that the court will choose is based on the request for Guardianship, your mental state and your specific needs.

If the court assigns a *full* Guardianship, the Guardian has decision-making control over all areas of your life. This is appropriate when:

- You are unable to make or communicate responsible decisions for yourself;
- It is necessary to ensure that continuing care is provided for you; and
- Friends, staff, and family members involved in the decision have researched and ruled out less restrictive options.

If the court assigns a *limited* Guardianship, the Guardian has control over some, but not all areas of your life.

### **What can I do to avoid having the court choose a Guardian for me?**

You can plan for incapacitation by naming the individual you would want to be appointed Guardian for you, should the need arise. You can name this person in your Power of Attorney documents, or in your Advance Directive. To learn more about how to get a Power of Attorney or Advance Directive, see those sections in this chapter.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and someone is trying to become your Conservator or Guardian, call the Legal Services for the Elderly Helpline to talk to an attorney for free at 1-800-750-5353. [www.mainelse.org](http://www.mainelse.org)

### **Maine Office of Aging & Disability Services**

The Office of Aging and Disability Services is a great resource for seniors in the process of planning for their future. The publication “**Aging: Taking Care of Business**” covers: Health Care Advance Directives, Durable Powers of Attorney for Finances, Guardianship/Conservatorship, as well as other related information.

Go online to get the Guide.

[www.maine.gov/dhhs/oads/aging/aging\\_tcb/index.htm](http://www.maine.gov/dhhs/oads/aging/aging_tcb/index.htm)

## **PLANNING FOR YOUR FUNERAL**

Although it is difficult to think about your death, planning for it can be very helpful for your loved ones. This section will answer some basic questions about funeral plans.

### **What funeral plans should I consider making?**

There are a number of decisions you can make when pre-planning your funeral. The first step is to decide what you want to have happen to your body after your death. Whatever decision you make will help guide you through the rest of your planning.

Once you have decided what you want to have happen with your remains, you should consider if you want a ceremony and if so, what kind of ceremony you would like. If that ceremony includes the use of a funeral home and/or cemetery, it is important to consider your options. You should shop around and find a funeral home that fits your needs and gives you the best value. Start by researching what is



## **A MORTUARY TRUST IS LIKE A LAY-AWAY PLAN.**

**It's an agreement between an individual and a funeral home. Money is paid up front to cover the costs of agreed upon funeral and burial or cremation arrangements.**

**Because it's a contract, take time to thoroughly read and understand it.**

available in your area and go visit the funeral homes. It is a good idea to bring someone with you when you visit, and do not sign anything on the first visit!

Funeral directors are required by federal regulation to provide you with specific pricing information upon request. Ask the funeral director to give you a “General Price List.” You may be surprised to find big price differences, so compare these lists and choose the best option for you.

Whatever you decide, keep a copy of all your paperwork and write down any wishes you have about specific things. Share this information with your spouse or a close friend or relative so they can make sure your plans are put into effect. You can include your funeral and burial plans in your estate plan and can direct your Personal Representative to act in accordance with your wishes. For more information on Wills and Personal Representatives, see the section of this chapter titled “Wills.”

### **What is a Mortuary Trust?**

A Mortuary Trust, or Pre-Paid Funeral Contract (also called a “Pre-Need Funeral Arrangement”) is an agreement between a purchaser (payor) and a funeral home that acts as a trustee (keeping the funds safe for their final use). The purchaser may or may not be the person who receives the funeral goods and services at death (beneficiary).

A Pre-Paid Funeral Contract can save you money if certain prices are guaranteed. Some prices may not be guaranteed, so read the Contract carefully. Ask questions if you are unsure about any part of the Contract.

There are laws that apply to Mortuary Trusts. These laws are in place to protect the purchaser. Even so, it is very important that you read and understand the **entire** Contract before you sign it. Better yet, before you sign, have the funeral home fill in the guaranteed prices. Then, take the Contract home to look it over.

Some advantages of a Mortuary Trust are:

- Many prices are guaranteed.
- Making decisions ahead of time with a clear head may help you avoid excessive expenses that come with high-pressure sales talk.
- A Mortuary Trust is an exempt asset under MaineCare up to a

certain dollar limit. This means the money in the Trust may not count in determining MaineCare eligibility.

Some disadvantages of a Mortuary Trust are:

- They are often not revocable (you can't get your money back). However, you can transfer the Trust to another funeral home.
- You may not be able to transfer the Trust to another state. If the beneficiary moves and dies in another state, additional expense may be added.
- If you decide to change from a higher cost burial to a lower cost cremation, you will probably lose money by being "locked into" the earlier Contract.

### **What if I want to be an organ donor?**

Any Maine resident aged 16 years or older may become an organ donor by adding his or her name to the organ donor registry. Becoming an organ donor requires only a few simple steps and can be completed online, or if you prefer, you can visit your local Bureau of Motor Vehicles branch office to sign up in person. To join the registry and become an organ donor, visit the organ donor registry website.<sup>4</sup>

## **RESOURCES**

### **Funerals: Consumer Rights Under the Funeral Rule**

For a great overview of the entire funeral and burial planning process, including a summary of legal protections available to you, visit the Federal Trade Commission's website and review the article "*Shopping for Funeral Services.*"

[www.consumer.ftc.gov/articles/0070-shopping-funeral-services](http://www.consumer.ftc.gov/articles/0070-shopping-funeral-services)

### **Maine Bureau of Motor Vehicles: Organ Donor Registry**

For more information about organ and tissue donation in Maine, visit the Maine Bureau of Motor Vehicles website.

[www.maine.gov/sos/bmv/donatelife/index.htm](http://www.maine.gov/sos/bmv/donatelife/index.htm)

To join the registry and become an organ donor, visit the organ donor registry website.

[https://www5.informe.org/cgi-bin/online/bmv/organ\\_donor/index.pl](https://www5.informe.org/cgi-bin/online/bmv/organ_donor/index.pl)

Or, visit your local Bureau of Motor Vehicles Branch office and complete the forms in person.

## NOTES

- 1) Advance Directive forms & instructions:  
<http://mainelse.org/content/advance-directives-forms>
- 2) Advance Directive forms & instructions:  
<http://mainelse.org/content/advance-directives-forms>
- 3) Advance Directive forms & instructions:  
<http://mainelse.org/content/advance-directives-forms>
- 4) Organ donor registry:  
[https://www5.informe.org/cgi-bin/online/bmv/organ\\_donor/index.pl](https://www5.informe.org/cgi-bin/online/bmv/organ_donor/index.pl)

# Protecting Your Money and Property

If you are a savvy senior who is looking for some good information on how to keep your money and your property safe as you age, you have come to the right place!

This chapter will tell you some smart things you can do to keep your money and property safe as you age. After you read these tips, take a few minutes to read the “Are you at Risk?” quiz at the end of this chapter. This quiz will help you find out if you are at risk for elder abuse. In the “Asking for Help” section of this chapter, you can find out how to get help if someone is hurting you physically or emotionally or taking your money or property.

If you have questions about any of this information or would like help recovering property or money, and you are a Maine resident who is 60 or older, call the LSE Helpline to speak to an attorney for free.

## KEEP YOUR MONEY AND PROPERTY SAFE!

- **Plan for your future, now.** When it comes to making decisions about your life, you are in control. If you plan for your future now, you will get to choose who will help you manage your money or provide your care when you can no longer do it alone. You need the right person for this job. It needs to be someone you trust with your money and your well-being. Talk to an attorney **before** you sign a Power of Attorney. If you are unhappy with your Power of Attorney, you can make a change at any time.

Read the chapter titled “**Planning for the Future**” for information on how to select and appoint someone to help you.



**Prevention Tips:**  
**How to keep your money and your property safe as you age.**



**DON'T MAKE DECISIONS WHEN YOU FEEL SCARED OR PRESSURED.**

**When it comes to important decisions involving money or property, take your time.**

**Don't let anyone, even a family member, pressure you into signing something you question or don't fully understand.**

**Instead, talk to others about it, including an attorney. Read the "Getting Legal Help" chapter.**

- **Protect your home.** Do not give your home to someone, even in exchange for a promise to care for you or to be allowed to stay there as long as you live. These kinds of promises are broken every day and the stakes are high for you. If things don't work out, you could find yourself without a home or the help you need. Don't be persuaded by family members who say that you need to give your home away to protect it from the state.

If you need help to stay in your home, contact your local Area Agency on Aging at 1-877-353-3771 to find out more about services in your area.

If someone is telling you that you have to give away your home to protect it from the state, call the LSE Helpline for free and confidential legal help. You can also read "Common Questions about MaineCare" in the "MaineCare and Long Term Care" chapter.

- **Get help from trusted professionals.** When you are getting help with important things, get it from the right person. For example, don't ask your car mechanic Joe how to save your home from the state if you need nursing home care. If you have a problem or concern, talk to an attorney or other trusted professional. What worked for Joe might not work for you.

To find out how to get help from an attorney, read the "Getting Legal Help" chapter.

- **Talk to your bank before changing accounts.** Are you thinking about putting someone's name on your bank account so they can help you pay your bills or manage your money? This is called a "joint account." Joint accounts are very risky. There are safer ways to do what you are trying to do. Talk to someone at your bank about some safer options. If you need help managing your money, free help is available. Contact your local Area Agency on Aging at 1-877-353-3771.

Read about the dangers of joint accounts in the chapter titled "Planning for the Future."

- **Do not let anyone rush you into signing a document, purchasing a service, or giving away your money or property.** Take your time and consult with others. Only sign contracts or documents when you understand what they say and agree to the terms. Be especially careful if someone, even a trusted family member, is pressuring you to sign something. If you feel rushed or pressured to act, don't act. Instead, talk to others including trusted friends and family

members, your banker, attorney, or other professionals such as a clergy member or social worker.

To find out how to get help from an attorney, read the “Getting Legal Help” chapter.

- Trust your gut and use common sense. If something sounds too good to be true, it probably is. If you have a bad feeling about something that’s happening, trust that feeling and proceed with caution. It is always a good idea to talk to a trusted family member or friend if something is worrying you.

## **ASKING FOR HELP**

If someone is hurting you, neglecting you, taking advantage of you, or trying to take advantage of you, you need to tell someone.

Asking for help is not an easy thing to do, but it’s important. If you don’t ask for help, it will be hard to improve the situation. Reach out to a trusted family member or friend. Or, tell your doctor or your spiritual advisor. You can also call any of the agencies listed in this section.

There are many agencies you can turn to. The people who work at these agencies are professionals. Everything you say to them will be confidential. You get to stay in control. They will tell you what your options are, and you choose what to do. Your decision will be respected. No one will force you to do anything you don’t want to do.

### **If you are not getting the care that you need from your caregiver:**

- Call your local Area Agency on Aging at 1-877-353-3771 to find out what supports and services are available to help; or
- Call the Maine Long-Term Care Ombudsman Program at 1-800-499-0229.

### **If someone is physically hurting you:**

- Call 911 if you feel like you are in danger.
- Call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free; or
- Call the Domestic Violence Statewide Helpline at 1-866-834-4357;



**THERE’S NOTHING WRONG WITH ASKING FOR HELP!**

**We all want to be self-sufficient, but everyone needs help sometimes.**

**Whether someone is hurting you, putting you down, neglecting you or you just feel scared, there are people whose job it is to help!**

**Don’t be afraid to call or contact a professional.**

or

- Call the Sexual Violence Statewide Crisis and Support Line at 1-800-871-7741.

**If someone is saying things to make you feel bad, ashamed, or worthless:**

- Call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free; or
- Call the Domestic Violence Statewide Helpline at 1-866-834-4357.

**If someone is stealing your money or taking advantage of you:**

- Call the LSE Helpline at 1-800-750-5353 to speak to an attorney for free.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older, and you would like help protecting or recovering your money or property, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### **Sexual Violence Statewide Crisis and Support Line**

Immediately following a sexual assault, take whatever steps you can to ensure your safety. You may want to call the statewide sexual assault crisis and support line at 1-800-871-7741 or TTY 1-888-458-5599. When you call, you will be connected to someone nearby who can listen, offer support and information, and help you decide what you want to do next.

### **Domestic Violence Statewide Helpline**

If you need help with a domestic violence situation, call the Helpline at 1-866-843-4357. When you call, you will be connected to someone who can listen, offer emotional support and information, help you with safety planning and help you decide what you want to do next.

### **Area Agency on Aging**

For more information about services that are available in your area, call your local Area Agency on Aging at 1-877-353-3771. Services include: long term care options counseling; identifying possible housing; assisting in receiving benefits; and, providing family support and meals.

### **Maine Long-Term Care Ombudsman**

If you are not getting the care that you need from your caregiver, call the Maine Long-Term Care Ombudsman at 1-800-499-0229. To learn more about the Ombudsman, visit the Maine Long-Term Care Ombudsman website. [www.maineombudsman.org](http://www.maineombudsman.org)

### **Maine Council for Elder Abuse Prevention**

For more information about elder abuse, ways to prevent it, and agencies in Maine that provide services to people dealing with abuse, visit the Maine Council for Elder Abuse Prevention's website. [www.elderabuseprevention.info](http://www.elderabuseprevention.info)

### **State of Maine Department of Health and Human Services Adult Protective Services (APS) – Office of Aging and Disability Services**

If you are worried about a senior, you can call and report your concerns to APS. APS provides and arranges for services to protect incapacitated and dependent adults (age 18 and over) in danger of abuse, neglect, or exploitation.

1-800-624-8404 (Nationwide, 24/7, toll free)  
Maine Relay 711 (TTY, 24/7)

### **National Center on Elder Abuse**

For more information about elder abuse and ways to prevent it, visit the website for the National Center on Elder Abuse. [www.ncea.aoa.gov/](http://www.ncea.aoa.gov/)



**ABUSE DOESN'T  
HAVE TO BE  
PHYSICAL.  
IT CAN BE VERBAL  
OR EMOTIONAL.**

**If you feel hurt  
or threatened by  
the way someone  
is treating you,  
contact any of the  
resources listed  
here.**

# Are You at Risk of Becoming a Victim of Elder Abuse?

*Anyone can become a victim of abuse, but some people are at a greater risk than others. This quiz will help you identify whether you are at an increased risk of being mistreated.*

Read through and answer the following list of “yes” or “no” questions.

- Has anyone tried to force you to sign papers or to use your money against your will?
- Do you feel like someone is trying to take advantage of you?
- Is someone telling you that you can't do something because they have Power of Attorney “over you”?
- Are you afraid of anyone in your household or your family?
- Has anyone made you afraid or tried to hurt you or harm you recently?
- Has anyone prevented you from getting food, clothes, or medicine?
- Has anyone prevented you from being with people you wanted to be with?
- Has anyone forced you to do things you did not want to do?
- Has anyone taken things that belong to you without your OK?
- Have you been upset because someone talked to you in a way that made you feel shamed or threatened?

If you answered “yes” to any of these questions, you should talk to someone. If you are a Maine resident who is 60 or older, you can call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free.

Or visit the Legal Services for the Elderly website to learn where you can go to get help in Maine. [www.mainelse.org](http://www.mainelse.org)

# Homeowner Rights



**Owning a home can be a great experience. But, homeownership is not without challenges and risks. Read on to learn more.**

**M**any Maine seniors own their home. This chapter will cover some common issues for senior homeowners in Maine. Specifically, the first part of this chapter will talk about:

1. What to do if you can't pay your utility bills;
2. Issues that can arise with home repair jobs;
3. What happens when you and your neighbor disagree about your property lines; and
4. Loan options for homeowners.

The second part of this chapter will help you if you are afraid you might lose your home, or if you are thinking of giving your home away. Either situation can have big consequences, some more obvious than others. These sections will help you understand what your options are in either situation:

1. Important things to consider before selling or giving away your home (transferring title); and
2. Foreclosure.

## **HOW DO I GET HELP PAYING FOR MY UTILITIES?**

If you are having a hard time paying for your utilities, there are some things you can do. The first thing you should do is call your utility provider and see if they will agree to some form of payment



## **BEHIND ON YOUR ELECTRICITY BILLS?**

**Maine law protects folks from having their electricity shut off during the winter months.**

**You can work with the power company to make affordable payments to keep service. And if someone in the house is disabled or seriously ill, you can get help any time of year.**

**Call the LSE Helpline.**

arrangement. Depending on the type of utility, your utility provider might be required to agree to a payment schedule. If your utility provider agrees to a payment plan, make sure you get a copy of the agreement in writing.

You can also call the Maine Office of the Public Advocate. The Public Advocate can talk to you about your rights with your utility providers. Call the Public Advocate at (207) 287-2445.

### **You might be able to get public assistance to help you with your bills**

#### **Low Income Home Energy Assistance Program**

The Low Income Home Energy Assistance Program (LIHEAP) is a federal program that provides aid in the form of funding for oil, propane heat, wood, electricity, and natural gas. LIHEAP helps people pay for their heating costs. Homeowners and renters can apply to this program.

The amount of assistance you might be eligible to receive is based on your income level and the age of the members of your household. If someone in your household is at risk for hypothermia due to a health condition, this also might qualify you for LIHEAP assistance. Keep in mind that if you receive help through LIHEAP, your monthly food supplement benefit might be impacted.

You should contact your local Community Action Program to find out what resources are available to you. Find the Community Action Program nearest you by visiting the Maine Community Action Program website.<sup>1</sup>

#### **General Assistance Program**

You may also be able to get help through your town or city's **General Assistance (GA) Program**. General Assistance is often only for people whose income is under a certain limit. However, the income limits can be higher in an emergency. For example, people may get GA if it is necessary to avoid electricity disconnection. You can apply at your Town Office or City Hall.

#### **Emergency Assistance**

If you have minor children living with you and are in danger of having a utility shut off, you can apply for **Emergency Assistance** through the local office of the Department of Health and Human Services. Family income must be below 100% of poverty guidelines or the family must be getting TANF, SSI or Food Stamps. You should contact your local Community Action Program to find out what resources are available to you. Find the Community Action Program

nearest you by visiting the Maine Community Action Program website.<sup>2</sup>

### **Your Rights with your utility providers**

Maine law provides extra protections against utility disconnection during the winter months to help residents who are struggling to pay for their electric bills. Between November 15th and April 15th, your utility provider must work with you to try and make your payments affordable to avoid disconnection of service.

Regardless of the time of year, if you or someone in your household is seriously ill or is experiencing a disability, you might be able to get some relief if you are behind on your utility bills. Call the LSE Helpline to speak to an attorney for free.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you are having a problem with a utility provider, call the Legal Services for the Elderly Helpline at 1-800-750-5333 to speak to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

### **Maine Community Action Program**

To get free help with your utilities, contact your local Community Action Program. Find the program nearest you on the Maine Community Action Program website.  
[www.mainecommunityaction.org](http://www.mainecommunityaction.org)

### **Maine Equal Justice Partners**

To find out more about your rights with your service providers, call the Maine Equal Justice Partners at (207) 626-7058 or toll free at 1-866-626-7059. You can also get more information on the Maine Equal Justice Partners' website.  
[www.mejp.org/content/help-winter-utility-and-fuel-bills](http://www.mejp.org/content/help-winter-utility-and-fuel-bills)

### **Maine Office of the Public Advocate**

To find out more about your rights with your utility providers, call the Maine Office of the Public Advocate at (207) 287-2445.

### **211**

Maine Relay 211 is a statewide directory that operates 24/7 and includes listings of home heating resources. From anywhere in Maine, dial 211 to get connected.

## HOME REPAIRS

This section will talk about hiring someone to do work on your house and what to do if problems arise.

### Door to door solicitations

If a contractor comes to your door and offers to do home repair work for you, you should know that it is very risky to hire this person. The materials used by door to door contractors are usually of poor quality and the work is usually not done well. Also, these contractors can be hard to find if they take off with your money. Even if you do find them, you probably won't be able to get your money back because they don't have any to give you. This is true even if you sue them and win.

If you think that you have been scammed by a contractor and you need help figuring out what to do next, you can talk to an attorney for free when you call the LSE Helpline. Legal Services for the Elderly will review your problem and offer advice regarding practical steps to take.

### If you want to cancel the contract

The law gives you special protections when you hire a door to door contractor. If you hired a contractor who came to your door and offered to do home repair work for you, you have three (3) days to think over the agreement and cancel the contract without penalty. You should write the contractor to cancel the contract and demand any money back that you have paid. Keep a copy of this letter for your records.

If you need help writing this letter, call the LSE Helpline.

### Hiring a contractor

If you decide to hire a contractor, consider doing the following to reduce your risk:

#### Use a contractor with a good reputation

Only use a contractor who is known and who has a good reputation. Do not let yourself be talked into repairs by a person who turns up out of the blue on your doorstep. Make sure someone (other than the contractor) can vouch for the contractor's reputation. Only hire someone who has been recommended by a trusted friend who has had good personal experience with this contractor.

#### Get a written contract

Get a written contract **before** paying any money to the contractor. If the repair work is going to cost more than \$3,000, then you **must** have a written contract that includes certain provisions such as a

**“Warranty for Good Workmanship.”** This language will protect you if the contractor does a bad job and you end up in court. **Do not** pay the total contract price up front. If you have to pay some money up front, **do not pay more than 1/3 of the total contract price.**

If you need help with this, call the LSE Helpline to speak to an attorney for free. If the LSE attorney can't help you, he or she can help you find a private attorney who can.

### **If something goes wrong, get help**

The Office of the Maine Attorney General is a helpful resource for any type of home repair problem. It offers free mediation service that can help you resolve your home repair problem without having to go to court. If you have a problem with a door to door solicitation, you should report it to the Maine Attorney General at (207) 626-8800.

### **If the contracted work was not finished**

If most of the work that was finished was done well, then the contractor should be given the chance to complete the job within a reasonable time. Take photographs to document your problems. Write a letter to the contractor stating your complaints specifically. Date the letter and keep a copy for your records. If the contractor does not respond, or refuses to do any more work, then you can get someone else to finish the job.

You can also sue the contractor for what it will cost to complete the job properly. To do so, you need to get an opinion in writing from either the code enforcement officer of your town or from another contractor. The opinion they give you will be the amount of damages you will try to recover in court.

If the amount of damages you are seeking is under \$6,000, you can sue in small claims court without having to hire an attorney. Otherwise, you must sue in a higher court. If you cannot sue in small claims court, you might want to hire an attorney for help.

You can get the court forms you'll need to bring a small claim at your local district court or on the Maine Judicial Branch's website.<sup>3</sup> When you go to small claims court, you will present your Statement of Claim along with your evidence. Your evidence may include:

- A written contract if there was one;
- Photographs;
- Written estimates of the cost of completion; and



## **HIRE CONTRACTORS WITH A GOOD LOCAL REPUTATION.**

**Talk to people who can vouch for the contractor's work. Two or three recommendations from people you trust usually mean you'll be dealing with a reliable contractor.**

**Ask for a contract, and don't pay more than a third of the total cost up front.**



**YOUR HOME MAY  
BE YOUR MOST  
VALUABLE ASSET;  
PROTECT IT!**

**It's never a good  
idea to use your  
home equity to pay  
unsecured debts  
like credit cards or  
medical bills.**

**Reverse mortgages  
can sound enticing,  
but they're not for  
everyone. Talk to  
an LSE attorney  
for free about your  
options.**

- Records of any communication between you and the contractor.

If you would like help with any of this, call the LSE Helpline to speak to an attorney for free.

**If the work done to your home was done poorly**

If the work was done very poorly then you do not have to allow the contractor to return to fix the work. Write to the contractor and list your complaints. Make sure you date the letter and keep a copy for your records.

Take photographs to document your problems. You also need to get expert opinions, in writing, as to the poor quality of the work and what it will cost to repair it. You can get this estimate from the code enforcement officer of your town or from another contractor. The opinion they give you will be the amount of damages you will try to recover in court.

Once you have this information, you can sue the contractor as outlined in the previous section.

If you would like help with any of this, call the LSE Helpline to speak to an attorney for free.

**If none of the work was performed**

If the contractor did not do any work, you can cancel the contract. Write a letter to the contractor to tell him that the contract is cancelled and demand your money back. Make sure you date the letter and keep a copy for your records. If the money is not returned you can sue the contractor for the amount you paid him. If it is under \$6,000, you can go to small claims court as outlined in the Guide to Small Claims Court located on the website for the State of Maine Judicial Branch.<sup>4</sup>

If you would like help writing this letter, call the LSE Helpline to speak to an attorney for free.

**Paying for the work**

The contractor may say that he can arrange for financing to pay for the job (work and materials). **Beware! Contractor financing is very risky.** Often the interest rates are very high and will end up costing you a lot of money.

Also, be careful taking out a home equity loan to finance the job. Make sure you can afford the payment on top of all of your other debt payments, including your mortgage. If you cannot keep up with

the home equity payment, you might lose your home to foreclosure.

## RESOURCES

### Legal Services for the Elderly

If you are a Maine resident who is 60 or older and you are having a problem with a home repair job and you need help figuring out what to do next, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### The Office of the Maine Attorney General

If you have a problem with a home repair job, or if you want to report a problem with a door to door contractor, call the Office of the Maine Attorney General at (207) 626-8800.

### The Maine Judicial Branch

The website for the Maine Judicial Branch has a “**Guide to Small Claims Court**” that has simple instructions on how to sue in small claims, and sample court forms.

Go online to get the “**Guide to Small Claims Court.**”

[www.courts.state.me.us/maine\\_courts/small\\_claims/smallclaimsguide](http://www.courts.state.me.us/maine_courts/small_claims/smallclaimsguide)

## BOUNDARY DISPUTES

If you and your neighbor disagree over the location of a property line, this is called a “boundary dispute.” Boundary disputes can be expensive to fix.

In deciding what to do about a boundary dispute, you may want to ask yourself the following questions:

1. **What is at stake?** Is it two feet of land, an acre, or more? Does your neighbor claim that your garage, barn, house, or driveway is located on his land or vice-versa? Will the disagreement affect the value of your property?
2. **How much will it cost to resolve this dispute?** Is the fight worth the expense, and can you afford it?
3. **Are you emotionally prepared for a long, unfriendly battle?** Are there ways to resolve the disagreement so that even if neither side is totally happy, you can both sleep at night?

If you have a boundary dispute, there are a number of possible



## **ARE YOU MARRIED OR HAVE A PARTNER WHO IS UNDER THE AGE OF 62?**

**If your spouse or cohabitating partner is under the age of 62, a reverse mortgage could have disastrous effects on them when you die. You should talk to an attorney before you apply for a reverse mortgage. Call the LSE Helpline to speak to an attorney for free.**

solutions. The least expensive and least confrontational way is for you and your neighbor to agree on a new boundary line. There are other more expensive options, like going to court. But going to court is expensive, and it is also a long process. And, even if you are not friendly with your neighbor, the tension of living next to the person you are fighting in court can be very stressful.

Legal Services for the Elderly has attorneys who can try to help you sort out some of the basic issues regarding boundary disputes. LSE may also be able to refer you to a private attorney who can more thoroughly investigate your position and help you determine whether it's worth going to court. Call the LSE Helpline to talk to an attorney for free.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you are experiencing a boundary dispute, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

## **LOAN OPTIONS FOR HOMEOWNERS**

There are some loans that are offered only to people who own their homes. These loans can seriously impact your finances. Think carefully before you take out one of these loans. This section will talk about reverse mortgages and home equity loans.

Always be on the lookout for predatory lending. Before you take on any new debt, read more about predatory lending in the chapter titled “Managing Your Debt.”

### **Reverse mortgages**

A reverse mortgage is a special type of loan available to seniors who own their homes and want to stay in them, but need extra cash. Reverse mortgages work by letting you, the homeowner, access the value that has increased in your home while you have been paying your mortgage. This value is known as “equity.” Generally speaking, your home’s equity is the current market value of your home minus the amount you owe on your mortgage. This is not an exact formula; there are many other factors that are considered when determining equity.

Reverse mortgages are not right for everyone. If you are thinking about taking out a reverse mortgage, you should talk to an attorney first.

### Who qualifies for a reverse mortgage?

If you are 62 years-of-age or older and either own your home outright or owe a small mortgage, you might be able to get a reverse mortgage. Your home must be your principal residence. For a federally insured reverse mortgage your home must be:

- A single family home;
- A one-unit to four-unit building (you must occupy one of the units);
- A approved condominium; or
- An approved manufactured home.

Usually, your home must also meet certain property standards. And you have to attend counseling with an approved agency first. The purpose of this counseling is to assess whether a reverse mortgage is right for you. To find an approved counselor in your area, visit the website for the U.S. Department of Housing and Urban Development.<sup>5</sup>

Generally, there are no income guidelines to qualify.

**IMPORTANT NOTE:** If your spouse recently passed away and you are worried that you are going to lose your home because of a reverse mortgage, an attorney might be able to help you.

Call the LSE Helpline.

### Important considerations

Most reverse mortgages do not require monthly repayment. Repayment is only required:

- When you die;
- If you sell or give away your home; or
- If you do not live in your home for 12 months.

You still have to pay your property taxes and homeowner's insurance. If the payment for taxes and insurance are not included in your mortgage payment, you will need to pay them separately.



### LET THE BORROWER BEWARE!

**Watch out for loans with high interest rates, excessive fees or penalties.**

**Before you consider a reverse mortgage or home equity loan, look at other options that don't include your home.**

**If you need to borrow money, deal with a legitimate bank or local credit union.**



## **DON'T GIVE AWAY YOUR HOME!**

**Don't get pressured into giving someone your home in exchange for care or as a gift. Among other things, it can change your MaineCare eligibility.**

**Before you consider gifting your home, talk to an LSE attorney for free about the risks and legal implications.**

### **Amount of the loan**

The amount of equity that you are allowed to tap into will vary according to your loan. Your maximum loan amount will not necessarily be equal to your home's equity. Lenders take into account other factors, such as:

- Your age;
- Current interest rates; and
- The appraised value of your home.

### **Prepayment of loan proceeds**

In general, and depending upon your lender, your loan can be paid to you as a:

- Lump sum;
- Regular monthly income;
- Regular monthly income for a specified term; or
- Line of credit.

### **Interest rates and fees**

Reverse mortgages are expensive. They usually have high interest rates and large fees. You will need to check with your lender to determine your interest rate. In addition to the interest rate, there are several types of fees that add to the cost of your loan. Read your contract carefully and be sure that you understand the terms.

### **Insurance**

Unlike other private loans, the federal government insures certain reverse mortgages. Reverse mortgages with this insurance have special rules and protections. Some of these special rules apply specifically to foreclosure. Other rules cover what can be used to satisfy your debt. You should talk to your reverse mortgage counselor about the specific details of your reverse mortgage.

### **Repayment**

Generally, the loan is repaid when the borrower dies. Usually, your home is the only asset that can be used to repay your loan. But, your heirs might not be required to sell your home if they can pay the loan with other assets. If you were planning to leave your home to a loved one after your death, a reverse mortgage may not be right for you.

### **Effect on benefits**

If you receive benefits such as Social Security Disability (SSI) or Medicaid, your benefits may be affected by the payments you receive under your loan.

### **Home equity loans**

Home equity loans or lines of credit allow you to borrow money based on how much “equity” you have in your home. Generally speaking, your home’s equity is the current market value of your home minus the amount you owe on your mortgage. But this is not an exact formula; there are many other factors that are considered when determining equity.

With a home equity loan, you can either get one lump sum payment, or a line of credit that allows you to draw upon the money as needed. Home equity loans require monthly payments to repay the loan. These payments start as soon as you take out the loan. If you don’t make these monthly payments, you can lose your home to foreclosure.

If you decide to apply for a home equity loan, make sure you can afford it. Figure out how much you can afford to pay, and then shop around. Be careful about hidden costs and fees and predatory lenders. Don’t sign anything unless you understand and agree to the terms. Don’t risk foreclosure or risk losing equity in your home by spending too much to borrow money.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you are thinking about a reverse mortgage, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

### **U.S. Department of Housing and Urban Development**

To find a HUD approved HECM counselor for a Reverse Mortgage, visit the HUD website on the topic.  
[https://entp.hud.gov/idapp/html/hecm\\_agency\\_look.cfm](https://entp.hud.gov/idapp/html/hecm_agency_look.cfm)

### **Federal Trade Commission**

For more information on homes and mortgages, visit the FTC website. [www.ftc.gov](http://www.ftc.gov)

## **TRANSFERRING TITLE TO YOUR HOME**

If you own your home, it is probably your most valuable asset. If this



## CONSUMER CREDIT PROTECTION

**If you are struggling to keep up with your mortgage payments, take action.**

**Call the Maine Bureau of Consumer Credit Protection's Foreclosure Prevention Hotline at 1-888-664-2569.**

is true for you, it is especially important that you protect yourself if you decide to sell it or give it to someone else.

Whatever the reason behind your decision to transfer title to someone else, this is a big decision and it can impact many things. Below are a few important things to consider.

### **Giving your house as a gift can affect your MaineCare eligibility**

If you are thinking about giving someone your home in exchange for care, or if you are getting pressured to do this by concerned family members, **call an attorney before you act**. If you give your house to someone as a gift, you might be denied MaineCare later. Whatever the situation, an attorney can help you to consider the risks and decide if it is best for you. If you are a Maine resident who is 60 or older, call the LSE Helpline.

### **Getting "fair market value"**

If you decide to sell your house, the price can impact your MaineCare eligibility. If you sell your house for less than "fair market value" you may be denied MaineCare. If you are selling your home to anyone, even a family member, for less than the house is worth, talk to an attorney first.

Also, if you are thinking about giving your house to someone as a gift, you should know that doing so might mean that you will be denied MaineCare. If you are thinking about doing this, you should talk to an attorney first.

Call the LSE Helpline to speak to an attorney for free.

### **Giving property in exchange for care**

This is **very risky**. If you are thinking about giving someone your home in exchange for care, you need to talk to an attorney first. Although this might seem like an easy solution to your problems, there are several things that can go wrong. Once you transfer the deed, the property no longer belongs to you. This means you have no control over what happens to it. Even if you give it to a person who means well, they could lose the property by mistake. Or, you could be asked to leave at any time. This can be true even if the person promised that you could live there for the rest of your life.

If you are thinking about giving someone your home in exchange for care, call the LSE Helpline. You can speak to an attorney for free.

## RESOURCES

### Legal Services for the Elderly

If you are a Maine resident who is 60 or older and you are thinking about giving your house to someone as a gift, or if you are being pressured to do this, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

## FORECLOSURE

The most common form of financing when you buy a home is a “secured mortgage.” In a secured mortgage, typically the house is the “security.” This means that if you do not pay your mortgage payment, the lender can use a legal process to take the house from you. The lender will then sell the house to try and recover the money they loaned you. This process is called “foreclosure.”

If you are struggling to keep up with your mortgage payments, take action. Call the Maine Bureau of Consumer Credit Protection’s Foreclosure Prevention Hotline at 1-888-664-2569 to get free advice and help you can trust.

You should also call an attorney for help. The attorneys at Legal Services for the Elderly might be able to help you work out a deal with your mortgage servicer or help you through the foreclosure process. Call the LSE Helpline to speak to an attorney for free.

### Watch out for foreclosure rescue scams!!!

It is scary to think that you might lose your house. Unfortunately, there are scam artists who are ready to prey on this fear and take advantage of you. A foreclosure rescue scammer might contact you and offer to help you pay your mortgage. They might call, email, or send you a letter in the mail. They will refer to themselves as a title that sounds very official, such as “mortgage consultant,” “foreclosure consultant,” “foreclosure rescue agency,” or “foreclosure services.” They might suggest that you send your monthly payments to them instead of your lender. Some might even go so far as to offer a promise to stop the foreclosure process or save your credit.

Remember: A legitimate financial counselor:

- Will **not** make promises about saving your home or ending the foreclosure process,
- Will **not** request a fee in exchange for their services;

- Will **not** tell you that they can “save” your home if you transfer your deed to them; and
- Will **not** tell you to make your monthly payments to anyone other than your lender.

## **RESOURCES**

### **Maine Bureau of Consumer Credit Protection**

If you are struggling to keep up with your mortgage payments, take action. Call the Maine Bureau of Consumer Credit Protection’s Foreclosure Prevention Hotline at 1-888-664-2569 to get free advice and help you can trust.

To file a complaint about your lender or a potential lender, call the Maine Bureau of Consumer Credit Protection at 1- 800-332-8529 OR TTY 1- 888-577-6690.

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you are worried about losing your home to foreclosure call the Legal Services for the Elderly at 1-800-750-5353 to speak to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

### **Pine Tree Legal Assistance**

If you are under 60 and worried about losing your home to foreclosure, you might be able to get an attorney to help you for free, or at a reduced rate. Contact the Maine Foreclosure Prevention Hotline at 1-888-664-2569 or visit Pine Tree Legal Assistance’s Foreclosure Prevention Toolkit online.  
[www.ptla.org/foreclosure-prevention-toolkit](http://www.ptla.org/foreclosure-prevention-toolkit)

### **Maine Attorneys Saving Homes**

If you received a Notice of Foreclosure, call the attorneys at Maine Attorneys Saving Homes at 1-800-442-4293 for help.

### **Maine State Housing Authority: Foreclosure Counselors**

To find a HUD approved housing counseling agency near you that provides free foreclosure prevention counseling, visit the Maine State Housing Authority Foreclosure Counselor website on the topic.  
[www.mainehousing.org/education/home/foreclosure/foreclosure-counselors](http://www.mainehousing.org/education/home/foreclosure/foreclosure-counselors)

## NOTES

- 1) Find the Community Action Program nearest you:  
[www.mainecommunityaction.org/](http://www.mainecommunityaction.org/)
- 2) Find the Community Action Program nearest you:  
[www.mainecommunityaction.org/](http://www.mainecommunityaction.org/)
- 3) Get the Guide to Small Claims Court in Maine:  
[www.courts.state.me.us/maine\\_courts/small\\_claims/  
smallclaimsguide/](http://www.courts.state.me.us/maine_courts/small_claims/smallclaimsguide/)
- 4) Get the Guide to Small Claims Court in Maine:  
[www.courts.state.me.us/maine\\_courts/small\\_claims/  
smallclaimsguide/](http://www.courts.state.me.us/maine_courts/small_claims/smallclaimsguide/)
- 5) Find a HECM Counselor near you:  
[https://entp.hud.gov/idapp/html/hecm\\_agency\\_look.cfm](https://entp.hud.gov/idapp/html/hecm_agency_look.cfm)



**This chapter has great information for people who are renting their home.**

# Rental Agreements & Tenant Rights

If you rent your home like so many Maine seniors do, there are laws that protect you and can impact your life. This chapter will talk about those laws.

Specifically, this chapter will cover:

1. Basic rental rights;
2. What you can do if your disability makes it difficult to live in your rental;
3. Housing assistance programs; and
4. How to get help paying for your utilities.

## **BASIC RENTAL RIGHTS**

If you rent your home, a bad relationship with your landlord can make life stressful and can lead to serious problems. One way to avoid this is to understand your basic tenant rights. This section will provide a summary of your rights.

### **Leases, rental agreements, and tenancy at will**

The kind of agreement you have with your landlord affects your legal rights in Maine. You can have a: lease, rental agreement, or tenancy at will.

- If your landlord has you sign a written agreement that states a start date and end date, you have a lease.

- If your written agreement does not mention an end date, you have a rental agreement.
- If you do not have a written document, you have a tenancy at will. Or, if you had a lease that ended but you did not move out or sign a new lease, you now have a tenancy at will.

A written agreement may offer you more protection than a tenancy at will, but this is not always true. You need to read the agreement carefully before signing. If your landlord has made promises that are important to you they need to be in the written agreement. If you ever end up in court, a judge will likely follow what the agreement says. Many of your rights can be changed or even taken away depending on what the written agreement says. Some rights can never be taken from you regardless of what your written agreement says.

Before you sign a written rental agreement, look at the following terms of the agreement:

- Rental amount;
- Date rent is due;
- Fees for a late rent payment;
- Security deposit;
- Who pays for utilities and services;
- Your responsibilities if you damage or make changes to the property;
- Landlord's responsibilities with regard to the condition of the property; and
- Notice requirements (for both you and your landlord).

You also want to note the condition of premises when the agreement is signed.

These terms are very important. Make sure that the written agreement matches what the landlord says. Only sign if you agree to all the terms as they are written.

### **Understanding your public housing rental agreement**

Public housing rental agreements can be very complicated and hard to understand. This is especially true if you are trying to figure out



### **GET IT IN WRITING!**

**Make sure that anything that is important to you is in your rental agreement. If a dispute lands you in court, the judge will usually follow what the agreement says.**

**Be very clear about anything to do with the money: the rent, when it's due, security deposit, utilities and so on.**



## TAKE THE TIME TO READ YOUR LEASE!

**Don't just sign it!  
Be sure you  
understand it.**

**If you have  
questions, call  
the LSE Helpline.  
We can walk you  
through it.**

what expenses and income to consider when calculating your portion of the rent.

If you have any questions about your housing agreement, you should talk to an attorney. The attorneys at Legal Services for the Elderly may be able to help you or connect you with a private attorney who can offer you help at a reduced fee. Call the LSE Helpline to speak to an attorney for free.

### **Tenant rights in Maine**

The following is a list of rights that are given to all tenants in Maine. Some of these rights can be changed or waived by your written agreement.

- “Habitability”: Your landlord must guarantee that your rental unit is reasonably safe and fit to live in. This means that it is not OK for your rental to have things like undrinkable water, insufficient heat in winter, faulty electrical wiring, or leaking pipes. Be especially careful if your landlord says the apartment is rented “as is.” This sort of language could mean that the landlord is trying to avoid these responsibilities.

**IMPORTANT NOTE:** Your written rental agreement can waive this right in exchange for a reduction in rent. Make sure you read your rental agreement carefully. If you agree to this waiver, it can be very hard to get your landlord to fix problems with the rental.

- Penalties for late payment: Your landlord can charge a fee for late rent payment if your rent is at least 15 days late. If your landlord is going to charge you this fee, then it must say so in the written agreement. The fee cannot be more than 4% of your monthly rental amount.
- Security deposits: Security deposits can be no more than the equivalent of two months rent and are often much less for subsidized housing. As a general rule, your landlord must return your security deposit, but there are exceptions to this rule. Your landlord may keep your whole deposit or a part of it to pay for any repairs, removal of abandoned property, or any unpaid rent or utilities. Your landlord cannot keep your deposit for normal “wear and tear” such as faded paint and worn carpets. You can also get more general information about security deposits and what they are on the Pine Tree Legal Assistance (PTLA) website.<sup>1</sup>

If your landlord is going to keep some or all of your security deposit, your landlord must tell you. This notice must be in

writing and give you the reasons. If your lease doesn't say when the security deposit must be returned, your landlord has 30 days after your lease ends to return your security deposit or provide you with a written notice. If you don't have a written agreement, your landlord has 21 days.

If your landlord is refusing to return your security deposit, you have some options. You can get more information about what your rights are with your landlord and your security deposit and how to protect those rights on the PTLA website.<sup>2</sup>

- **Metering and electric charges:** Unless you agree in your written agreement, your landlord cannot make you pay for electricity used in someone else's unit or in common areas. This includes areas such as hallways, stairways, and basements. If you do agree to pay for this, the written agreement should state that you will do this in exchange for a reduction in rent.
- **Landlord entering your rental unit:** For all rental situations, your landlord can enter your rental unit to show, inspect, or make necessary or agreed upon repairs. Your landlord must give you at least 24 hours notice and enter only at reasonable times. Your landlord must also have your permission to enter, but if you say no, you need to have a good reason. In cases of emergency, such as a fire, your landlord can enter at any time and is not required to provide notice. No written agreement can waive these rights.
- **Legal fees:** If your landlord takes you to court to enforce your agreement, you cannot be forced to pay your landlord's legal fees.
- **"Liens":** Your landlord cannot make you give a lien against your property for rent or other money you owe the landlord.
- **"Fair or reasonable clauses":** No rental agreement can force you to acknowledge that any rules or provisions in the agreement are "fair and reasonable."

## **Eviction**

An eviction is a court action your landlord must use to remove you as a tenant. Before your landlord can start an eviction, the landlord must give you written notice to leave. This written notice to leave may be called a "Notice to Quit," a "Notice of Termination," or a "Notice to Vacate." The notice will say that you have to leave by a certain date and may give the reason for the eviction. If you receive such a notice, you should call an attorney as soon as possible.

The attorneys at Legal Services for the Elderly might be able to help you, or provide you with a referral to an attorney who can offer you a reduced fee. If you are 60 or older, call the LSE Helpline to speak to an attorney for free.

### **Can I be evicted even if I have a lease?**

Generally, the landlord cannot ask you to leave before the lease expires unless you have broken one of the terms of the lease, and the lease states that the violation is cause for eviction.

### **What if I do not have a lease?**

If you do not have a lease, you could be considered a tenant at will. If you are, the landlord does not need to have a reason to ask you to leave. The landlord just needs to give you a full 30 days to move unless the landlord has a reason to give you a 7-day notice. The 30-day notice must expire on or after the date through which your rent has been paid.

### **Are there reasons that I could be evicted with less than 30-days notice?**

Yes, if your landlord claims that you have caused “substantial damage” to the apartment, you have been a “nuisance” to other tenants or neighbors, or you are seven days or more behind in your rent. In those instances, the notice will give you only seven days to move. If the notice claims that you are behind in your rent, the notice must state the amount of rent you owe and that if you pay the rent within the seven days, you will not have to leave.

### **What if I live in subsidized housing?**

If you live in subsidized housing, you should have signed a written lease and you cannot be evicted unless the landlord can prove that you have broken one or more terms of the lease or for other “good cause.” If you are in subsidized housing, you may also be entitled to a “grievance hearing.” This hearing is your chance to give your side of the story and dispute the landlord’s reasons for wanting you to leave. You might be able to settle the dispute before the landlord files an eviction action in court.

An attorney might be able to help you with your grievance hearing. If you are a Maine resident who is 60 or older, call the LSE Helpline to speak to an attorney for free.

### **IMPORTANT NOTE:**

An eviction from your subsidized housing can have a serious impact on your future eligibility for this program. If you are in danger of being evicted from subsidized housing, call the LSE Helpline.

### **What if I do not move out within the given time?**

If you do not move out within the time given in the notice, the landlord cannot legally remove you or your possessions, shut off your utilities, or change the locks on your apartment without first going to court and getting a judgment against you.

To do this, the landlord must file eviction papers with the court and have a sheriff serve you with a copy of the Summons for Forcible Entry and Detainer and the Complaint. These papers ask the court to hold a hearing to decide if you can be evicted. The Summons will tell you the date, time and place of the hearing. The Complaint will state the landlord's reasons for your eviction and will ask the court to award possession of the property to your landlord.

It is very important that you call an attorney right away if you have been served with a Summons and Complaint. Call the LSE Helpline to speak to an attorney for free.

### **What will happen at the hearing?**

First, the judge will likely give you and your landlord a chance to talk. During this "negotiation," you might be able to work out a deal that gives you more time to move. If you can't come to an agreement, the judge will hold a hearing that same day.

During the hearing, you and the landlord each tell your side of the story. You both may present witnesses and evidence. Then the judge will decide if you can be evicted or not based on the evidence presented.

If you do not appear at the hearing, a Default Judgment may be entered against you. The effect of a Default Judgment is basically the same as your landlord winning. If a Default Judgment is entered against you or the eviction goes in favor of your landlord, the landlord can go back to court seven days later and get a Writ of Possession from the Court. The landlord can then have the sheriff serve you with a copy of the Writ of Possession. If you are served with a Writ of Possession, you must move within 48 hours. If you do not move within 48 hours, the landlord can then ask the sheriff to remove you by force and charge you with criminal trespassing.

### **WHAT CAN I DO IF IT IS HARD FOR ME TO LIVE IN MY RENTAL BECAUSE OF MY DISABILITY?**

The law says that your landlord must be willing to make "reasonable" changes to the rental policy or your housing structure if you need it because of your disability. This is true for private and public housing. You need to ask for the changes to happen. You do this by requesting



**DON'T BE AFRAID  
TO ASK YOUR  
LANDLORD  
FOR HELP!**

**Health issues  
can make it hard  
to move around,  
whether it's inside  
your apartment or  
getting from a car  
to your doorway.**

**Sometimes simple  
things like grab  
bars or being able  
to park close to  
your apartment  
can help. Call the  
LSE Helpline, an  
attorney might be  
able to help you  
make this request.**



## GET A LETTER ABOUT YOUR DISABILITY FROM A PROFESSIONAL.

**Your doctor, therapist or a social worker can write a letter explaining your disability and what might make things easier for you. Keep extra copies of the letter.**

a “reasonable accommodation” or “reasonable modification.” Your landlord cannot say no unless it would be too expensive, or if it would require too much of a change to the landlord’s rental program.

If you are asking your landlord to change something about their rental policy, you need to ask for a **reasonable accommodation**.

If you are asking your landlord to change something about the physical structure of your rental, you need to ask for a **reasonable modification**.

This section contains information more about reasonable accommodations and reasonable modifications.

You might want an attorney to help you ask for these changes. If you are a Maine resident who is 60 or older, call the LSE Helpline to speak to an attorney for free.

### **What is a reasonable accommodation?**

A reasonable accommodation is a change that is necessary for a person with a disability to be able to use and enjoy their living space. If your landlord changes something about the rules, policies, procedures or services, or the management of an apartment complex, he or she is making a reasonable accommodation.

#### **Example A**

Your landlord has a policy of not providing assigned parking. There is plenty of parking but it is on a first come first served basis. You just had a stroke and are having a hard time getting around. You need to park close to the front door of your apartment. Your landlord could make a reasonable accommodation for you by agreeing to your request for a reserved parking space near the front door.

#### **Example B**

You are in the very early stages of Alzheimer’s and sometimes you forget the date. Because of this, you are often late paying the rent. Your landlord wants to evict you and get you out of the apartment. You might ask your landlord for another chance as a reasonable accommodation. You could tell your landlord that someone is going to help you make sure the rent is on time.

### **What is a reasonable modification?**

A reasonable modification is when your landlord makes physical changes to your housing unit so that you can use and enjoy your housing unit and the related facilities, even though you have a disability.

### Example A

You have osteoporosis and your doctor said that if you fall you will probably break your bones. You ask your landlord to install grab bars in the bathroom as your reasonable modification. The grab bars will help prevent you from falling.

### Example B

You recently fell, and now you have to use a wheelchair. You have a few stairs that lead to your front door. You ask your landlord to have a ramp put in place as a reasonable modification.

### Example C

Your health needs require you to get dialysis. You want to hook up a portable dialysis unit in your apartment. To do this, you have to change the plumbing in the apartment. You ask your landlord for permission to do this as a reasonable modification. Your landlord can require that the changes be done by a professional and up to code.

### **How do I ask for a reasonable accommodation or modification?**

Some apartment managers have forms for requesting reasonable accommodations or modifications. If your landlord does not, make your request in writing and keep a copy for your records.

The letter should:

- Specifically describe the accommodation you are requesting;
- Explain why you are asking for it; and
- Clearly explain how the accommodation relates to your disability.

You should request a letter from your doctor, therapist or other professional that confirms that you have a disability. Your health care provider or other professional should explain how the accommodation or modification would assist with your disability and allow you to continue living in your current apartment. Include a copy of this letter when you give your landlord your request. Keep a copy for your records. The Disability Rights Center of Maine created samples of the letters you should get from your doctor, therapist or other professional confirming that you have a disability. You can find these sample letters on the Legal Services for the Elderly website.<sup>3</sup>

It's a good idea to get help from an attorney if you can. If you are a Maine resident who is 60 or older, call the LSE Helpline.

### **Who has to pay for a reasonable modification?**

If you live in housing that was built or rehabilitated with federal

funds (HUD or Rural Housing) or in a subsidized apartment where the landlord receives government funding to maintain accessible housing, your landlord has to pay unless they can prove that it would cause an undue financial and administrative burden.

If you have a disability, private landlords, including those that are participating in the Section 8 Program, must allow you to modify your apartments at **your own expense**. Keep in mind that you might be required to pay to undo the changes when you move.

### **What do I do if the landlord refuses my request for a reasonable accommodation or modification?**

There are a few steps to take, but you should get an attorney to help. If you are a Maine resident who is 60 or older, Call the LSE Helpline to speak to an attorney for free.

For more information, read the chapter titled “Age and Disability Discrimination.”

### **Can I have my service dog in an apartment that has a “no pets” policy?**

Your landlord should make a reasonable accommodation for you to have your physical or psychiatric service animal in your apartment even if there is a “no pets” policy in force. Service animals are working animals, not pets. Service animals are trained to help people with disabilities.

Your landlord can only say no to this request if the animal is threatening the health and safety of others, if it makes a significant change to the nature of your housing, or if it “interferes” with the other tenants. It is not considered “interference” if another tenant is just afraid of animals or is allergic.

### **Can the landlord charge me more because I use a wheelchair or have a service animal?**

No, but you could have to use your security deposit to pay for any damage to your housing unit that is beyond normal wear and tear. This is true for any person who pays a security deposit, and is true even if the service animal caused the damage.

### **I need my caregiver to live with me. Do I have to pay for an extra room?**

If you live in federally funded housing, you cannot be charged extra for the extra room. If you have a Section 8 voucher you may be charged but, you might be able to get more money to help pay for the extra room. If you are living in private housing without a Section

8 voucher, you will have to pay for the extra room.

## HOUSING ASSISTANCE

Housing assistance programs are designed to help low-income people obtain safe, clean and affordable housing. The federal government, through the United States Department of Housing and Urban Development (HUD), administers low-income housing aid on a local level. The local housing authorities (HAs) are responsible for managing and administering housing assistance to people who qualify.

Eligibility requirements vary depending on the specific program, but you might qualify for housing assistance if you are aged 60 or older, or have a disability. There are often more people in need of assistance than there are places to live. You will probably be placed on a waiting list because of this. It is a good idea to apply to more than one HA to give yourself the best chance of getting into a housing assistance program.

There are several different types of programs and housing structures that provide housing assistance. Some housing complexes are built to serve only low-income people. Others are pre-existing structures that have been converted into public housing. Others yet are houses or apartments owned by individuals (not the government) who agree to receive federal assistance in exchange for offering affordable rent. Finally, there are programs that help you pay rent for the apartment of your choice. In these “choice” programs, you are free to live in any qualifying apartment, condominium, townhouse or single family home. However, a landlord is not required to participate.

The two most common low-income housing programs, Public Housing and the Section 8 Housing Choice Voucher Program will be summarized in this section.

### Subsidized housing

Subsidized housing is owned and operated by local public housing agencies or private companies and leased to low to moderate-income families, or individuals who meet the eligibility requirements. Subsidized housing is sometimes operated specifically and exclusively for seniors and adults with disabilities. These facilities might offer help with meals and transportation to and from the housing units. Generally, people who live in subsidized housing are obligated to pay a percentage of their monthly income and HUD pays the difference. This means that if your income changes, your portion of the rent will also change.

If you apply for subsidized housing and your application is denied,



## EVICTION AND SUBSIDIZED HOUSING

**An eviction from your subsidized housing can have a serious impact on your future eligibility for any subsidized housing.**

**If you are in danger of being evicted from subsidized housing, call the LSE Helpline to speak to an attorney for free.**



## **BEHIND ON YOUR ELECTRICITY BILLS?**

**Maine law protects folks from having their electricity shut off during the winter months.**

**You can work with the power company to make affordable payments to keep service. And if someone in the house is disabled or seriously ill, you can get help any time of year.**

**Call the LSE Helpline.**

you have the right to challenge this denial. The HA must:

- Notify you of the denial in writing,
- Tell you the reason for the denial, and
- Give you the chance to meet and discuss the denial.

If you have been denied subsidized housing and you are a Maine resident who is 60 or older, Call the LSE Helpline to speak to an attorney for free. People who live in subsidized housing are sometimes afforded extra protections and rights. For example, a person living in subsidized housing is protected by a specific eviction process that places additional procedural requirements on the part of the HA. However, there are also specific protections put in place to protect the landlord. If you are accepted into a subsidized housing program, make sure you know your rights and responsibilities prior to moving in.

### **Section 8 Housing Choice Voucher Program**

The Section 8 Housing Choice Voucher Program, commonly known as Section 8, gives qualifying applicants a voucher which covers part of that person's rent. If you participate in the Section 8 program you must find your own living space with a landlord who is willing to accept the Section 8 voucher. You are free to live in any apartment, condominium, townhouse or single family home where the landlord accepts the voucher. If the landlord agrees, then you enter into a rental contract with the landlord and the HA.

When you have a Section 8 voucher, you are free to move as needed as long as you contact your local HA and inform them of your situation prior to moving.

Eligibility and your portion of rent responsibility are based partially on income. Applicants for the Section 8 program are required to submit to a thorough background check and only United States citizens and specific categories of non-citizens are eligible.

As with public housing, tenants in Section 8 housing are given extra protections that are not usually included in a standard private rental agreement. Section 8 tenants also have certain responsibilities unique to participants in the program. It is important that you understand what these rights and responsibilities are before you enter into a contract.

If you are accepted to the Section 8 program but the HA is experiencing a wait for new members, your name may be added to a waiting list. The local HA has the freedom to open or close its waiting list as needed. The local HA is also free to establish preferences for people on the wait list.

If you are denied a Section 8 voucher, you have the right to challenge this denial. The HA must:

- Notify you of the denial in writing,
- Tell you the reason for the denial, and
- Give you the opportunity for an informal hearing.

### **Understanding your public housing rental agreement**

Public housing rental agreements can be very complicated and hard to understand. This is especially true if you are trying to figure out what expenses and income to consider when calculating your portion of the rent. If you have any questions about your housing agreement, you should call the LSE Helpline. The attorneys at Legal Services for the Elderly might be able to help you, or might be able to connect you with a private attorney who can offer you a reduced fee.

### **How Do I Get Help Paying for my Utilities?**

If you are having a hard time paying for your utilities, there are some things you can do. The first thing you should do is call your utility provider and see if they will agree to some form of payment arrangement. Depending on the type of utility, your utility provider might be required to agree to a payment schedule. If your utility provider agrees to a payment plan, make sure you get a copy of the agreement in writing.

You can also call the Maine Office of the Public Advocate. The Public Advocate can talk to you about your rights with your utility providers. Call the Public Advocate at (207) 287-2445.

### **You might be able to get public assistance to help you with your bills**

#### **Low Income Home Energy Assistance Program**

The Low Income Home Energy Assistance Program (LIHEAP) is a federal program that provides aid in the form of funding for oil, propane heat, wood, electricity, and natural gas. LIHEAP helps people pay for their heating costs. Homeowners and renters can both apply to this program.

The amount of assistance you might be eligible to receive is based on your income level and the age of the members of your household. If someone in your household is at risk for hypothermia due to a health condition, this also might qualify you for LIHEAP assistance. Keep in mind that if you receive help through LIHEAP, your monthly food supplement benefit might be impacted.

You should contact your local Community Action Program (CAP) to find out what resources are available to you. Find the Community Action Program nearest you by visiting the Maine Community Action Program website.<sup>4</sup>

### **General Assistance Program**

You may also be able to get help through your town or city's **General Assistance (GA) Program**. General Assistance is often only for people whose income is under a certain limit. However, the income limits can be higher in an emergency. For example, people may get GA if it is necessary to avoid electricity disconnection. You can apply at your Town Office or City Hall.

### **Emergency Assistance**

If you have minor children in the home and are in danger of having a utility shut off, you can apply for Emergency Assistance through the local office of the Department of Health and Human Services. Family income must be below 100% of poverty guidelines or the family must be getting TANF, SSI, or food stamps. You should contact your local CAP to find out what resources are available to you. Find the CAP nearest you by visiting the Maine Community Action Program website.<sup>5</sup>

### **Your Rights with your Utility Providers**

Maine law provides extra protections against utility disconnection during the winter months to help residents who are struggling to pay for their electric bills. Between November 15th and April 15th, your utility provider must work with you to try and make your payments affordable to avoid disconnection of service.

Regardless of the time of year, if you or someone in your household is seriously ill or is experiencing a disability, you might be able to get some relief if you are behind on your utility bills.

To find out more about your rights with your service providers, visit the Maine Equal Justice Partnership's website.<sup>6</sup> Or call Maine Equal Justice Partners at (207) 626-7058 or toll free at 1-866-626-7059.

## RESOURCES

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you are facing eviction, having a problem with your landlord, or you need help understanding your rental agreement, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### **Pine Tree Legal Assistance**

If you are under 60 and are being evicted and you need help, the attorneys at PTLA might be able to help. Call (207) 774-8211. To find out more about PTLA or if you want more information about security deposits and your rights, visit the PTLA website. [www.ptla.org](http://www.ptla.org)

### **Disability Rights Center**

If you need help with a problem that is related to your disability, call the Disability Rights Center at 1-800-452-1948.

### **The Office of the Maine Attorney General**

The Office of the Maine Attorney General has an example of a model Lease that can be found in Chapter 16 of the Maine Attorney General's Consumer Law Guide. Read that Chapter and see the model Lease on the website for the Maine Attorney General under the "Consumer Law Guide" tab. [www.maine.gov/ag/index.shtml](http://www.maine.gov/ag/index.shtml)

### **Maine Human Rights Commission**

The Maine Human Rights Commission is the agency that makes sure that the Maine anti-discriminatory laws are enforced. If you think you think you are being discriminated against, call the Maine Human Rights Commission at (207) 624-6290.

### **Maine Equal Justice Partners**

To find out more about your rights with your service providers, call the Maine Equal Justice Partners at (207) 626-7058 or toll free at 1-866-626-7059. You can also get more information on the Maine Equal Justice Partners' website. [www.mejp.org/content/help-winter-utility-and-fuel-bills](http://www.mejp.org/content/help-winter-utility-and-fuel-bills)

### **Maine Office of the Public Advocate**

To find out more about your rights with your utility providers, call the Maine Office of the Public Advocate at (207) 287-2445.

## 211

Maine Relay 211 is a statewide directory that operates 24/7 and includes listings of home heating resources. From anywhere in Maine, dial 211 to get connected.

## NOTES

- 1) Security deposits, generally:  
[www.ptla.org/rights-tenants-security-deposits](http://www.ptla.org/rights-tenants-security-deposits)
- 2) How to get your security deposit back from your landlord:  
[www.ptla.org/how-get-your-security-deposit-back](http://www.ptla.org/how-get-your-security-deposit-back)
- 3) Request for a reasonable accommodation/modification sample letters: <http://mainelse.org/content/renting-with-disabilities>
- 4) Find the Community Action Program nearest you:  
[www.mainecommunityaction.org/](http://www.mainecommunityaction.org/)
- 5) Find the Community Action Program nearest you:  
[www.mainecommunityaction.org/](http://www.mainecommunityaction.org/)
- 6) Your rights with your service providers:  
[www.mejp.org/content/help-winter-utility-and-fuel-bills](http://www.mejp.org/content/help-winter-utility-and-fuel-bills)

# Watch Out for Scams!

**C**rooks will do anything to get your money from you. These days, you even have to worry about a scammer stealing your identity. Sadly, seniors are often the target.

The first section of this chapter will tell you about some different scams that target Maine seniors. The second section will give you tips on how to avoid becoming a victim of these scams. The third section will tell you what to do if you think you have been scammed.

## WHAT IS A “SCAM”?

A “scam” is when someone tricks you to get your money. Different scams will try to trick you in different ways, but the goal is always the same: they want your money. Most scammers use the telephone or the internet to get in touch with you. Often the scammer calls or writes from out of state or even outside the country. This means that if they manage to trick you, it is almost impossible to get your money back.

This section will tell you about some of the scams that affect Maine’s seniors. Keep in mind, there are many other scams that are not listed here.

## Medicare scams

Maine seniors with Medicare are often a target for scam artists.

The scammer will call you and sound very official. They will say they are “from Medicare” or from the “health office.” Then they will offer to make some changes to your Medicare. Usually they will tell you that you can get more health insurance or prescription coverage for less money. But before those changes can happen, you will need to



**There are things you can do to protect yourself from scam artists. The first step is to learn about scams, and this chapter will help you do just that.**



**CAREFUL ON  
THE PHONE  
AND ONLINE;  
DON'T GIVE  
OUT PERSONAL  
INFORMATION!**

**Telephone and  
email scammers  
are clever. They  
try to trick you  
into giving them  
information like  
your social security  
or PIN numbers  
or your Medicare  
number.**

**Never give  
out personal  
information to a  
stranger, no matter  
how official they  
sound.**

tell them your Medicare number and other personal information.

**DON'T GET SCAMMED:** NEVER give any personal information—including your Medicare number—in response to a phone call or email.

**Grandparent scams**

Scammers will pull at your heart strings to get to your purse strings. This is what happens with the “grandparent scam.”

This scam starts with a phone call. When you answer the phone the caller will say something like, “Hi Gram, it’s me!” This person isn’t really your grandchild, but they will be very convincing. They will say something like, “I was just in a car accident and I need your help! I need money!” These scammers will tell you that you have to help them because they are your family, and that’s what family does. By the end of the phone call, you might be so convinced that you will want to help them.

**DON'T GET SCAMMED:** NEVER wire money or give your personal information based on a phone call or email.

**Lottery/sweepstakes scams**

Lots of people dream of winning the lottery. Scammers know this. They take advantage of that dream and make your life a nightmare.

This is what happens: someone calls you or you get a letter or email saying that you are a winner! You have been selected to win a huge amount of money!! Sounds good so far, right? “But,” they say, “there’s only one thing.” They will tell you that before they can give you your winnings, you have to send them money to pay “fees” or “taxes.” Or, you have to give them personal information such as your Social Security number, or your bank account, or credit card numbers.

Sadly, many people fall for this. They send the money. Then the crook will say something like, “we made a mistake, you need to send MORE money.” Or, they say they never got the money and demand that you send it again. They will keep demanding more and more money until one day you realize your money is all gone.

These scammers know what they are doing. Once you fall for their trick, they will make your life miserable. Some will even threaten you with violence.

**DON'T GET SCAMMED:** If it sounds too good to be true, it probably is! Never send money or provide any personal information

in response to a phone call or email that says you won a contest. Remember, you can't win a contest that you did not enter and legitimate sweepstakes never ask for money up front.

If you would like to check out an offer that sounds too good to be true, call the Maine Department of Professional and Financial Regulation at 1-877-624-8551.

### **Fake check scams**

These kinds of scams start out in a number of different ways. The scam artist will contact you by phone, email, or mail. They will give you a long story about something that will hook you. The story changes but the catch is always the same: they need your help. They have a check that they need you to cash for them. They tell you to keep some of the money for yourself, and then wire the rest to them. The check will look real and may even fool your bank at first.

A little later, your bank will call to tell you that the check was no good. Your bank will tell you that you need to give them the money back. But you won't be able to find the scammer, and you will be responsible for paying back your bank.

**DON'T GET SCAMMED:** There is never a legitimate reason for someone to give you a check or money order and ask you to wire them money in exchange. Never send money or provide any personal information in response to a phone call or email.

### **Charity scams**

Many seniors are very generous and regularly give donations to charity. Unfortunately, scammers will jump on the chance to exploit this generosity.

Charity scams are very common right after a disaster. In these scams, someone will call and ask you to give money to help the victims of the disaster. It sounds legitimate. But, the scammer will get pushy if you don't give them money right away. And then once you give them a donation, they will continue to harass you until you donate more and more money.

**DON'T GET SCAMMED:** Before giving any money to charity, do your homework. Real charities have to be licensed with the state. Check with the Maine Department of Professional and Financial Regulation's Charitable Solicitations Program at (207) 624-8525 to make sure that it's a real charity.



## **WATCH OUT FOR FAKE CHARITY SCAMS.**

**Often scammers pose as representatives for charity or disaster relief organizations. Don't give to organizations you're not familiar with.**

## **I DON'T WANT TO FALL FOR A SCAM. WHAT SHOULD I DO?**

The best way to avoid falling for a scam is to be careful when it comes to your money and personal information. Follow the “Don't Get Scammed” hints outlined in the “What is a “Scam?”” section. Make sure your number is listed on the National Do No Call Registry. You can register your telephone number for free by calling 1-888-382-1222.

Most importantly: do not give money or personal information to anyone in response to an email or telephone call. If a caller claims there is an emergency, insists on secrecy, or pressures you to send funds: **HANG UP.**

If you would like to check out an offer that sounds too good to be true, or if you want to know if a charity is legitimate, call the Charitable Solicitations Program of the Maine Department of Professional and Financial Regulation at 1-877-624-8525.

## **I THINK I HAVE BEEN SCAMMED. WHAT DO I DO?**

If you think that you have been scammed and you are a Maine resident who is 60 or older, you should call the LSE Helpline to speak to an attorney for free.

You can also contact the Maine Attorney General at 1-800-436-2131 or the Maine Department of Professional and Financial Regulation at 1-877-624-8551.

## **RESOURCES**

### **The Office of the Maine Attorney General**

If you think you are the victim of a scam or identity theft, call the Office of the Maine Attorney General at 1-800-436-2131. To learn more about how to avoid mail, internet, and telephone fraud, visit the website for the Maine Attorney General and click on the “Consumer Law Guide” tab. [www.maine.gov/ag/](http://www.maine.gov/ag/)

### **Maine Department of Professional and Financial Regulation**

If you want to check out an offer or solicitation, or you think you are the victim of a scam, call the Maine Department of Professional and Financial Regulation at 1-877-624-8551. If you want to check on a charity before you make a donation, call the Charitable Solicitations Program at (207) 624-8525.

### **Maine Bureau of Consumer Financial Protection**

For more information on how to protect your money, check out the Downeaster Guide to Elder Financial Protection online. [www.maine.gov/pfr/consumercredit/documents/elder\\_financial\\_protection.pdf](http://www.maine.gov/pfr/consumercredit/documents/elder_financial_protection.pdf)

### **Federal Trade Commission**

If you want to report a scam or identity theft, contact the Federal Trade Commission (FTC) at [www.ftc.gov](http://www.ftc.gov) or call them at 1-877-438-4338. The FTC has more information about certain types of scams. Visit the FTC website to learn more about:

- Putting Telephone Scams on Hold
- Protecting Against Credit Card Fraud
- Catch the Bandit in Your Mailbox
- Charitable Donation\$: Give or Take
- Ditch the Pitch: Hanging Up on Telephone Hucksters

### **United States Postal Service**

For information on how to avoid and report a foreign lottery scam, visit the “Delivering Trust” website from the United States Post Office. [www.deliveringtrust.com/](http://www.deliveringtrust.com/)

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you think you have been scammed, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)



**How to handle your debt problems: stop harassment by debt collectors and learn about different kinds of debt.**

## Managing Your Debt

It can be hard to make ends meet when you are on a limited fixed income. Bills can pile up, and you may find yourself in a situation where you are not able to manage your debt. When this happens, you will probably start getting calls and letters from debt collectors. This communication can be really stressful and hard to cope with. Unfortunately, some debt collectors will say anything to try and get money from you, even if it means breaking the law.

The first part of this chapter will tell you how to deal with debt collectors and inform you of your right not to be harassed by one. The rest of this chapter will look at different types of debt you might have, such as medical or credit card debt, and will give you information specific to that type of debt. In addition, this chapter provides a step-by-step guide on how to navigate debt collection actions in Maine courts.

If you are having a hard time with a debt problem, you might want to talk to an attorney. Call the LSE Helpline to talk to an attorney for free.

### **HARASSMENT BY DEBT COLLECTORS**

Under both federal and state law, debt collectors, also known as collection agencies, are not allowed to contact you about your debt once you have told them to stop. This section will tell you how to stop debt collectors from contacting you and will give you information about your legal rights.

## **Telling debt collectors to stop contacting you**

If debt collectors are calling you and you don't want to speak to them, you should demand that they stop. Get their address and send each a "cease communication" letter. Legal Services for the Elderly can provide you with a cease communication form letter to use, just call the Helpline.

A cease communication letter should be sent to a debt collector using certified mail, return receipt requested and you should keep a copy of the letter for your own records.

Once they receive your cease communication letter, the debt collector may call you to say that there will be no further contact or to tell you that it will be taking a specific action, such as filing a lawsuit. But, they are not allowed to talk to you about your debt. If a debt collector keeps bothering you about your debt after you have sent the cease communication letter, they are breaking the law and you should report it to the Maine Bureau of Consumer Credit Protection at 1-800-332-8529. The cease communication letter does not cancel the debt and you may still be sued for the debt. Remember, your original creditor may still contact you about the debt.

Do not be surprised if more than one debt collector calls about a debt. Once you send the cease communication letter to the first debt collector, your debt will probably be sold to another debt collector who will start contacting you. Just keep sending the letters and remember that you do not need to talk to any debt collector no matter what they tell you.

Debt collectors are very good at pressuring people to make payments on debts. Debt collectors will say anything to try to get money out of you. Some might even break the law and lie to you about the debt collection process or worse, threaten you. You may want to screen your calls to avoid answering calls from debt collectors.

If you do answer a call from a debt collector, say, "I exercise my rights under federal and Maine law and demand that you immediately stop contacting me." Then, just hang up the phone. It may feel strange to be so abrupt with a debt collector, but anything you say will just encourage them to keep trying to get money from you. Remember, you do not have to speak to any debt collector.

At some point, you will be served with court documents. When you are, call the LSE Helpline immediately. In the meantime, feel free to call the Helpline if you have further questions or if you would like to obtain Legal Service for the Elderly's cease communication form letter.



## **YOU CAN HANG UP ON DEBT COLLECTORS.**

**You're not being rude, you're protecting your rights.**

**Debt collectors know they have the upper hand as long as you're on the phone, and some may even threaten you. You can just hang up.**

### **The Federal Fair Debt Collection Practices Act**

A federal law called The Fair Debt Collection Practices Act (FDCPA) controls debt collectors. The FDCPA protections apply to personal or household debts, such as money owed on a personal credit card account, a medical bill, or an auto loan. Under the law, a debt collector is someone who regularly collects debts owed to others, including: collection agencies, lawyers regularly collecting debts, and companies who buy delinquent debts. The law does not include original creditors.

Here are a few important parts of the law:

- **Time of communication.** A debt collector cannot call you before 8:00 a.m. or after 9:00 p.m., unless you agree to allow it.
- **Calling you at work.** A debt collector cannot call you at work if you tell them that you are not allowed to get phone calls at work.
- **Calling other people about your debt.** Generally, a debt collector cannot talk about the debt with any third party. But, a debt collector may contact third parties, such as relatives and friends, to ask about your contact information such as your address, phone number, and place of employment. A debt collector is not allowed to contact a third party more than once.
- **Things debt collectors cannot say or do.** Debt collectors are not allowed to abuse, harass or lie to consumers when trying to collect a debt. For example, a debt collector cannot threaten you with physical violence or harm, use obscene language, lie and say that they are attorneys or government representatives, or say that you will be arrested if you do not pay the debt.

The FDCPA gives you the right to send debt collectors a written demand to stop contacting you. This cease communication letter should be sent using certified mail, return receipt requested. After a debt collector has received a demand to cease communication, it is not allowed to try to collect the debt from you again. The debt collector may call you to say that there will be no further contact or to tell you that it will be taking a specific action, such as filing a lawsuit. The cease communication letter does not cancel the debt and you may still be sued on the debt.

Legal Services for the Elderly can provide you with a cease communication form letter you can use to send to debt collectors. If you're interested in obtaining a cease communication form letter or would like advice on a debt collection matter, please call the LSE Helpline.

## RESOURCES

### Legal Services for the Elderly

If you are a Maine resident who is 60 or older and you are having a hard time with a debt problem, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

### The Office of the Maine Attorney General

For helpful information on several consumer topics such as Small Claims Court in Maine, identity theft, and consumer rights specifically for seniors, click on the “Consumer Law Guide” tab on the website for the Maine Attorney General. [www.maine.gov/ag/](http://www.maine.gov/ag/)

### Maine Bureau of Consumer Credit Protection

The Bureau of Consumer Credit Protection receives and investigates complaints about debt collection agencies. To report a debt collection agency that is ignoring your “cease communication” demands, call 1-800-332-8592.

### Consumer Financial Protection Bureau

The CFPB is a government agency dedicated to helping American consumers. The CFPB website has several form letters, called “action letters,” available for those people who are trying to deal with debt collectors. For more information, visit the CFPB’s website.  
[www.consumerfinance.gov/](http://www.consumerfinance.gov/)

### Federal Trade Commission

The FTC is a government agency that protects American consumers. For more information about your rights with regard to debt collection, visit the FTC’s website. [www.ftc.gov](http://www.ftc.gov)

## INFORMATION ABOUT DIFFERENT KINDS OF DEBT

### How to dispute credit card charges

If an error appears on your credit card statement, you need to act fast to fix the mistake. Billing errors include:

1. Charges made by someone who did not have your permission to charge your card;
2. Charges for things or services that you never ordered;
3. Charges for things that you ordered, but that the seller did not deliver in a “timely manner”; and



## **CHECK YOUR CREDIT CARD STATEMENTS.**

**Make sure no one is using your credit card without your permission. If you see questionable charges on your credit card statements, you need to act fast.**

**You can dispute these charges by writing a dispute letter to the card company.**

### 4. Accounting errors.

If you see an error on your credit card statement, you should write a “dispute letter” to the credit card company. This dispute letter should be written on a separate sheet of paper—not the original bill. The letter should include:

1. Your name and address;
2. The account number;
3. The amount, date and creditor information for the charge(s) you are disputing; and
4. The reason why you are disputing the charge.

The letter should be addressed to the credit card company’s billing error address. This address is usually different from where you send your payments. You can usually find the billing error address on the back of your bill.

You should mail this letter by certified mail, return receipt requested. Keep a copy of the letter for your records. Your credit card company must receive your dispute letter within 60 days from the date when the bill was sent to you.

If the problem is not taken care of within 30 days from when your credit card company receives your dispute letter, your credit card company will let you know if there will be an investigation. You need to keep paying your credit card bill during the dispute process and investigation, but you do not need to pay the amount that is being investigated. If the credit card company’s investigation finds that the charge is correct, you must pay that amount and you may have to pay extra fees.

If you are being sued on your credit card debt, read the “Guide to Debt Collection Actions in Maine Courts” at the end of this chapter.

### **Medical debt**

If you have medical debt and you think Medicare or MaineCare should have paid for it, please call the LSE Helpline. Legal Services for the Elderly may be able to help you submit a medical claim to Medicare or MaineCare or help you appeal a denial of a claim.

If you are being sued on your medical debt, read the “Guide to Debt Collection Actions in Maine Courts” at the end of this chapter.

## **Getting your medical debt covered by Free Hospital Care**

Under Maine law, all the hospitals in the State must have a free care policy. This free care policy is also called “charity care” or “uncompensated care.” To find out if your unpaid hospital debt can be covered by free care, contact the hospital that provided the medical services directly or call the LSE Helpline.

## **Student loan debt**

The collection process for student loan debt depends on whether the loan is federal or private. The federal government has substantial power to collect student loans. To collect the government can: take certain federal benefits (including Social Security income), garnish wages without a court order, and take income tax refunds. There is no time limit on the collection of federal student loans.

Private student loans are different. These loans are covered by state collection laws that apply to other unsecured debt, such as credit card and medical debt. As such, a private lender or debt collector cannot take the borrower’s Social Security benefits to repay private student loan debt.

If you are being sued on your student loan debt, read the “Guide to Debt Collection Actions in Maine Courts” at the end of this chapter.

If you have any questions about student loan debt, please call the LSE Helpline to speak to an attorney for free.

## **Vehicle repossessions**

If you are behind on your vehicle payments, you might be at risk of losing your vehicle. In some situations, you can lose your vehicle and still be sued. This section will give you information about the vehicle repossession process.

If you are behind on your vehicle payments, your creditor has the right to repossess the vehicle. This means the creditor can take the vehicle away from you. A “voluntary repossession” is when you choose to give the vehicle back to your creditor. An “involuntary repossession” is when the finance company or creditor takes the vehicle from you.

Repossession of the vehicle may not take care of all the debt you owe to the creditor. Sometimes, creditors sell the repossessed vehicles at auctions. If the vehicle is sold for less than the amount you owe on the loan, you will have to pay the difference. The creditor will give you a “deficiency balance.” The “deficiency balance” is the amount you still owe after the money from the sale is applied to your total



## **A REPOSSESSED VEHICLE CAN STILL COST YOU MONEY.**

**If your car is repossessed and sold for less than you owe, you could be sued for the difference.**

**Avoid repossession if possible; if not, get legal help. Call the LSE Helpline.**

loan balance plus reasonable repossession fees. If you don't pay it, you may be sued on a "deficiency balance."

If you are being sued on your vehicle debt, read the "Guide to Debt Collection Actions in Maine Courts" at the end of this chapter.

If you have questions about vehicle repossessions, please call the LSE Helpline for free legal help.

### **Income tax debt**

If you can't afford the money you owe money in taxes, either federal or state, there are places you can go to get help. In addition to the resources listed below, you may want to make sure that you are not "leaving money on the table" when you file your taxes. Check out the Pine Tree Legal Assistance (PTLA) Benefit Checklist for a list of Tax Credits & Benefits. You can view the Benefits Checklist on the PTLA website.<sup>1</sup>

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you are having a hard time managing your debt, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

### **The Office of the Maine Attorney General**

For helpful information on several consumer topics such as Small Claims Court in Maine, identity theft, and consumer rights specifically for seniors, click on the "Consumer Law Guide" tab on the website for the Maine Attorney General. [www.maine.gov/ag/](http://www.maine.gov/ag/)

### **Maine Bureau of Consumer Credit Protection**

If you want to get answers to general debt questions, or to file a complaint, call the Maine Bureau of Consumer Credit Protection at 1-800-332-8529 or TTY for hearing impaired at 1-888-577-6690. Or visit the Bureau's website for more information.  
[www.maine.gov/pfr/consumercredit/index.shtml](http://www.maine.gov/pfr/consumercredit/index.shtml)

The "**Downeaster Common Sense Guide to Student Loans**" has helpful information about student loan debt. To get this guide, visit the website for the Maine Bureau of Consumer Protection and click on "publications."

### **Federal Trade Commission**

The FTC is a government agency that protects American consumers.

For more information about your rights with regard to debt collection, visit the FTC's website. [www.ftc.gov](http://www.ftc.gov)

### **Federal Student Aid Ombudsman Group of the U.S. Department of Education**

The Ombudsman Group is dedicated to helping resolve disputes related to Direct Loans, Federal Family Education Loan (FFEL) Program loans, Guaranteed Student Loans, and Perkins Loans. For more information, visit the Ombudsman Group's website or call 1-877-557-2575.

[www.studentaid.ed.gov/repay-loans/disputes/prepare](http://www.studentaid.ed.gov/repay-loans/disputes/prepare)

### **National Consumer Law Center's Student Loan Borrower Assistance Project**

The Student Loan Borrower Assistance Project is a helpful resource for borrowers and their families, and advocates representing student loan borrowers. For more information, visit the Project's website.

[www.studentloanborrowerassistance.org](http://www.studentloanborrowerassistance.org)

### **Maine Revenue Services**

You might be able to get free help from a taxpayer advocate. A taxpayer advocate can help you talk to the IRS and can help you figure out the best plan for your situation. For more information call the Taxpayer Advocate Service in Maine at 1-877-777-4778.

### **Pine Tree Legal Assistance**

PTLA provides a taxpayer clinic for low income individuals. If you qualify, their services are free. For more information about this clinic, visit the section of the PTLA website on "taxpayer clinic."

[www.ptla.org/low-income-taxpayer-clinic](http://www.ptla.org/low-income-taxpayer-clinic)

### **IRS Resources for Taxpayers in Maine**

If you have a tax problem, you can contact the IRS directly to talk about your options. To find the local IRS office closest to you, visit the IRS website. [www.irs.gov/uac/Contact-My-Local-Office-in-Maine](http://www.irs.gov/uac/Contact-My-Local-Office-in-Maine)

### **AARP's Tax Aide Location**

You might be able to find tax assistance in your area through the AARP Tax Aide Program. Visit the AARP Tax Aide Program locator website to find out more. [www.aarp.org/applications/VMISLocator/searchTaxAideLocations.action](http://www.aarp.org/applications/VMISLocator/searchTaxAideLocations.action)



## **LET THE BORROWER BEWARE!**

**Watch out for loans with high interest rates, excessive fees or penalties.**

**Examples of predatory lending are things like pay day loans, rent-to-own agreements, and tax refund anticipation loans.**

**If you need to borrow money, deal with a legitimate bank or local credit union.**

## **PREDATORY LENDING**

Savvy, crooked lenders are ready to pounce on the unsuspecting borrower. These lenders may try to sell you a loan with inflated interest rates and fees. This is called “predatory lending.”

### **Some signs of predatory lending**

- Excessive fees;
- Very high prepayment penalties;
- A kickback to the broker who sells you the loan;
- New loans which generate fees that get you further in debt;
- Unnecessary products and add-ons;
- Mandatory arbitration clause in the contract;
- Not getting the best loan terms despite having a good credit score; and
- “Balloon” payments: low monthly payments with a large payment at the end of the loan period.

### **Examples of common predatory lending**

High cost, small loans, such as:

- Credit cards
- Pay day loans – you write a check to the lender for the amount you borrowed plus a fee
- Auto title loans
- Tax refund anticipation loans
- Rent to own agreements

### **What you can do if you think you are a victim of predatory lending**

You can change your mind at any time before you sign a contract. Also be aware that the Truth in Lending Act allows you to change your mind within three (3) days of signing a contract that uses your

home as security. You need to write a letter to your lender telling them that you are exercising your rights under the Truth in Lending Act. Send this request by certified mail to the lender, and keep a copy for your records.

If you think you are a victim of predatory lending, call the LSE Helpline to talk to an attorney for free.

### **How to avoid becoming a victim of predatory lending**

- Know your credit score and check your credit report annually. A good credit rating may qualify you for a better interest rate. Call 1-877-322-8228 to check your credit score for free. Or, you can request a free credit report online. Or, you can call the LSE Helpline to get a printed copy of the request form.
- Talk to your local bank to check lending rates.
- Don't take the first loan you are offered. Shop around.
- Ask questions.
- If you don't understand the loan terms, talk to a lawyer, or get someone you trust to look at the documents with you.
- Be suspicious of ads promising "No Credit? No Problem!" If it sounds too good to be true, it probably is.
- Ignore high-pressure sales tactics, and don't jump into a deal that sounds good without taking the time to check it out first.
- Remember that a low monthly payment isn't always a "deal." Look at the total cost of the loan.
- Be wary of promises to refinance the loan to a better rate in the future.
- **Never** sign a blank document or anything the lender promises to fill in later.
- Be suspicious of a lender who solicits you. Most reputable mortgage companies and lenders don't "cold-call."



## IDENTITY THEFT IS ON THE RISE

**It's more important than ever to be careful about your credit card info, bank account and social security numbers.**

**Check your credit card and bank statements every month. If you see questionable activity, follow the steps provided in this chapter on how to dispute those charges.**

## BANKRUPTCY

Maine law protects certain income sources and certain property from creditors. Before you decide that bankruptcy is your only way out of a debt problem, please call the LSE Helpline.

## RESOURCES

### Legal Services for the Elderly

If you are a Maine resident who is 60 or older and you think you are a victim of Predatory Lending or if you have questions about bankruptcy, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### Department of Housing and Urban Development

To view a list of HUD approved credit counseling agencies in Maine, visit the HUD website and search for credit counseling agencies in Maine. [www.hud.gov](http://www.hud.gov)

### United States Bankruptcy Court for the District of Maine

To get answers to frequently asked questions about bankruptcy, visit the website for the Bankruptcy Court for the District of Maine. [www.meb.uscourts.gov/w\\_faqs.html](http://www.meb.uscourts.gov/w_faqs.html)

## CREDIT REPORTS

If you apply for a loan or other credit, the bank or business will check your credit report before they give you the loan or credit card. Your credit report tells them about your financial history. It is also possible that an employer or housing provider will check your credit report if you apply for a job or housing. For these reasons, it is important that you check your credit report regularly to make sure that it is accurate.

### How do I get my credit report?

Under the Maine Fair Credit Reporting Act, you can get one free copy of your credit report every twelve (12) months from each of the three major credit reporting agencies: Equifax, Experian and TransUnion. You could choose to ask for a report from each agency at different times during the year, or you could ask for them all at the same time. To obtain your free credit report, call 1-877-322-8228. You can also request a free credit report online.<sup>3</sup> Or, you can call the LSE Helpline to get a printed copy of the request form.

### What if there are mistakes on my credit report?

If any of the information on your report is wrong, circle the error(s) on the report and then write a letter telling the reporting agency

that you disagree with the circled information. Mail the report and letter to the credit reporting agency. Keep a copy of your letter for your own records. Under the Maine Fair Credit Reporting Act, the credit reporting agencies must do an investigation into the disputed information within twenty-one (21) days of receiving your letter. If the credit reporting agency cannot prove that the circled information is correct, it must remove it from your credit report.

The Maine Bureau of Consumer Credit Protection enforces Maine credit laws and Maine residents may contact the Bureau's Consumer Line at 1-800-332-8529.

## **RESOURCES**

### **Annual Credit Reports**

To request a free copy of your credit report, call 1-877-322-8228 or visit the Annual Credit Report website. [www.annualcreditreport.com](http://www.annualcreditreport.com)

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you would like help requesting a copy of your credit report, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### **The Office of the Maine Attorney General**

For helpful information on several consumer topics such as Small Claims Court in Maine, identity theft, and consumer rights specifically for seniors, click on the "Consumer Law Guide" tab on the website for the Maine Attorney General. [www.maine.gov/ag/](http://www.maine.gov/ag/)

### **Maine Bureau of Consumer Credit Protection**

The Bureau of Consumer Credit Protection enforces Maine credit laws, call the Bureau's Consumer Line at 1-800-332-8529.

### **Federal Trade Commission**

The FTC is a government agency that protects American consumers. For more information about your rights with regard to debt collection, visit the FTC's website. [www.ftc.gov](http://www.ftc.gov)

## **EXPLOITATION/IDENTITY THEFT**

In today's world it seems that there is a solicitation or shady deal around every corner. Not only do you have to be worried that someone is going to steal your money, but you also need to protect your identity from being stolen. It is hard to know who to trust. This section will give you some information on organizations and services that can help.

## **Maine Department of Professional and Financial Regulation**

If you would like to check out an offer that sounds too good to be true, or if you want to know if a charity is legitimate, call the Maine Department of Professional and Financial Regulation at 1-877-624-8551.

## **The Federal Trade Commission**

The Federal Trade Commission (FTC) provides free consumer guides to help individuals recover from identity theft. You can get this guide by calling the Identity Theft Hotline at 1-877-438-4338.

The FTC recommends that you contact the fraud departments of each of the three major credit reporting bureaus if someone has stolen your identity. The numbers for the fraud divisions appear below:

- Equifax: 1-800-525-6285 or [www.equifax.com](http://www.equifax.com)
- Experian: 1-888-397-3742 or [www.experian.com](http://www.experian.com)
- TransUnion: 1-800-680-7289 or [www.tuc.com](http://www.tuc.com)

A copy of your credit report can be obtained free of charge once every 12 months by calling 1-877-322-8228. You can also request a free copy of your credit report online.<sup>4</sup> Or, you can call the LSE Helpline to get a printed copy of the request form.

If you believe you are the victim of identity theft, you should also file a police report with the local law enforcement agency. Call the LSE Helpline to talk to an attorney for free.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you believe you are a victim of identity theft, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

### **National Do Not Call Registry**

Get on the National Do Not Call Registry to stop getting calls from telemarketers. Get on the Registry by visiting the following website.  
[www.donotcall.gov](http://www.donotcall.gov)

### **Annual Credit Reports**

To request a free copy of your credit report, call 1-877-322-8228 or visit the Annual Credit Report website. [www.annualcreditreport.com](http://www.annualcreditreport.com)

## **The Office of the Maine Attorney General**

For helpful information on several consumer topics such as Small Claims Court in Maine, identity theft, and consumer rights specifically for seniors, click on the “Consumer Law Guide” tab on the website for the Maine Attorney General. [www.maine.gov/ag/](http://www.maine.gov/ag/)

## **Federal Trade Commission**

The FTC is a government agency that protects American consumers. For more information about your rights with regard to debt collection, visit the FTC’s website. [www.ftc.gov](http://www.ftc.gov)

## **American Bar Association**

The American Bar Association produced a pamphlet of helpful information about identity theft. Get the pamphlet online. <https://apps.americanbar.org/tips/publicservice/IdentityTheftBrochure.pdf>

## **CREDITOR LIENS**

If your creditor sues you on your debt and the court decides that you must repay that money, the creditor has a few options to collect on that debt. One way is to place a lien on your property. If the creditor does this, it means that the creditor is claiming that they have a right to a certain amount of value in that property which will be collected when the property is sold. This section will talk about certain property that is protected from creditor liens.

### **Property that is protected from creditor liens**

If you are sued for a debt, the “equity” in property you own may be protected from the creditor or judgment creditor. The “equity” in your home is the value of the home minus the balance due on the mortgage or home equity loan. The “equity” in your vehicle is the value of the vehicle minus the balance due on the vehicle loan.

Maine law allows persons age 60 and older to have up to \$95,000 of equity in his or her primary residence. Debtors of any age are entitled to have up to \$5,000 of equity in one vehicle. To find out if your assets are protected or if you need help getting a lien removed from your property, please call the LSE Helpline at 1-800-750-5353.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you have a problem with a creditor lien, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)



## MAINE JUDICIAL BRANCH

**Check out the State of Maine Judicial Branch's step-by-step guide on how to bring a small claims action on your own.**

**Go online to get the guide.<sup>5</sup>**

### Pine Tree Legal Assistance

For more information on creditor liens, visit the Pine Tree Legal Assistance's website. [www.ptla.org](http://www.ptla.org)

### TAX ISSUES: 1099-C FORM

Form 1099-C is a tax document for the Cancellation of Debt.

If your creditor agrees to cancel or forgive some or all of your debt, the U.S. Internal Revenue Service considers this income. Creditors and debt collectors who agree to accept at least \$600 less than the original balance are required to file 1099-C forms with the IRS and to send you a notice of this filing. You must report that portion of forgiven debt as "income" on your federal income tax return.

If you have received a 1099-C "Cancellation of Debt," do not ignore it. Take the notice to a tax advisor. Even if you don't have to pay the tax, you still need to file a form with the IRS.

### SMALL CLAIMS

If your creditor is suing you for a debt of \$6,000 or less, they may sue you in small claims court.

Small claims court is designed to be user-friendly and is less formal than regular district court. Usually, people are not represented by an attorney. You can get the court forms you'll need to bring a small claim at your local district court or on the Maine Judicial Branch's website.<sup>5</sup> The Maine Judicial Branch has a guide to small claims which is also available at the district courts and online.

If you have questions about the small claims court forms or the small claims court process, please contact the LSE Helpline.

### What to do if you are being sued on your debt

The "Guide to Debt Collection Actions in Maine Courts" will give you an idea of what will happen if you are sued for your debt. This Guide provides a brief description of the steps a debtor will face in a typical debt collection case in a Maine court. It covers only debt collection actions for unsecured debt, such as credit card and medical debt. Read the "Guide to Debt Collection Actions in Maine Courts" at the end of this chapter.

If you are being sued on a debt or if you have any questions about a debt, call the LSE Helpline to talk to an attorney for free.

## **Money that is protected from being used for debt repayment**

If you are sued on a debt, there are laws that say what can, or cannot be used to pay your debt. Certain income sources and certain equity in property are protected from collection. You need to talk to an attorney to find out if you are protected by these laws. Call the LSE Helpline to talk to an attorney for free.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you would like help dealing with your debt problem, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

### **Maine Judicial Branch**

Check out the State of Maine Judicial Branch's step-by-step guide on how to bring a small claims action on your own.

Go online to get the guide. [www.courts.state.me.us/maine\\_courts/small\\_claims/smallclaimsguide/](http://www.courts.state.me.us/maine_courts/small_claims/smallclaimsguide/)

## **NOTES**

- 1) Benefit Checklist with a list of Tax Credits & Benefits:  
[www.ptla.org/are-you-leaving-money-table](http://www.ptla.org/are-you-leaving-money-table)
- 2) Request a free copy of your credit report:  
[www.annualcreditreport.com](http://www.annualcreditreport.com)
- 3) Request a free copy of your credit report:  
[www.annualcreditreport.com](http://www.annualcreditreport.com)
- 4) Request a free copy of your credit report:  
[www.annualcreditreport.com](http://www.annualcreditreport.com)
- 5) Get the Guide to Small Claims in Maine:  
[www.courts.state.me.us/maine\\_courts/small\\_claims/smallclaimsguide/](http://www.courts.state.me.us/maine_courts/small_claims/smallclaimsguide/)

# Guide to Debt Collection Actions in Maine Courts

*This Guide covers only debt collection actions for unsecured debt, such as credit card and medical debt. The Guide provides a brief description of the steps a debtor will face in a typical debt collection case in a Maine court.*

The Legal Services for the Elderly Helpline gives free legal help to Mainers age sixty (60) or older. If you have any questions about a debt, please call our Helpline at 1-800-750-5353.

If you owe money to somebody, you are the “debtor.” The person to whom you owe the money is called a “creditor.”

## **Step One: Service of Court Paperwork**

A debt collection court case begins when you receive a “Summons” and either a “Statement of Claim” or a “Complaint.”

Normally, a deputy sheriff will serve you with the court paperwork. There is nothing to fear if a deputy sheriff knocks on your door. A debt collection case is a civil matter — not a criminal matter— so you will not be arrested or taken to jail. The deputy sheriff is there to simply hand you the paperwork, this is called “serving” you your paperwork.

## **Step Two: Decide if You Want to Respond to the Court Paperwork**

Most people do not have a valid defense to the lawsuit and do not need to respond to the initial court paperwork. If you have questions about whether or not you should dispute the debt, please call the Legal Services for the Elderly Helpline at 1-800-750-5353. If the LSE attorney advises you that you do not need to respond, please skip to Step Four, below.

If you believe that you do not owe the debt, then you need to file an “Answer” with the court within twenty (20) days of being served with the initial court paperwork. Your “Answer” is a letter in which you explain why you dispute the debt and it can be either mailed to the court or hand-delivered to a court clerk. A copy of your “Answer” should be mailed to the creditor’s attorney and you should keep a copy for your own records.

## **Step Three: Contested Hearing**

If you file your “Answer” with the court within twenty (20) days of being served with the initial court paperwork, the court may send you a “Scheduling Order” and/or a “Notice of Hearing” that gives the date, time and location of the hearing.

At the hearing, the court will decide whether or not you owe the alleged debt and the amount of the debt.

#### **Step Four: Entry of Order or Default Judgment**

After the court holds a hearing, the judge will write her decision in an “Order.”

You will either be given a copy of the “Order” after the hearing, or the court will mail you a copy.

If you do not go to the hearing, the court will eventually enter what is called a “Default Judgment” against you finding that you owe the debt. The court will mail you a copy of the “Default Judgment.” You do not need to respond to the “Default Judgment.”

#### **Step Five: Contact from the Creditor’s Attorney**

After an “Order” or “Default Judgment” is entered by the court, the creditor’s attorney may send you a letter or call you requesting payment on the debt. You do not need to respond to such a letter or agree to make any payments.

#### **Step Six: Disclosure Hearing**

The creditor’s attorney may also serve you with a “Disclosure Subpoena.” Again, service is usually done by deputy sheriff. The “Disclosure Subpoena” will tell you what date and time you must appear in court for a “Disclosure Hearing.” Also, it might tell you that you need to bring certain documents with you to court.

**Do not ignore a “Disclosure Subpoena.”** Please call the Legal Services for the Elderly Helpline for help immediately if you receive a “Disclosure Subpoena.” Under the law, some income sources and assets are protected from creditors. Please call the Helpline at 1-800-750-5353 to find out whether your income and assets are protected.

The point of a “Disclosure Hearing” is to get information about your income and assets. You might be able to “mediate” (negotiate) with the creditor’s attorney outside the courtroom. You should not make any payment agreement that you cannot truly afford. Do not feel pressured to agree to anything just to avoid a hearing. But, if you do reach an agreement, make sure you go back into the courtroom and wait until the judge makes your agreement into an “Order.”

If you can’t come to an agreement, you will have a full court hearing and you will have to talk about your income, assets and living expenses. The judge will decide whether or not you have to pay

the debt and will enter an “Order.” The “Order” will include any payment terms.

### **Step Seven: Failure to Follow the Order**

You must follow the instructions in the “Order.” A court “Order” that tells you to make payments on the debt is binding and legally enforceable. This means that if you don’t follow the instructions in the “Order,” you can be brought back to court. If you are served with a “Motion for Contempt” or another “Disclosure Subpoena,” you might want to call the Helpline back at 1-800-750-5353.

# MaineCare and Long-Term Care

In Maine, Medicaid is called MaineCare. This chapter will provide some general information about MaineCare. Specifically, this chapter will talk about:

1. MaineCare;
2. Common questions that arise when you are getting help from MaineCare;
3. Getting help paying for your long-term care;
4. What to do if you have been denied MaineCare or are experiencing a reduction in services;
5. Your long-term care options in Maine;
6. Your rights as a resident and where to go for help if you have a complaint about your long-term care; and
7. What to do if your nursing home is trying to make you leave.

## MAINECARE (MEDICAID)

In Maine, Medicaid is called MaineCare. Medicaid is a health insurance program that provides insurance to people who have limited income and assets. Medicaid is run by the federal and state governments.

Eligibility for MaineCare is based on age and income. Sometimes



**Health care and long-term care services can be very expensive. Read this chapter to learn about your options for care and how to pay for that care.**



## **SHOULD I TRY TO REDUCE MY ASSETS TO BECOME ELIGIBLE FOR MAINECARE?**

**This is very risky because there are confusing Maine laws about the legal way to do this. If you don't follow the law, you could jeopardize future MaineCare benefits. If you're considering reducing your assets, talk to an attorney first.**

you have to be medically eligible as well. To find out if you qualify for MaineCare, call your local Area Agency on Aging at 1-877-353-3771. You might qualify for MaineCare even if you have Medicare coverage.

### **Applying for MaineCare**

Call your local Area Agency on Aging to get help applying for MaineCare. A specialist will help you fill out the forms or can help you apply for MaineCare online. If it is hard for you to leave your house, someone might be able to come to your home to help you apply for MaineCare.

You can also visit your local Department of Health and Human Services office and ask to talk to an eligibility specialist. You can find the DHHS nearest you by visiting the Maine DHHS website.<sup>1</sup>

## **COMMON QUESTIONS ABOUT MAINECARE**

This section will answer some common questions about MaineCare.

### **What does MaineCare cover?**

MaineCare covers more health services than Medicare. Generally, MaineCare covers the costs of going to the hospital, going to see your doctor, getting medical supplies, or receiving long-term care in your own home, assisted living facility, or skilled nursing facility.

The amount of your MaineCare benefit is based on your income, age, medical needs, and family situation. To find out more about MaineCare benefits, call your local Area Agency on Aging at 1-877-353-3771.

### **What if I can't get MaineCare because I have too much money or property?**

If you are not eligible for MaineCare because you have too much money or property, you might be able to reduce your assets to become eligible. **This is very risky.** There are confusing laws that say how you have to do this. If you make a mistake, you might not be able to get MaineCare even after you meet the asset requirements.

**You should talk to an attorney before doing anything to reduce your assets.** The attorney needs to be very familiar with the MaineCare rules. Call the LSE Helpline to talk to an attorney for free.

### **Will I lose my home if I get MaineCare?**

Many people think that if you get MaineCare then the State will take your house away. This is not exactly true. Read on to learn more.

### **Can the State take my home if I get MaineCare?**

NO! The law does not allow the State to just take your home. What people are really talking about are rights the State has after you die, called “estate recovery.” The law says the State can try to collect money it paid for your health care. But, it only applies to care you received after age 55.

### **Here’s an example of how it works:**

MaineCare has paid all Edna’s nursing home bills. When she dies, the State has the right to collect the money it spent on her nursing home care from her estate. This is called “estate recovery.” When Edna dies, she only owns her house and a few pieces of family jewelry. Attorneys call this her “estate.” Edna’s estate is so small that the house may need to be sold to pay the State. The amount left after estate recovery will go to her son and daughter, her “heirs.”

### **Does this mean that if I use any MaineCare programs, the State must be repaid?**

NO! Your estate will not be touched if you use either of these MaineCare programs:

1. Medicare Buy-In Benefits or Medicare Savings Programs that help pay for Medicare premiums and other Medicare costs.
2. The Low Cost Drug Program for the Elderly and Disabled.

### **Does the State always have the right to collect the money it spent on my health care?**

NO! Before the State can collect any money, it must first go to court and prove it is owed money. If it is able to prove this, it can start the estate recovery process. But, the State will not start collecting from your estate until:

1. Your husband or wife (or registered domestic partner) has died;
2. Your minor child has died; or
3. Your adult child who is blind or disabled has died.

### **What if I have a Will?**

A Will does not protect you against estate recovery. The State must be paid before the people you name in your Will get anything. If you are on MaineCare for a long time, there may be nothing left in your estate after the State gets paid.



### **WHAT IS ESTATE RECOVERY?**

**If MaineCare has paid all of an individual’s medical and nursing care bills, the State has the right to collect that money from the individual’s estate after his or her death. This is called “Estate Recovery.”**

**Two things to remember; the State can’t collect any money it pays for your health care while you’re alive, and it can’t take your house while you’re alive.**

## **Is there anything I can do to protect my house from estate recovery? It's all I own.**

There may be some steps you can take now to protect your house from estate recovery. Call the LSE Helpline to talk with an attorney for free.

### **REMEMBER:**

- The State CANNOT try to collect any money it pays for your health care while you are alive.
- The State CANNOT take (or put a lien) on your house while you are alive.
- You have the right to do what you want with your property. You can sell your house. The State has NO rights to your property when you are alive.
- Estate recovery applies only to MaineCare benefits you get after age 55. The State CANNOT collect money it paid for your health care before age 55.

Estate recovery is complicated. These are just the basics. There may be other ways the estate recovery rules affect you that are not covered here. Call the LSE Helpline to learn more.

## **RESOURCES**

### **Area Agency on Aging**

To get help applying for MaineCare, or if you have questions about your MaineCare benefits, call your local Area Agency on Aging at 1-877-353-8771.

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you are worried about losing your home to estate recovery, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### **Maine Equal Justice Partners**

The Maine Equal Justice Partners created a comprehensive “Guide to MaineCare.” Get the Guide on the MEJP website. [www.mejp.org/sites/default/files/mainecare-guide\\_1.pdf](http://www.mejp.org/sites/default/files/mainecare-guide_1.pdf)

**Department of Health and Human Services,  
Office of MaineCare Services**

If you have questions about MaineCare, call the Office of MaineCare Services at (207) 287-2674 or TTY 711.

You can apply for MaineCare online by visiting the “My Maine Connection” website. [www1.maine.gov/benefits/account/login.html](http://www1.maine.gov/benefits/account/login.html)

To find out what your MaineCare benefits are, check out the MaineCare Member Handbook on the MaineCare website. [www.maine.gov/dhhs/oms/pdfs\\_doc/member/mainecare\\_mbr\\_handbook.pdf](http://www.maine.gov/dhhs/oms/pdfs_doc/member/mainecare_mbr_handbook.pdf)

## **GETTING HELP PAYING FOR YOUR LONG-TERM CARE**

You might be worried about how you’ll pay for costly long-term nursing care, if you need it. You might think you have to be poor or spend all your money first, or that you have to sell your house. These assumptions are not true. Here’s the real story.

### **Doesn’t Medicare pay for long-term nursing care?**

No, not really. It only pays for up to 100 days and only if you need a very high level of care and have spent some time in the hospital first. If you need longer-term nursing care and can’t pay for it, MaineCare pays.

### **How does MaineCare decide when they’ll pay?**

MaineCare decides when to pay for long-term nursing care based on 3 rules:

#### **Rule 1:** Whether you have a “medical need.”

Having a medical need means you need help with personal care such as walking, eating, getting into bed, and bathing. If you call the State, MaineCare will send a nurse to decide if you have a medical need for MaineCare.

#### **Rule 2:** Whether you have a “financial need.”

Having a financial need means that your total monthly income is less than the cost of nursing care for a month. And you don’t have enough savings to pay for your care. See more details below about how much cash and property you are still allowed to keep.

#### **Rule 3:** Whether you have given away any of your property or assets within the past five years.

When you apply for help with nursing costs, MaineCare looks at your financial records to determine if you have made any “disqualifying



**IF YOU’VE BEEN DENIED MAINECARE OR HAD YOUR SERVICES REDUCED, YOU HAVE THE RIGHT TO APPEAL.**

**The appeal process can be very confusing. If you feel you’ve been denied MaineCare unjustly, call the LSE Helpline to talk to an attorney.**

transfers.” MaineCare will look back five years, and if you had given any money or property away in those five years, MaineCare will determine an ineligibility period based on the average cost of care in a nursing home. The penalty would begin on the date of the transfer.

The rules are complex and they change often. It is not a good idea to give property away and then apply for MaineCare without consulting an attorney. **Before you give away any of your property, call the LSE Helpline.**

### **If I apply for MaineCare, can I keep any savings or property?**

Yes! How much you can keep depends on whether you’re single or married. Call the Helpline or visit the Legal Services for the Elderly website for the current limits.<sup>2</sup>

### **Should I buy long-term care insurance?**

Maybe, but it’s not for everyone. It works best for middle class people who have savings above the limits allowed by MaineCare. Many people can’t afford it or don’t need it. So before you decide, learn more about it. Call your local Area Agency on Aging at 1-877-353-3771 to talk about your options for paying for long-term care.

## **RESOURCES**

### **Area Agency on Aging**

Your local Area Agency on Aging can help you figure out what your options are for paying for long-term care. Call your local Area Agency on Aging at 1-877-353-3771.

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you have a MaineCare eligibility problem, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

## **MAINECARE DENIALS AND APPEALS**

If you have been denied MaineCare, or if your services have been reduced, you have the right to appeal. You might want to have an attorney help you with this process. Call the LSE Helpline to speak to an attorney for free.

Here are a few examples of why the state might reduce or deny your MaineCare coverage:

- Your in-home service hours have been reduced or eliminated following an assessment by a nurse assessor;
- Your in-home service hours have been cut off due to an inability to pay your monthly bill or “cost-of-care”;
- The State will no longer pay for your care in a nursing home or assisted living facility; or
- You are being moved from a nursing facility to a different type of a facility (such as an assisted living facility or a residential care facility) following an assessment by a nurse assessor.

## SENIOR LONG-TERM CARE HOUSING OPTIONS

This section will give you information about the different long-term care housing options that are available in Maine. Call your local Area Agency on Aging at 1-877-353-3771 to learn about your options.

**1. Staying in your home.** Some seniors choose to stay in their home as they age. This is sometimes called “aging in place.” Some seniors rely on family to provide care, whereas others hire a home health agency to help. There are a number of community services available that can help with other things like meal preparation and transportation.

Medicare covers certain short-term home health care. MaineCare might also be an option if you are able to get it.

**2. Independent living housing.** The most common types of independent living programs are senior residences and assisted living facilities. Independent living housing is typically offered in a room or apartment rental. You might have a roommate. Usually these programs offer help with things like bathing, getting dressed or cooking.

Depending on the program, you might be able to get health care from people who work at the facility. You might be able to get help paying for your independent living housing.

**3. Nursing homes.** Nursing homes offer housing for seniors who need a great amount of help. Some nursing home residents are there for a short period of time while they recover from an illness or disability. Other nursing home residents live at the nursing home. At a nursing home, you have access to 24-hour medical attention. The nursing home will have a doctor on staff and most also hire nurses,



## WHAT IS THE MAINE LONG-TERM CARE OMBUDSMAN PROGRAM?

**This program protects the rights of residents of nursing homes and independent living facilities. They monitor and investigate facilities to help guarantee quality care and resident rights. They also give advice to people looking to choose a facility. Call 1-800-499-0229.**

physical therapists, speech therapists and occupational therapists.

There are many very good nursing home options available in Maine. You might be able to get help paying for your nursing home. Your local Agency on Aging can help you find the right one for you and can help with any fears that you might have about moving into a nursing home. If you are researching a specific nursing home, the Long-Term Care Ombudsman Program (LTCOP) can help you understand state inspection reports and can give advice on what to look for when you are visiting a nursing home. Call the LTCOP at 1-800-499-0229.

**4. Continuing care retirement communities (CCRC).** Retirement communities offer a wide range of services depending upon the resident's needs. This means that you won't need to move as your needs increase.

Retirement communities are very expensive. Most require you to pay a large up-front fee and sign a lengthy contract. In addition to the up-front fee, you will also have to pay rent and monthly fees. If you do choose a CCRC, you might want to get an attorney to help you review the contract.

## **RESOURCES**

### **Area Agency on Aging**

Your local Area Agency on Aging will help you find out what options are available in your area. You can also get information on how to pay for your long-term care. Call your local Area Agency on Aging at 1-877-353-3771 to learn about your options.

### **Maine Office of Aging and Disability Services**

To learn more about your long-term care options, call the Office of Aging and Disability Services at 1-800-262-2232.

### **Medicare.gov**

The official Medicare website has information about nursing homes in your area. To check out statistics about local nursing homes, check out "Nursing Home Compare" on Medicare's website. [www.medicare.gov/nursinghomecompare/search.html](http://www.medicare.gov/nursinghomecompare/search.html)  
Or, call 1-800-MEDICARE to speak to a representative about options in your area.

### **Maine Long-Term Care Ombudsman Program**

The Long-Term Care Ombudsman Program protects the rights of the residents of nursing homes and independent living facilities.

They receive and investigate complaints about facilities. If you are researching a specific nursing home, the Long-Term Care Ombudsman program can help you understand state inspection reports and can give you advice on what to look for when you are visiting a nursing home. Call 1-800-499-0229 or (207) 621-1079 and ask for help choosing a nursing home. [www.maineombudsman.org/](http://www.maineombudsman.org/)

## **RESIDENT RIGHTS: WHAT THEY ARE AND HOW TO ENFORCE THEM**

When you live in a nursing home or independent living facility, the law gives you special protections. Under the law, you have the right to be treated a certain way. The law also says that you have the right to stay in the facility unless the facility discharges you by following very specific rules. If the facility doesn't follow these rules, you have the right to appeal. Your rights and how to enforce them are explained in this section.

If you received a "Discharge Notice" or if the facility is threatening to kick you out, see the section "Can The Nursing Home Make Me Leave?"

### **Nursing home resident rights**

The Federal Nursing Home Reform Act says that you have certain rights when you are a nursing home resident. According to Medicare, residents generally have the following rights:

- **Respect:** You have the right to be treated with dignity and respect.
- **Services and Fees:** You must be informed in writing about services and fees before you enter the nursing home.
- **Money:** You have the right to manage your own money or to choose someone else you trust to do this for you.
- **Privacy:** You have the right to privacy and to keep and use your personal belongings and property as long as it doesn't interfere with the rights, health, or safety of others.
- **Medical care:** You have the right to be informed about your medical condition, medications, and to see your own doctor. You also have the right to refuse medications and treatments.

For more information, visit the website of the Maine Long-Term Care Ombudsman Program<sup>3</sup>, or see the "Guide to Choosing a Nursing Home" publication on the official Medicare website.<sup>4</sup>



## **CAN I GET EVICTED FROM A NURSING HOME?**

**Unfortunately, yes, but you might be able to stop it! If you're going to be kicked out, you will usually receive a "Discharge Notice." Once you are notified, you only have five days to challenge the discharge. If you are being discharged, call the LSE Helpline immediately.**

### **I don't like how I am being treated by the staff. What can I do?**

If you are unhappy with how you are being treated by your nursing home or independent living facility staff, there are things you can do. If possible, try talking to the administrators at the facility first. If the problem is not fixed, you can call the Long-Term Care Ombudsman Program at 1-800-499-0229 or (207) 621-1079. The Ombudsman will investigate. These services are free and confidential.

If you believe that your rights are being violated, call the LSE Helpline to speak to an attorney for free.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you believe your rights are being violated, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

### **The Maine Long-Term Care Ombudsman Program**

To make a confidential complaint about a nursing home or assisted living facility, call 1-800-499-0229 or (207) 621-1079. For more information, visit the website of the Maine Long-Term Care Ombudsman Program. [www.maineombudsman.org/](http://www.maineombudsman.org/)

## **CAN THE NURSING HOME MAKE ME LEAVE?**

If you live in a nursing facility, your right to stay there is protected. This means that the nursing facility can't make you leave without doing certain things first. But, nursing facilities don't always follow the rules.

If you have been given a letter that says you are no longer welcome to live there, or if one of the staff has told you that you are going to be kicked out, you have the right to challenge this. This is sometimes called a "Discharge Notice."

You have to act fast! You only have five days to challenge the discharge. If you are in danger of being kicked out of your nursing facility, Legal Services for the Elderly might be able to help you. Call the LSE Helpline right away to speak to an attorney for free.

## NOTES

- 1) Find the DHHS office nearest you:  
[www.maine.gov/dhhs/DHSaddresses.htm](http://www.maine.gov/dhhs/DHSaddresses.htm).
- 2) MaineCare asset limits:  
<http://mainelse.org/content/getting-help-paying-your-long-term-care>
- 3) Resident Rights:  
[www.maineombudsman.org/About/resident\\_rights.php](http://www.maineombudsman.org/About/resident_rights.php)
- 4) Medicare Guide to Choosing a Nursing Home:  
<https://www.medicare.gov/Pubs/pdf/02174.pdf>



**Medicare is a health insurance program run by the federal government.**

# Medicare

**M**edicare can be confusing. It's important to know where to go when you have questions. This chapter will help with that. Specifically, this chapter will cover:

1. Basic information about the Parts of Medicare;
2. How to get help signing up for Medicare;
3. What to do if you disagree with a Medicare decision;
4. Where to go for help with your prescription coverage (Part D); and
5. What health care reform means for seniors.

## **WHAT IS MEDICARE AND HOW DO I GET IT?**

Medicare is a health insurance program run by the federal government. People who are at least 65 years old, younger people who have specific disabilities and anyone with End-Stage Renal Disease, permanent kidney failure requiring dialysis, or a kidney transplant are eligible for Medicare. This section will explain what Medicare is and how to get it.

### **Parts of Medicare**

There are four major Parts of Medicare.

Usually, people get their Medicare one of two ways:

1. **Original Medicare (Parts A and B).** Original Medicare includes hospital insurance and medical insurance.

Or

2. **Medicare Advantage Plan (Part C).** Under Medicare Part C, you choose to get your Medicare hospital and medical benefits from a Medicare-approved private insurance provider instead of the federal government.

Depending on your situation, you might also want to add prescription coverage (**Part D**). You can get more information about the different Parts of Medicare by visiting the Medicare website.<sup>1</sup>

Sometimes, people with Original Medicare buy “Medigap Insurance.” Medigap insurance helps you pay for things that Medicare does not cover.

Call your local Area Agency on Aging at 1-877-353-3771 to get help choosing the right plan for you. Or, visit the Medicare Plan Finder online.<sup>2</sup>

For information on how to get help with your Medicare costs, visit the Maine Equal Justice Partner website on the topic.<sup>3</sup>

### **Signing up for Medicare**

You need to sign up for Medicare during a specific time period, called your “initial enrollment period.” This period is seven months long and starts three months before your 65th birthday month, includes your birthday month, and then ends three months after your birthday month. If you do not sign up during this seven month period, you have to wait for the next “open enrollment” period and your premium might be more expensive.

If you want help signing up for Medicare, call your local Area Agency on Aging at 1-877-353-3771.

You can get more information about signing up for Medicare online.<sup>4</sup>

### **WHAT IS A “MEDICARE SUMMARY NOTICE?”**

If you are signed up for Medicare Parts A and B and you are getting health care services, you will get a “Medicare Summary Notice” (MSN) every 3 months. The MSN is not a bill. The MSN will tell you what health care services Medicare covered over the past three months. If you did not get any health care services over the past three months, you will not get an MSN for that time period.



## **WHAT CAN I DO IF I'M DENIED MEDICARE COVERAGE?**

**You have the right to appeal, but you must do so within 120 days of receiving the notice denying coverage. If you're receiving care in a certain type of facility you might have the right to a "Fast Appeal." Most people need help navigating the appeal process. Call the LSE Helpline.**

Read your MSN carefully. Sometimes the MSN will have mistakes that you could end up paying for. Call the Maine Senior Medicare Patrol program at 1-877-353-3771 to get help understanding Medicare billing and your MSN.

You can appeal any Medicare decision. To find out how to appeal a Medicare decision, read "What if I disagree with a Medicare decision?"

## **WHAT IF I DISAGREE WITH A MEDICARE DECISION?**

If you have been denied Medicare coverage and you disagree with the denial, you have the right to appeal.

If you decide to appeal a Medicare decision, you need to do so within 120 days of receiving the Medicare Summary Notice containing the disputed decision. The Medicare website has a step-by-step guide on how to appeal a Medicare decision.<sup>5</sup>

If you are getting services in a hospital, skilled nursing facility, home health agency, comprehensive outpatient rehabilitation facility or hospice, and you think your Medicare-covered services are ending too soon, you have the right to a "fast appeal." Your provider will give you a notice that tells you when your Medicare-covered services are ending. This notice will tell you how to ask for a fast appeal.

You might want help with your Medicare appeal. Call the LSE Helpline to talk to an attorney for free.

## **WHAT IF I HAVE QUESTIONS ABOUT PART D (PRESCRIPTION DRUG COVERAGE)?**

Medicare Part D can be very confusing. Many people have a hard time understanding what their options are or even what their Part D covers. Legal Services for the Elderly has a special Medicare Part D Unit to help Maine seniors and disabled Maine residents with Medicare Part D. There is no cost for this help.

Call the Medicare Part D Unit at Legal Services for the Elderly, toll-free, at 1-877-774-7772 Monday through Friday, 9 a.m. to 12 p.m. (Noon), and 1 p.m. to 4 p.m. The Medicare Part D Unit will help you by phone.

You can get more information about Medicare Part D by visiting the LSE Medicare Part D Unit website.<sup>6</sup> Or, visit the official Medicare website on Part D.<sup>7</sup>

## **WHAT DOES HEALTH CARE REFORM MEAN FOR SENIORS?**

It is very important that you get all the facts about the new health care reform law. Visit the Legal Services for the Elderly website on health care reform to learn more.<sup>8</sup>

### **RESOURCES**

#### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you have been denied Medicare coverage, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

#### **Legal Services for the Elderly Medicare Part D Unit**

If you have questions about Medicare Part D, or if you want help with a Medicare Part D appeal, call the Legal Services for the Elderly Medicare Part D Unit at 1-877-774-7772.

You also may be able to find answers to some of your questions by visiting the LSE Medicare Part D Unit's website.  
<http://mainelse.org/content/part-d-table-contents>

#### **Legal Services for the Elderly Medicare Rights Advocate**

If you have concerns about your Medicare coverage or need help with a Medicare appeal, call the Legal Services for the Elderly Helpline at 1-800-750-5353 and ask to speak with the Medicare Rights Advocate.

#### **Area Agency on Aging**

If you have any questions about Medicare or about any type of insurance, call your local Area Agency on Aging at 1-877-353-3771. Trained health insurance counselors are available to answer your questions for free.

#### **Maine Senior Medicare Patrol**

If you have any questions about your Medicare Summary Notice or suspect that you are a victim of healthcare fraud or abuse, call the Maine Senior Medicare Patrol at 1-877-353-3771.

#### **Maine Equal Justice Partners**

For information on how to get help with your Medicare costs, visit the Maine Equal Justice Partners website on the topic. [www.mejp.org](http://www.mejp.org)

### **Medicare.gov**

For general information about Medicare, visit the official Medicare website. [www.medicare.gov/](http://www.medicare.gov/)

### **Centers for Medicare and Medicaid Services**

A Guide to Health Insurance for People with Medicare: Buying a Medigap Policy. Get the Guide online.

[www.medicare.gov/Publications/Pubs/pdf/021110.pdf](http://www.medicare.gov/Publications/Pubs/pdf/021110.pdf)

### **NOTES**

- 1) The official Medicare website: [www.Medicare.gov](http://www.Medicare.gov)
- 2) The Medicare Plan Finder: [www.medicare.gov/find-a-plan](http://www.medicare.gov/find-a-plan).
- 3) Get help with your Medicare costs: [www.mejp.org/content/help-medicare-and-prescription-drug-costs-medicare-savings-program](http://www.mejp.org/content/help-medicare-and-prescription-drug-costs-medicare-savings-program)
- 4) The official Medicare website: [www.Medicare.gov](http://www.Medicare.gov)
- 5) Guide on how to appeal Medicare decisions:  
<http://medicare.gov/claims-and-appeals/file-an-appeal/appeals.html>
- 6) Legal Services for the Elderly Medicare Part D Unit:  
<http://mainelse.org/content/part-d-table-contents>.
- 7) Medicare Part D: [www.medicare.gov/part-d/index.html](http://www.medicare.gov/part-d/index.html).
- 8) Legal Services for the Elderly Health Care Reform:  
[http://mainelse.org/content/health\\_care\\_reform](http://mainelse.org/content/health_care_reform).

# Sources of Income & Assistance

**E**ach section in this chapter will give you a basic overview of an income assistance program, the eligibility requirements, information on what to do if you receive a Notice of Overpayment, and the appeals process. The programs discussed in this chapter are:

1. Social Security
2. Social Security Disability Insurance
3. Supplemental Security Insurance
4. Veterans Benefits
5. Railroad Retirement
6. Pensions
7. Other State benefits

This chapter will also cover “Representative Payee” questions.

## **SOCIAL SECURITY**

Older Americans can usually get income through the federal Social Security program. Retired workers, disabled workers, and some family members of workers may be able to get Social Security benefits.



**There are several state and federal income assistance programs available to seniors. This chapter will talk about these programs.**

The program is funded by Social Security taxes that are paid by workers and their employers. While working and paying Social Security taxes, you earn “credits.” You have to earn a certain number of credits before you can get Social Security. Generally, you need to be at least 62 and have worked and paid Social Security taxes for at least 10 years before you can get Social Security. Disabled workers might be able to get Social Security Disability Insurance benefits earlier.

Your benefit amount will be based on many things, including: the number of years you worked, how much money you made, and how old you are. Call your local Area Agency on Aging at 1-877-353-3771 to find out if you can get Social Security.

### **Social Security programs**

The Social Security Program is made up of three parts: Social Security Retirement; Social Security Disability Income; and Social Security for family members.

#### **Social Security Retirement**

If you worked throughout your lifetime and you are at least 62, you may be eligible for Social Security Retirement. Even if you did not work, you may still be able to get these benefits through your spouse or former spouse.

There are two kinds of retirement: “early retirement” or “full retirement.” The kind of retirement you choose to take is based on how old you are when you apply and what year you were born. If you take early retirement and keep working, you have to follow very strict rules about how much money you can earn.

For more information about working while taking early retirement, visit the Social Security Administration (SSA) website on the topic.<sup>1</sup>

To find out what retirement age applies to you, visit the SSA’s online Retirement Age Calculator.<sup>2</sup>

#### **Social Security Disability Income**

If you have a disability and are not able to work a paying job, you might be able to get Social Security Disability Insurance (SSDI) benefits.

To collect SSDI benefits you have to prove your disability by showing all of the following:

- You have a “medically certified physical or mental disability” that,

- Prevents you from engaging in “substantial gainful employment” and
- That disability is expected to last for at least 12 months or result in death.

You also have to have earned a certain number of credits within a specific period of time. The credit requirement is based on your year of birth. To find out if you can get SSDI, visit the SSA’s website on the topic.<sup>3</sup>

If you are disabled and think you are eligible for SSDI, contact your local SSA office or apply online.<sup>4</sup> If you have any questions or if you want help with the application, call your local Area Agency on Aging at 1-877-373-3771.

If you can’t get SSDI, you might be able to get Supplemental Security Income. For more information about this program, see the section called “Supplemental Security Income” in this chapter.

### **Social Security for family members**

If you are able to get Social Security Retirement or Disability benefits, your family members might be able to get their own benefits based on your eligibility. Such family members include your spouse, your surviving spouse, your former spouse, and your minor or disabled children.

To learn more about Social Security benefits for your family members, visit the SSA’s website on the topic, or call your local Area Agency on Aging at 1-877-353-3771.<sup>5</sup>

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you have questions about your benefits or if you want help with an appeal, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### **Maine Disability Rights Center**

If you are under 60, the Maine Disability Rights Center might be able to help you apply for Social Security Disability benefits, or help you with an appeal if it relates to your disability. Call the Disability Rights Center at 1-800-452-1948.



## **WHEN SHOULD I START COLLECTING SOCIAL SECURITY?**

**The answer is different for each person. Your age, income level, ability to work and health are all factors. The same applies to your spouse, and one spouse’s choices may affect the other’s. Go to the Social Security website or talk to a certified financial planner to make the most of your Social Security benefits.**

### **Area Agency on Aging**

To find out what benefit programs you are eligible for, or for help applying to a benefit program, call your local Area Agency on Aging at 1-877-353-3771.

### **Social Security Administration: Boston Region**

Go online to find the Social Security Administration (SSA) nearest you. <http://socialsecurity.gov/boston/ME.htm>

The Social Security Administration website has several guides and publications on a variety of topics. Go online to read about:

### **Retirement Pamphlet**

[www.ssa.gov/pubs/EN-05-10035.pdf](http://www.ssa.gov/pubs/EN-05-10035.pdf)

### **What You Need to Know When You Get Retirement or Survivors Benefits**

[www.ssa.gov/pubs/EN-05-10077.pdf](http://www.ssa.gov/pubs/EN-05-10077.pdf)

### **Retirement Planner**

[www.ssa.gov/retire2/](http://www.ssa.gov/retire2/)

### **Disability**

#### **Disability Planner**

[www.ssa.gov/dibplan/index.htm](http://www.ssa.gov/dibplan/index.htm)

### **What You Need to Know When You Get Disability Benefits**

[www.ssa.gov/pubs/EN-05-10153.pdf](http://www.ssa.gov/pubs/EN-05-10153.pdf)

#### **Appeals**

### **The Appeals Process**

[www.socialsecurity.gov/pubs/EN-05-10041.pdf](http://www.socialsecurity.gov/pubs/EN-05-10041.pdf)

[www.ssa.gov/ssi/text-appeals-ussi.htm](http://www.ssa.gov/ssi/text-appeals-ussi.htm).

### **When Your Social Security Benefits are Taken to Pay Back Money to the Federal Government**

[www.nclc.org/images/pdf/older\\_consumers/consumer\\_facts/cf\\_when\\_social\\_sec\\_benefits\\_taken\\_to\\_fed\\_govt.pdf](http://www.nclc.org/images/pdf/older_consumers/consumer_facts/cf_when_social_sec_benefits_taken_to_fed_govt.pdf)

## **SUPPLEMENTAL SECURITY INCOME**

People with limited income and assets who are disabled, blind, or age 65 or older might be able to get Supplemental Security Income (SSI). Blind or disabled children might also be able to get SSI. SSI is different than other Social Security benefits, but it is also run by the Social Security Administration (SSA). The SSI program is funded

by general taxes paid to the federal government, not Social Security taxes. Eligibility requirements are different too. For SSI, you do not have to have a work history and there's no requirement that you be eligible to receive Social Security prior to applying for SSI. In some cases, you might be able to get Social Security benefits and SSI at the same time.

If you are interested in learning more about SSI or want to apply for the program, contact your local SSA office, or visit the SSI website.<sup>6</sup> Or, you can call your local Area Agency on Aging at 1-877-353-3771 to get help applying.

## RESOURCES

### Maine Disability Rights Center

The Maine Disability Rights Center might be able to help you apply for SSI. Call the Disability Rights Center at 1-800-452-1948.

### Social Security: Supplemental Security Income

For more information about Supplemental Security Income, visit the official Social Security Administration's (SSA) website on the topic. [www.ssa.gov/ssi/](http://www.ssa.gov/ssi/)

Or, read through this publication about Supplemental Security Income on the SSA's website. [www.ssa.gov/pubs/EN-05-11000.pdf](http://www.ssa.gov/pubs/EN-05-11000.pdf)

### Area Agency on Aging

To find out what benefit programs you are eligible for, or for help applying, call your local Area Agency on Aging at 1-877-353-3771.

## NOTICE OF OVERPAYMENT

The Social Security Administration (SSA) keeps track of your benefits payments to make sure you get the right amount. If you get a "Notice of Overpayment," it means that the SSA thinks that you got more than you should have, and it wants that money back. Do NOT ignore this Notice.

If you don't think you have been overpaid, or if you think you should not have to pay the money back, you have the right to appeal. For more information about SSA appeals, see the next section of this chapter. Call the LSE Helpline as soon as you get a Notice of Overpayment; you can speak to an attorney for free.

Do not wait to take action. If you miss the appeal deadline, the overpayment becomes final and then you have very few options.



## WHAT IF I GET A SOCIAL SECURITY NOTICE OF OVERPAYMENT?

**Don't ignore it! If Social Security thinks you've been paid too much, they will take action, including possibly withholding your full monthly payments until the balance is repaid.**

**You can challenge the overpayment in an appeal, but there are specific procedures and deadlines to follow. If you choose to appeal, call the LSE Helpline to speak to an attorney.**

If you do nothing, the SSA has many ways in which it can get the money back from you. This includes withholding your entire monthly payment until your debt is repaid.

Even if you agree with the SSA's decision but you can't afford to repay the money, you should talk to an attorney about your options. You might be able to work out a repayment plan, or get a waiver of the overpayment. If you request a waiver of the overpayment, you will need to prove two things:

1. That you were not at fault for causing the overpayment; and
2. That you cannot afford to repay the money.

Anyone can request a waiver of the overpayment, and you can request a waiver any time after you get a Notice of Overpayment. If you would like help requesting a waiver or asking for a repayment plan, call the LSE Helpline.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you received a Notice of Overpayment, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

### **Pine Tree Legal Assistance**

For information on how to cope with Social Security Overpayments, visit the PTLA website on the topic.  
[www.ptla.org/how-cope-social-security-overpayments](http://www.ptla.org/how-cope-social-security-overpayments)

## **SOCIAL SECURITY DENIALS AND APPEALS**

If you applied for Social Security or Supplemental Security Income (SSI) and were denied, or if the Social Security Administration (SSA) made a decision about your benefits and you don't agree, you have the right to appeal.

You don't have to have an attorney, but you might want to talk to one about the process. The appeal outcome could have a big impact on your finances. If you are a Maine resident who is 60 or older, call the LSE Helpline to talk to an attorney for free.

The first step in the appeal process is to file a written "Request for Reconsideration" within 60 days of receiving the initial decision letter

that is the subject of the appeal. If you don't make this deadline, the decision becomes final and you may lose your right to appeal.

In some cases, you can continue to receive your benefits throughout the appeals process. If you want this to happen, you need to contact the SSA within 10 days of the date you got the decision letter that is the subject of the appeal. Keep in mind that if you lose your appeal, you may have to pay back some of that money too.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you received a Notice of Overpayment or want help with an appeal, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### **Maine Disability Rights Center**

The Maine Disability Rights Center might be able to help you with an appeal if it relates to your disability. Call the Disability Rights Center at 1-800-452-1948.

## **VETERANS BENEFITS**

Veterans of the United States Armed Forces can get benefits through the United States Department of Veterans Affairs (VA). Some of these benefits extend to veterans' family members. If you or your spouse served in the Armed Forces, you might be able to get: disability compensation, disability pension, medical and dental benefits, education programs, life insurance, and home and small business loans.

The State of Maine has additional benefits for veterans who are also residents of Maine. These benefits include: property tax exemptions, nursing and rehabilitation services, and funeral and burial benefits. Go online to see a full list of veterans benefits in Maine.<sup>7</sup>

To find out if you are eligible for veterans benefits, call your local Area Agency on Aging at 1-877-353-3771.

Go online to find the VA office nearest you.<sup>8</sup>

### **Notice of Overpayment**

The VA keeps track of your veterans benefits to make sure you get the right amount. If you get a "Notice of Overpayment" from the VA, it is because the VA thinks that you got more money than you should have. Do NOT ignore this Notice! You may be able to appeal

the Overpayment decision or work out a repayment plan. The Notice of Overpayment letter will explain how you can appeal the decision. You need to follow these instructions carefully.

If you received a Notice of Overpayment, you should talk to an attorney. Call the LSE Helpline as soon as you get a Notice of Overpayment; you can speak to an attorney for free.

To start the appeal, you must file a “Notice of Disagreement” with your local VA office within one year of the date of the decision that is the subject of the appeal. If you do nothing, the VA might recover the overpayments by withholding your monthly benefits.

For more information on the appeals process, see the next section of this chapter, or visit the VA’s website on appeals.<sup>9</sup>

To avoid receiving a Notice of Overpayment, make sure you report all sources of income or changes to household income to the VA. If you think that your benefit check is not the right amount, report your concerns to your local VA office as soon as you become aware of the problem.

### **Appealing benefit determination decisions**

If you applied for a benefit program and were denied, or if you disagree with a VA decision, you have the right to appeal. The Board of Veterans’ Appeals has a great step-by-step guide you can follow if you want to appeal a VA decision.<sup>10</sup>

Keep in mind that you can only appeal a benefit determination if you do so within one year of receiving the benefit denial or determination.

Although you are not required to hire an attorney to help you with the appeals process, you might want to talk to one about your situation. Call the LSE Helpline to talk to an attorney for free.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you received a Notice of Overpayment or if you want help with an appeal, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

**Pine Tree Legal Assistance: Stateside Legal**

More information about common legal issues experienced by veterans. <http://statesidelegal.org/>

**Maine Disability Rights Center**

The Maine Disability Rights Center might be able to help you with an appeal if it relates to your disability. Call the Disability Rights Center at 1-800-452-1948.

**Area Agency on Aging**

To find out what benefit programs you are eligible for, or for help applying, call your local Area Agency on Aging at 1-877-353-3771.

**Maine Bureau of Veterans Services**

To make sure you are getting all the help you are eligible to get through the VA, or for more information, call the Maine Bureau of Veterans' Services at (207) 430-6035.

**VA Maine Healthcare**

For questions about your VA benefits and your healthcare, call VA Maine Healthcare at 1-877-421-8263 or visit the VA Maine Healthcare website. [www.maine.va.gov/index.asp](http://www.maine.va.gov/index.asp)

**Maine Veterans Homes**

Visit the Maine Veterans Homes website for more information about the VA homes in Maine. [www.maineveteranshomes.org/](http://www.maineveteranshomes.org/)

**Maine Department of the American Legion**

For general information, call the Maine Department of the American Legion at (207) 873-3229.

**U.S. Department of Veterans Affairs**

To contact the United States Department of Veterans Affairs, call 1-800-827-1000 or TTY 1-800-829-4833. For more information about this agency, visit the official VA website. [www.va.gov](http://www.va.gov)

**VA HOTLINE TELEPHONE NUMBERS**

Readjustment Counseling Service Combat Call Center:  
1-877-927-8387 (877-WAR VETS)

VA Suicide Prevention Hotline number:  
1-800-273-8255 (800-273-TALK)

## **RAILROAD RETIREMENT**

The Railroad Retirement system provides financial benefits to eligible railroad workers and their families. This program is run by a federal agency called the Railroad Retirement Board (RRB). These benefits include: retirement, unemployment, survivor, and sickness.

### **Railroad Retirement eligibility**

To get Railroad Retirement benefits, you must have worked with the railroad for at least 10 years, or at least 5 years if the work was performed after 1995. The amount of benefit you can get depends on your year of birth, your years of service with the railroad, and your age when you apply for the benefits.

Eligible workers can start getting full benefits at age 60 if they have at least 30 years of work service with the railroad. For those railroad workers who have less than 30 years of work service, reduced benefits are available at age 62 and full benefits are available at full retirement age. Full retirement age is 65-67, depending on your year of birth. To get Railroad Retirement benefits of any kind, you must first apply. You can apply over the phone or by visiting your local RRB office. Your local Area Agency on Aging can help you figure out if you are eligible and help with the paperwork. Call your local Area Agency on Aging at 1-877-353-3771.

### **Overpayments**

The RRB keeps track of your Railroad benefits payments to make sure you get the right amount. If you get a “Notice of Overpayment” it means that the RRB thinks that you got more money than you should have. Do NOT ignore this Notice. If the RRB decides that you got more benefits than you were eligible to receive, you will have to repay them.

If you don't think that you have been overpaid, you have the right to appeal. Even if you know you have been overpaid, but can't afford the repayment, you should talk to an attorney about what repayment or waiver options you have. It is very important that you do not wait to start this process. Call the LSE Helpline as soon as you receive this notice; you can speak to an attorney for free.

### **Appealing benefit determination decisions**

If you were denied Railroad Retirement benefits or you received a Notice of Overpayment, you have the right to appeal. It is important to act quickly because you only have 60 days from the date of the initial notice to appeal to the RRB. If you are not sure what you want to do or what your options are, call the LSE Helpline to talk to

an attorney. If the attorney is not able to help you with the appeal process, he or she will direct you to someone who can.

## RESOURCES

### United States Railroad Retirement Board

For more information about this program, visit the official United States Railroad Retirement website. <https://secure.rrb.gov/>  
Or call, toll free 1-877-772-5772 or TTY 1-312-751-4701.

### Railroad Retirement Board – Maine Region

To contact the Maine Region of the Railroad Retirement Board call 1-877-772-5772 or visit:

John Foster William Coast Guard Building  
Room 441  
408 Atlantic Ave  
Boston, MA 02210-3349

### Legal Services for the Elderly

If you are a Maine resident who is 60 or older and you need help with an overpayment or an appeal, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

## REPRESENTATIVE PAYEE

If you receive Social Security Retirement, Social Security Disability Insurance, Supplemental Security Income or Railroad Retirement benefits, but the Social Security Administration (SSA) or Railroad Retirement Board (RRB) believes that you are unable to manage your finances in a way that provides for your basic needs, a “Representative Payee” may be appointed to help you. If you receive Veterans Benefits (VA), this person is called a “Fiduciary.”

A Representative Payee or Fiduciary is not the same thing as an Agent under your Power of Attorney or Advance Health Care Directive. Your Representative Payee or Fiduciary is only authorized to talk to the administering program on your behalf and will manage ONLY your benefit income.

### Who will be the Representative Payee or Fiduciary?

You can ask to have a specific person be considered for your Representative Payee or Fiduciary. If you have a Power of Attorney, you might want to have your Agent be your Representative Payee or Fiduciary too.



## WHAT IS A REPRESENTATIVE PAYEE?

**If you receive certain retirement benefits, such as Social Security or veteran’s benefits, and the institution making those payments believes you are not able to manage your finances, you may be assigned a Representative Payee or Fiduciary. This person manages your benefits money, and there are specific rules that say how this must be done.**

**If you think your Representative Payee or Fudiciary is mismanaging your money, contact the institution making the benefits payments, or call the LSE Helpline.**

If you do not suggest a person, the SSA, RRB, or VA will try to find someone who knows you to do the job. To become a Representative Payee or Fiduciary, a person or organization must first apply and be approved by the SSA, RRB, or VA. If a person is not readily available, an organization might be hired to act as your Representative Payee.

### **What is the Representative Payee or Fiduciary allowed to do?**

The Representative Payee or Fiduciary can only use your benefits to pay for your needs. He or she is not allowed to use your money for their own use. This means that your money must be kept separate from their money. The Representative Payee or Fiduciary must be able to provide an accounting to the benefits administrator (SSA, RRB, or VA) if one is requested.

Because the Representative Payee or Fiduciary has access to your benefit income, he or she holds quite a bit of power over your money. If you feel like your Representative Payee or Fiduciary is not handling your money properly or is stealing from you, notify your local SSA, RRB, or VA office immediately.

If you believe that your Representative Payee or Fiduciary is using your money improperly, you might want to get help from an attorney. Call the LSE Helpline to talk to an attorney for free.

**IMPORTANT NOTE:** The Representative Payee may not charge a fee for their services without written approval from the SSA or RRB. The Representative Payee only has authority over your Social Security or Railroad Retirement benefit income. This means that he or she is not in charge of your other sources of income or savings, and has no other legal authority over you.

### **What if I disagree?**

You have the right to appeal any decision made by the Social Security Administration (SSA), the Railroad Retirement Board (RRB) or the Veterans Affairs (VA). This means that you can appeal the decision that you need a Representative Payee or Fiduciary. You can also appeal the decision of who will be your Representative Payee or Fiduciary.

You have 60 days to appeal a decision by contacting the SSA or RRB. For more information on how to appeal, see “Appealing Benefit Determination Decisions” in the Social Security, Railroad Retirement, and Veterans Benefits sections.

## RESOURCES

### Legal Services for the Elderly

If you are a Maine resident who is 60 or older and you think your Representative Payee or Fiduciary is using your money improperly, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### Maine Disability Rights Center

If you are under 60, the Maine Disability Rights Center might be able to help you with an appeal if it relates to your disability. Call the Disability Rights Center at 1-800-452-1948.

### Social Security Administration

To find answers to frequently asked questions about Representative Payees, visit the SSA website on the topic. [www.ssa.gov/payee/faqrep.htm](http://www.ssa.gov/payee/faqrep.htm).

### Veterans Affairs

To learn more about the VA Fiduciary program, visit the VA website on the topic. [www.benefits.va.gov/fiduciary/index.asp](http://www.benefits.va.gov/fiduciary/index.asp)

## PENSIONS

If you have a pension, you probably have some questions about it. The New England Pension Assistance Project can help you understand your pension rights and claim the benefits you've earned. It doesn't matter what type of company you worked for or the type of pension plan involved. This help is provided for free.

Call the New England Pension Assistance Project at 1-888-425-6067, or visit the website. [www.pensionaction.org](http://www.pensionaction.org).

## OTHER STATE BENEFITS

If you are struggling to pay for things like food, health care, medications, or utilities, there are several state programs that might be able to help you. Your local Area Agency on Aging can help you figure out what programs you qualify for, and can help you apply to these programs. Call your local Area Agency on Aging at 1-877-353-3771.

Or, you can visit the National Council on Aging's "Benefits Checkup" website to find benefit programs that can help you pay for medications, health care, food, utilities and more. [www.benefitscheckup.org/](http://www.benefitscheckup.org/)



**I'M ON A LIMITED INCOME, AND I JUST CAN'T MAKE ENDS MEET!**

**If you're struggling to pay for basic necessities such as food, medications, healthcare or utilities, there are local area agencies that may be able to help.**

**Programs include things like: help with utility bills, rides to appointments, and Meals-on-Wheels. Call your local Area Agency on Aging at 1-877-353-3771.**

## NOTES

- 1) Working and early retirement:  
[www.socialsecurity.gov/retire2/whileworking.htm](http://www.socialsecurity.gov/retire2/whileworking.htm)
- 2) SSA's Retirement Age Calculator:  
[www.socialsecurity.gov/pubs/ageincrease.htm](http://www.socialsecurity.gov/pubs/ageincrease.htm)
- 3) SSA credits and SSDI: [www.ssa.gov/retire2/credits3.htm](http://www.ssa.gov/retire2/credits3.htm)
- 4) Apply for SSDI online: [www.ssa.gov/dibplan/index.htm](http://www.ssa.gov/dibplan/index.htm) .
- 5) SSA Family Benefits:  
[www.socialsecurity.gov/pubs/EN-05-10035.pdf](http://www.socialsecurity.gov/pubs/EN-05-10035.pdf).
- 6) Supplemental Security Income: [www.ssa.gov/ssi/](http://www.ssa.gov/ssi/).
- 7) Veterans benefits in Maine:  
[www.maine.gov/dvem/bvs/benefits.htm](http://www.maine.gov/dvem/bvs/benefits.htm) .
- 8) Find the VA office nearest you:  
[http://www2.va.gov/directory/guide/fac\\_list\\_by\\_state.cfm?State=ME](http://www2.va.gov/directory/guide/fac_list_by_state.cfm?State=ME)
- 9) VA appeals process: [www.va.gov/opa/publications/benefits\\_book/benefits\\_chap13.asp](http://www.va.gov/opa/publications/benefits_book/benefits_chap13.asp)
- 10) VA: How Do I Appeal:  
[www.bva.va.gov/How\\_Do\\_I\\_APPEAL.asp](http://www.bva.va.gov/How_Do_I_APPEAL.asp)

# Family Relationships

**M**any seniors in Maine are grandparents. Many grandparents are taking care of their grandchildren. Others are fighting to stay involved in a grandchild's life. The first part of this chapter will talk about your rights as a grandparent in Maine.

The final parts of this chapter will talk about:

- Marriage in Maine,
- Divorce in Maine, and
- How your marital status can impact your public benefits.

## GRANDPARENT RIGHTS

If someone is keeping you from seeing your grandchildren, Maine law might be able to help you. This section will describe your rights to see your grandchildren through visitation or by establishing custody. There are also laws that can help you if you are taking care of your grandchildren.

Family relationships are complicated and the laws can be confusing. Some of these rules are hard to understand. They may make you feel upset. If you are trying to get visitation rights or establish custody, you need to call an attorney. If you are a Maine resident who is 60 or older, call the LSE Helpline to talk to an attorney for free.



**Learn about grandparent rights and important things to consider if you are thinking of getting married or getting divorced.**



## **WHAT IF I WANT TO SEE MY GRANDCHILDREN, BUT THEIR PARENTS WON'T LET ME?**

**A Maine law called The Grandparents Visitation Act may help in some situations. In order to gain visitation rights, you need to go to court.**

**Be prepared to show proof that you have a strong relationship with the grandchild and that, despite trying to keep in touch, you have been denied visitation.**

## **Seeing your grandchildren: your visitation rights**

Every family is different. Your situation might be better or far worse than the example provided.

### **Example:**

Enid Smith has a beautiful grandson she never sees. When her daughter divorced her husband, she gave him custody of their son—her grandson. Her daughter just couldn't support him. In fact, she had to move out of state to find work. Now, Enid's former son-in-law has remarried. His new wife doesn't want Enid around. She won't let Enid see her own grandchild. She is heartbroken. She loves that child and wants to be part of his life. Is there anything she can do?

A Maine law, the Grandparents Visitation Act, may help. This law may help you get the right to see your grandchild. But, it will be very hard to win visitation rights in court if the parents do not want you involved. The court will only grant visitation rights in certain, very limited circumstances. For example, the court might grant visitation rights if the child is with you most of the time.

In order to win visitation rights, you have to ask a court for this right.

You also have to show one of these:

- You have a very strong relationship with your grandchild and you see him or her routinely—a few times a year is probably not enough;
- You have not been seeing your grandchild but you have tried very hard to see him or her; or
- At least one of the child's parents has died.

### **What can I do if I am not being allowed to see my grandchild?**

You must do everything you can to work things out with the parents. Keep a list of the dates you have called or written and the ways you have tried to stay in touch with your grandchild. You need this proof. If you can't work things out, you can go to court.

### **Getting help (if there is NOT a court case already)**

You will need an attorney to help you file the "Petition" papers in court to start a case. The Petition is where you ask for the right to visit your grandchild. Call the LSE Helpline for a referral, you may be able to hire an attorney at a reduced fee rate.

### **Getting help from the court (if there IS a court case already)**

If there is a case already in court—for example, the parents are divorcing or custody is being decided:

1. Call the District Court in the county where the child lives.
2. Get the name and number of the case from the clerk at the court.
3. Write a letter to the judge explaining why you should have the right to visit your grandchild. Give it to the clerk. Send a copy of this letter to each parent’s attorney. If there is no attorney, send a copy directly to each parent.

Once you have done this, here’s what happens next:

#### **Parents get court papers**

Parents of the child must get copies of your Petition papers. You will need to arrange for the sheriff give them the papers, this is called “serving” them the papers, or you must send them to the parents by certified mail. The parents may also file their own papers, called an “Answer,” telling the judge their side of the story. They have to give you a copy.

#### **The judge decides next steps: court conference**

A judge will look over your papers and decide what comes next. The judge may require you and the parents to meet with a person who is trained to help people resolve disputes, called a “mediator,” to talk about the situation and try and work things out. This is called “mediation.” You must do this if the judge orders it. And you have to mediate “in good faith” which means that you and the parents have to participate and make an effort.

#### **The judge may appoint a Guardian ad Litem**

The judge may appoint a “Guardian ad Litem” (GAL) to the case. The GAL’s job is to investigate the situation and make a recommendation to the judge about what kind of visitation is in the child’s best interests. The judge will consider the GAL’s recommendations when deciding the case.

During the GAL’s investigation, he or she will talk to the child, the parents, and you. The GAL will also talk to other people who are involved in the child’s life. For example, a GAL might talk to teachers, counselors, or other family members. The GAL will most likely come visit your home and the home(s) of the parents.



## **WHAT IF MY GRANDCHILD IS REMOVED FROM HIS OR HER HOME DUE TO A “PROTECTION ORDER”?**

**In this situation you usually have the right to see your grandchild, and might be able to have the child placed with you. You will be required to participate in the court proceedings regarding the “best interests of the child.”**

**Whenever court proceedings are involved, it’s best to consult with an attorney. Call the LSE Helpline.**

The GAL does not work for you or for the parents. The GAL’s only job is to investigate and advocate for the best interests of the child.

### **The judge decides: court hearing**

If you can’t work things out with the parents, you will have a hearing in front of a judge. You and the parents need to go to the hearing. If you or the parents decide to call witnesses, they will be there too.

The judge must decide if giving you visitation would meet two legal standards:

1. Visits must be in the “best interests of the child,” and
2. Visits must not affect the parent/child relation or the parents’ authority.

In making a decision, the judge looks at many things, including: the age of the child, what the child would like, the GAL’s recommendation, and your ability and the parents’ ability to give the child love and guidance.

### **Can the judge’s decision be changed?**

Yes, if the situation changes substantially and someone goes back to court to ask for a change. You can also appeal the judge’s decision. You have 21 days after the decision to appeal.

### **My grandchild is the subject of a child protection order**

If your grandchild is removed from home under a “Protection Order,” you have the right to ask to see your grandchild and ask to have the child placed with you. You can write a letter to the judge or show up at the court hearing and ask to be included in the case. The judge will look at many things, the most important being what is in the “best interests of the child.”

You can do this yourself but it is better to have an attorney do it for you. Call the LSE Helpline at 1-800-750-5353 to talk to an attorney for free.

### **My grandchild is up for adoption (or has been adopted)**

If your grandchild might be adopted or has been adopted, these are the rules:

- If your grandchild is placed with adults who may become his parents and they have signed the legal papers, you do not have the right to visit your grandchild, your rights are “suspended.” But, you might be able to work something out with the adoptive parents.

- If the adoption does not become final within 18 months, your right to visit your grandchild is “restored.” That is, you get it back.
- Sadly, once the adoption becomes final, you have no legal right to visit your grandchild. However, you may be able to work things out with the adoptive parents.

### **Taking care of your grandchild**

Many seniors take care of their grandchildren. This can happen for any number of reasons. If you are taking care of your grandchild, there are some things you should think about.

For example, consent for medical treatment. Unless you have something in writing that gives you permission, only the parents can consent to medical treatment. This is a problem if the child is with you most of the time. It’s very risky if you can’t consent to medical treatment, especially in an emergency. There are ways to fix this such as, a Power of Attorney; becoming the child’s legal guardian; or, adopting your grandchild. At the very least, ask the parents for written permission to take care of your grandchild in the case of a medical emergency.

There are other things that can be tricky; for example, where does your grandchild attend school? An attorney will help you figure out what you need to do. If you are taking care of your grandchild and you are a Maine resident who is 60 or older, call the LSE Helpline to talk to an attorney for free.

### **Getting financial help for taking care of your grandchildren**

If you are taking care of your grandchild, you might be able to get help paying for the care that you provide.

If you have a legal agreement, the court might order the parents to pay child support. In some cases, this works. In others, it does not. Before you rely on this money, you should think about the chances that you will actually be able to get it. Some parents cannot afford child support payments. Others just don’t want to make these payments. It can be a long, drawn out battle trying to get child support payments from unwilling parents.

You have other options. You might be able to get help through the “Temporary Assistance for Needy Families” (TANF) program. Depending on your income level, you might also be able to get food stamps. And, your grandchild might be able to get MaineCare. Your local Area Agency on Aging will be able to help you find financial help and can help you with the applications. Call your local Area

Agency on Aging at 1-877-353-3771.

### **Taking care of yourself while taking care of others**

Caring for a loved one everyday can be stressful, emotional, and exhausting. Because of this, some community services are available to make sure that everyone is getting the help they need.

The Maine Office of Aging and Disability Services created the Family Caregiver Support Program to help those people who are providing care in Maine. The Family Caregiver Program offers information and assistance, individual counseling, support groups, caregiver training, respite care, and other services.

You might benefit from this program. Call your local Area Agency on Aging to learn about the services that are available in your area.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you have a question about your rights as a grandparent, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### **Pine Tree Legal Assistance**

For more information about the process of obtaining Guardianship of a minor, visit the Pine Tree Legal Assistance website on the topic. [www.ptla.org/guardianship-minor](http://www.ptla.org/guardianship-minor)

### **Volunteer Lawyers Project**

You may be able to get legal representation through VLP. To find out if you qualify, call 1-800-442-4293. To find out more about the Project, visit the VLP website. [www.vlp.org/](http://www.vlp.org/)

### **Families & Children Together: Maine Kids-Kin**

Maine Kids-Kin provides support services and resources to grandparents, aunts, uncles, cousins, siblings and other family members who are raising relatives' children. To find out more about the Maine Kids-Kin program, call 1-866-298-0896 or visit their website. [www.mainekids-kin.org/index.html](http://www.mainekids-kin.org/index.html)

### **Area Agency on Aging**

To find out what services or resources are available to help you as you care for your grandchild, call your local Area Agency on Aging at 1-877-353-3771.

**Office of Family Independence, Maine Department of Health & Human Services**

For information about financial assistance and how to apply, call 1-800-442-6003. For more information about the Office of Family Independence, visit their website. [www.maine.gov/dhhs/of/](http://www.maine.gov/dhhs/of/)

## **MARRIAGE IN MAINE**

The celebration of marriage is a happy event for people of all ages and from all walks of life. You might be getting married again, or you might be marrying for the first time. Whatever the history or the reason behind your decision to marry, the process remains the same. This section will tell you what you need to do to get married in Maine.

**IMPORTANT NOTE:** A change in marital status can trigger a change in your benefits. Make sure you read the section “Marital Status and Benefit Considerations” of this chapter before you get married.

### **What do I need to do to get married in Maine?**

It is fairly simple to get married in Maine. For more information about the steps that you must take to get married, and for help finding someone who can perform the ceremony, visit the State of Maine’s website on marriage.<sup>1</sup>

### **Things to think about before you get married**

When seniors get married later in life, they might come into the new marriage with pre-existing family and property. If you or your fiancé own property, you should each think about talking to an attorney before you get married. Your new marriage might affect how your property is distributed after you die.

If you already have a Will or some other estate plan, you should review it and make sure it reflects your current wishes. If you had an attorney help you draft the Will, you should contact him or her to talk about your upcoming change in marital status to see if there are any issues that you should consider.

Also, public benefits can be impacted by a new marriage. Call your local Area Agency on Aging at 1-877-353-3771 to find out what impact, if any, your new marriage will have on your public benefits.



## **I'M GETTING DIVORCED. DO I NEED AN ATTORNEY?**

**Getting a divorce in Maine can be fairly straightforward if you and your spouse are in agreement about how to split up the money and any property of significant value.**

**If you don't agree, things can get pretty complicated pretty quickly. In these situations, you need an attorney to protect your interests and make sure you get your fair share of the money and property.**

## **RESOURCES**

### **Area Agency on Aging**

Call your local Area Agency on Aging at 1-877-353-3771 to find out what impact, if any, your new marriage will have on your public benefits.

### **State of Maine Website**

For more information on the legal requirements for marriage in Maine, visit the State's website.

[www.maine.gov/portal/family/marriage.html](http://www.maine.gov/portal/family/marriage.html)

### **Notary Public Search**

To find a notary public in your area, visit the State's searchable website. [www5.informe.org/online/notary/search/](http://www5.informe.org/online/notary/search/)

### **State of Maine: Local Government Portal**

To get more information about your town hall visit the State's town hall database. [www.maine.gov/local/](http://www.maine.gov/local/)

## **DIVORCE IN MAINE**

The State of Maine is a "no fault divorce" state. This means that you do not have to prove anything before you can get divorced. The process of getting divorced can be fairly straightforward and can be done without hiring an attorney. But, if you own property with your spouse, if you and your spouse do not agree about how things should be split up, if you have been married for a long time, or if your spouse's income is a lot more than yours, it can get complicated. If you hire an attorney, he or she will make sure that your interests are protected and that you get your fair share of the money and property.

If you are thinking about getting a divorce and no minor children are involved, visit the State of Maine Judicial Branch's website to see a step-by-step guide on the process. The steps can be fairly simple, but if any of it seems confusing or worries you, you should call an attorney. It might not be as expensive as you think to have an attorney help you with a divorce. If you are a Maine resident who is 60 or older, call the LSE Helpline to talk to an attorney for free and get a referral, possibly at a reduced rate.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you are thinking about getting a divorce, call the Legal Services for the Elderly

Helpline at 1-800-750-5353 to talk to an attorney for free and get a referral, possibly at a reduced rate. [www.mainelse.org](http://www.mainelse.org)

### **State of Maine Judicial Branch**

For more information on obtaining a divorce in Maine, visit the State's website on the topic. [www.courts.state.me.us/maine\\_courts/family/divorce/index.html](http://www.courts.state.me.us/maine_courts/family/divorce/index.html)

Go online to get a step-by-step guide on how to get a divorce in Maine. [www.courts.state.me.us/maine\\_courts/family/divorce/divorce\\_no\\_children.html](http://www.courts.state.me.us/maine_courts/family/divorce/divorce_no_children.html)

### **Pine Tree Legal Assistance**

If you cannot afford an attorney, a volunteer may be able to help you fill out court forms, learn about “service” of forms, calculate child support, and answer some of your questions. Go online to find the nearest Courthouse Assistance Project. [www.ptla.org/courthouse-assistance-and-helpline](http://www.ptla.org/courthouse-assistance-and-helpline)

### **Maine Volunteer Lawyers Project**

The Maine Volunteer Lawyers Project might be able to help you with your divorce. Call the VLP attorneys at 1-800-442-4293. For more information, visit the VLP website. [www.vlp.org/contact](http://www.vlp.org/contact)

## **MARITAL STATUS AND BENEFIT CONSIDERATIONS**

A change in marital status can interrupt your ability to receive certain benefits if you are currently receiving them under “spouse” status. If you are getting Veterans Spousal Benefits and you are getting a divorce, you may no longer be eligible for those benefits.

If you are marrying for the first time, a change in marital status can impact your household income level. This change could affect the amount of public benefits you can get. The rules about marital status and benefits can be confusing. You should call your local Area Agency on Aging at 1-877-353-3771 to find out how your benefits can be impacted by your new marital status. Planning ahead will ensure that you receive the right amount of benefits.

**IMPORTANT NOTE:** If you received a “Notice of Overpayment”, or if you are being denied benefits, you need to call an attorney for help. If you are a Maine resident who is 60 or older, call the LSE Helpline to talk to an attorney for free.

## RESOURCES

### **Area Agency on Aging**

Your local Area Agency on Aging can help you with any questions you may have about your benefits, and can help you with any paperwork that you need to complete. Call your local Area Agency on Aging at 1-800-353-3771.

### **The United States Social Security Administration**

For information on how your Social Security benefits can be impacted by your marital status, visit the Social Security Administration's website on the topic. Go online to read more about the following topics:

#### **Effects of marriage on Social Security Retirement Benefits:**

[http://ssa-custhelp.ssa.gov/app/answers/detail/a\\_id/176/~/effects-of-marriage-on-social-security-retirement-benefits](http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/176/~/effects-of-marriage-on-social-security-retirement-benefits)

#### **Benefit Amount for your Spouse:**

[http://ssa-custhelp.ssa.gov/app/answers/detail/a\\_id/175/related/1](http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/175/related/1)

#### **Medicare Eligibility when receiving Spouse's Benefits:**

[http://ssa-custhelp.ssa.gov/app/answers/detail/a\\_id/359/related/1](http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/359/related/1)

#### **Social Security Retirement Planner: If you are divorced:**

[www.ssa.gov/retire2/divspouse.htm](http://www.ssa.gov/retire2/divspouse.htm)

**Understanding Supplemental Security Income:** [www.socialsecurity.gov/ssi/text-understanding-ssi.htm](http://www.socialsecurity.gov/ssi/text-understanding-ssi.htm)

#### **Find Social Security offices in Maine:**

[www.ssa.gov/boston/ME.htm](http://www.ssa.gov/boston/ME.htm)

### **The United States Veterans Administration**

For information on how your marital status can impact your VA benefits, visit the VA's website.

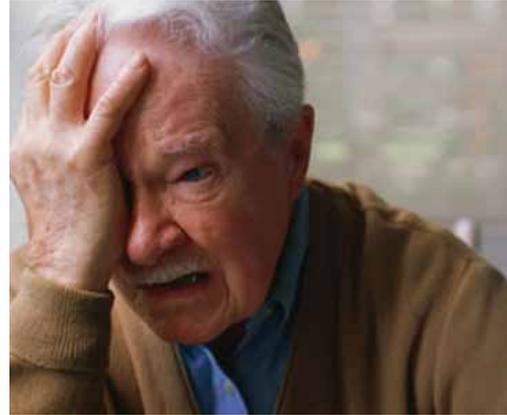
<http://benefits.va.gov/BENEFITS/benefits-summary/SummaryofVADependentsandSurvivorsBenefits.pdf>

## NOTES

1) State of Maine: Marriage:

[www.maine.gov/portal/family/marriage.html](http://www.maine.gov/portal/family/marriage.html)

# Elder Abuse



**What it is, how to get help, and steps you can take to make your life safer.**

**T**he chances of becoming a victim of abuse increase as you get older. There are many reasons for this. One reason is because older people often have to rely on others for help. This puts those caregivers in a position to take advantage of you. Sadly, many seniors are taken advantage of and mistreated by family members or caregivers.

Elder abuse can look very different depending on the situation. This chapter will help you understand what abuse can look like in real life.

This chapter will:

1. Give you examples of elder abuse;
2. Talk about the feelings that can lead to living with abuse, rather than acting to stop it;
3. Tell you steps you can take to make your situation better; and
4. Tell you how to get help from others.

**Remember:** You have a right to live a life free of abuse.

## **WHAT IS ELDER ABUSE?**

There are many different kinds of elder abuse. Elder abuse can be in the form of: financial exploitation, neglect, isolation, physical abuse, sexual abuse, emotional abuse, or domestic abuse. Sometimes, many different forms of abuse happen at the same time.



## **IS SOMEONE TRYING TO CONTROL YOUR MONEY OR TAKE ADVANTAGE OF YOU?**

**Unfortunately, family members or friends who have a “Power of Attorney” sometimes abuse their authority for personal gain. They may not pay your bills as they should, or they might use your money or credit card to buy things for themselves.**

**If you think someone is taking advantage of you, call the LSE helpline.**

This section will talk about the different forms of abuse and share some stories from people who have experienced abusive situations.

### **Financial exploitation**

You might be worried that someone is taking over your bank accounts or controlling your money. Or, you might feel like someone is trying to take advantage of you. Or, someone might be telling you that you can't do things because they have “Power of Attorney over you.” If any of these things are true for you, someone might be financially exploiting you. Financial exploitation is a form of elder abuse that happens when someone takes your money, property, or assets without your permission.

#### **Here is an example of financial exploitation:**

Joe made his daughter the agent under his Power of Attorney thinking he might need help with paying his bills in the future. Then he started getting past due bills from credit card companies, but he did not own a credit card. He found out she had cleaned out his bank account and taken out several credit cards in his name. Joe went to Legal Services for the Elderly for help with cleaning up his debt problems and revoking the Power of Attorney.

### **Neglect**

If you are not getting the help, care, or food that you need, there's a good chance that you are being neglected. This is especially true if someone said that they would do these things for you. Neglect is a very common form of elder abuse.

#### **Here is an example of neglect:**

Mary lived with her husband Frank for 31 years. She did not drive and her husband handled all of the bill paying. After Frank died, she needed help with many things around the house. Her niece Sarah agreed to move in and help out. Sarah helped with cleaning, cooking, and bill paying for several weeks, but then she stopped buying any groceries. And then the power was shut off because she wasn't paying the bills. Mary was not sure what was happening with her money. Sarah threatened to send Mary to a home if she tried to get help from anyone else. Legal Services for the Elderly helped Mary get her niece out of the house, and the local Area Agency on Aging helped her find a trusted caregiver to help her stay in her home.

### **Isolation**

Maybe you are feeling lonely but someone is keeping you from getting in touch with your friends or family. Or maybe you are forced to stay in a room and are not allowed to come out without permission. If someone is keeping you from connecting with other

people, this is called isolation.

**Here is an example of isolation:**

Louise lived alone and was losing her sight. She was having a hard time taking care of herself and her home. Louise's daughter and son in law convinced her to sell her home and buy a trailer in the daughter's name. They said they would put the trailer on their property. They promised Louise that she could live there forever and they would take care of her. All they asked in return was that she put their names on all her bank accounts. After she did all these things, they took away her phone and refused to put any calls through to her. Instead, they told her no one cared about her any more. They also took the keys to her car. The trailer had no heat and the weather was getting colder. Louise told a friend at her church what was going on and the friend called the police and adult protective services. With the help of her APS worker, Louise was able to make the changes she needed to regain control of her life and get into a safe living situation.

**Physical abuse**

If someone hurts you physically or uses drugs to control you, you might be experiencing physical abuse. Physical abuse is a form of elder abuse that happens when someone hits, kicks or slaps you. It is also physical abuse if someone restrains you by force or with medication.

**Here is an example of physical abuse:**

Frank's son Bill was living with him because he could not find work. It helped them both to share living expenses. But Bill had a serious drinking problem and he sometimes yelled at his father when he was drunk. The yelling was happening more and more often. Finally Frank told Bill he would have to leave if he didn't stop yelling at him. This made Bill very angry and he pushed his father down. Frank called Legal Services for the Elderly and an attorney helped him get a protective order and remove his son from his house.

**Sexual abuse**

You might have had an interaction with someone that left you feeling bad. That person might have forced you to touch them, or may have touched you without your permission. Maybe that person didn't touch you, but forced you to take off your clothes. Or maybe they took off their clothes in front of you or forced you to look at dirty pictures or videos. All of these things are forms of sexual abuse.

**Here is an example of sexual abuse:**

Sue was befriended by a man from her apartment complex. He helped her carry groceries from her car and chatted with her when she was

walking her dog. One day he showed up at her apartment and asked if he could come in for a visit. Once inside, he pulled down his pants and asked Sue if she wanted to be his boyfriend. He left when she said no, but Sue was very frightened and felt trapped in her apartment. She called Legal Services for the Elderly and obtained a protection order and got help making a report to the police. She also got connected to her local Sexual Violence Support Center where she was able to talk to someone and get the emotional support she needed.

### **Emotional abuse**

Is there someone in your life who says things that hurt you? Does this person make you feel embarrassed or ashamed? Do they tell you that you are confused or can't remember things because you are old? Or, maybe someone scares you because of how they act. Maybe they even threaten you with harm if you don't do what they want. This is called emotional abuse.

Emotional abuse rarely occurs alone. It is often paired with other forms of abuse.

### **Domestic abuse**

If any of these forms of abuse are happening to you by your spouse, significant other, child, grandchild, or any other member of your family, it is called domestic abuse.

## **IT CAN BE HARD TO ASK FOR HELP**

You might not want to ask for help because you feel:

- **That you have nowhere else to go.** But you have other options. There are many community resources that can help you find a safe living arrangement. Some of these community resources will even help you stay in your home. You do not have to live in an abusive situation.
- **That you are all alone and no one cares about you.** But you are not alone. Family, friends, co-workers, community members, doctors, and spiritual advisors can help you. Everyone needs help at some point.
- **That they didn't mean it, and they promise to change.** But even if they promise to change, the abuse will not end unless someone does something to stop it. Many seniors are abused by their adult children or caregivers. It can be very confusing when the person who is hurting you is someone you love, or someone who is supposed to be caring for you.

- **That the abuse is your fault or you deserve it.** But everyone makes their own choices. You are not to blame for the abuser’s behavior. Many seniors who are being mistreated by their adult children feel like they can’t speak up. They might not want to get their child in trouble, or might feel somehow responsible. But, abuse isn’t healthy for anyone. Not for you or the abuser, or anyone else.
- **That you are old and worthless.** But you are an important human being. You have a lifetime of knowledge and experience to share. Being older does not mean that you are deserving of less.

**REMEMBER: YOU HAVE THE RIGHT TO LIVE A LIFE FREE FROM ABUSE. You are not alone, the abuse is not your fault, and you deserve better. You can do something to end the abuse.**

If you are ready to end the abuse, you need to talk to someone. You need to ask for help. There are people who are ready to help you. You can find those people in the “How to Ask for Help” section of this chapter.

If you are not quite ready to ask for help, but you want to do something to make your life safer, read the next section called “Things You Can Do To Make Your Life Safer.”

## **THINGS YOU CAN DO TO MAKE YOUR LIFE SAFER**

If you are being mistreated, there are some small steps you can take to make your life safer. This section will give you some information about those steps.

If you ever feel like you are in danger, call 911.

### **If someone is hurting you or scaring you:**

If someone is hurting you or scaring you, you might be able to go to court and get a protection order against that person. This is called a “Protection from Abuse” order (PFA) or a “Protection from Harassment” order (PFH). When you get the order, that person can no longer come near you. If they do, you can call the police.

The attorneys at Legal Services for the Elderly can help. If you think you would like to try to get a PFA or PFH, call the LSE Helpline to speak to an attorney for free and confidential help.

### **If the agent under your Power of Attorney is taking advantage of you:**

If you feel like the agent under your Power of Attorney (POA) is



## **DON'T BE AFRAID TO STAND UP FOR YOURSELF.**

**Abusers are very good at making their victims feel like they deserve the bad treatment they're getting. Don't let people tell you you're just old and worthless, or that nobody cares about you.**

**If you are afraid to face the person who is abusing you, talk to a trusted family member, close friend, clergy or call the LSE Helpline.**

taking advantage of you, the attorneys at Legal Services for the Elderly can help. Your attorney can help you “revoke” your Power of Attorney. This means that you take away your agent’s right to act or make decisions for you. Your attorney might also be able to help you name a new agent under a new POA.

If you are interested in revoking your current Power of Attorney and creating a new one, call the LSE Helpline to speak to an attorney for free and confidential help.

### **If someone has taken over your life, house, or money:**

If someone has taken over your life, house, or money, there are ways to regain control. Call the LSE Helpline to speak to an attorney for free and confidential help. Your attorney will help you make the changes that are needed to get your life back.

### **If you want help getting someone out of your home:**

If you are sharing your house with another person and you want that person to leave, you need to “evict” that person. This means that you go to court and go through the legal process which allows you to remove that person from your home. Once you get the court’s permission, you can make that person move out. This means that you get your home back.

If you would like to get someone out of your house, call the LSE Helpline to speak to an attorney for free.

### **If someone has destroyed your credit:**

If someone has racked up debt in your name and you are being harassed by debt collectors, you have certain rights. You might be able to get some of the charges removed from your credit cards. You can tell debt collectors to stop contacting you. Some of your income and assets are protected from debt collectors.

Call the LSE Helpline to speak to an attorney for free. Your attorney can help you address your debt problems.

### **If you need help so you can stay in your home:**

If you want to stay in your home but you need help with things like getting dressed, cooking, or taking medication, there are agencies that can help. You might even be able to get help paying for these services. To find out what services are available in your area, or for help setting up services, call your local Area Agency on Aging at 1-877-353-3771.

**REMEMBER:** Everyone needs help eventually. Don't be embarrassed about asking for help, is not a sign of defeat or failure. It's a smart

thing to do to protect yourself and to stay in control. The trick is to find a trustworthy person to do the job. Your local Area Agency on Aging can help you find the right person.

## **ASKING FOR HELP**

Asking for help is not an easy thing to do, but it's important. If you don't ask for help, it will be hard to improve the situation. Reach out to a trusted family member or friend. Or, tell your doctor or your spiritual advisor. You can also call any of the agencies listed in this section.

There are many agencies you can turn to. The people who work at these agencies are professionals. Everything you say to them will be confidential. You get to stay in control. They will tell you what your options are, and you choose what to do. Your decision will be respected. No one will force you to do anything you don't want to do.

**If you are not getting the care that you need from your caregiver:**

- Call your local Area Agency on Aging at 1-877-353-3771 to find out what supports and services are available to help; or
- Call the Maine Long Term Care Ombudsman Program at 1-800-499-0229.

**If someone is physically hurting you:**

- Call 911 if you feel like you are in danger.
- Call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free; or,
- Call the Domestic Violence Statewide Helpline at 1-866-834-4357; or
- Call the Sexual Violence Statewide Crisis and Support Line at 1-800-871-7741.

**If someone is saying things to make you feel bad, ashamed, or worthless:**

- Call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free; or
- Call the Domestic Violence Statewide Helpline at 1-866-834-4357.

### **If someone is stealing your money or taking advantage of you:**

- Call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you would like help making your life safer, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free.

[www.mainelse.org](http://www.mainelse.org)

### **Sexual Violence Statewide Crisis and Support Line**

Immediately following a sexual assault, take whatever steps you can make sure you are safe. You may want to call the statewide sexual assault crisis and support line: 1-800-871-7741 or TTY 1-888-458-5599. When you call, you will be connected to someone nearby who can listen, offer support and information, and help you decide what you want to do next.

### **Domestic Violence Statewide Helpline**

If you need help with a domestic violence situation, call the Helpline at 1-866-843-4357. When you call, you will be connected to someone who can listen, offer emotional support and information, help you with safety planning and help you decide what you want to do next.

### **Area Agency on Aging**

For more information about services that are available in your area, call your local Area Agency on Aging at 1-877-353-3771. Services include: long term care options counseling; identifying possible housing; assisting in receiving benefits; and, providing family support and meals.

### **Maine Long-Term Care Ombudsman**

If you are not getting the care that you need from your caregiver, call the Maine Long-Term Care Ombudsman at 1-800-499-0229. To learn more about the Ombudsman, visit the Maine Long-Term Care Ombudsman website. [www.maineombudsman.org](http://www.maineombudsman.org)

### **Maine Council for Elder Abuse Prevention**

For more information about elder abuse, ways to prevent it, and agencies in Maine that provide services to people dealing with abuse, visit the Maine Council for Elder Abuse Prevention's website. [www.elderabuseprevention.info](http://www.elderabuseprevention.info)

**State of Maine Department of Health and Human Services  
Adult Protective Services (APS) – Office of Aging and Disability Services**

If you are worried about a senior, you can call and report your concerns to APS. APS provides and arranges for services to protect incapacitated and dependent adults (age 18 and over) in danger of abuse, neglect, or exploitation.

1-800-624-8404 (Nationwide, 24/7, toll free)

Maine Relay 711 (TTY, 24/7)

**National Center on Elder Abuse**

For more information about elder abuse and ways to prevent it, visit the website for the National Center on Elder Abuse.

<http://ncea.aoa.gov/index.aspx>

# Are You at Risk of Becoming a Victim of Elder Abuse?

*Anyone can become a victim of abuse, but some people are at a greater risk than others. This quiz will help you identify whether you are at an increased risk of being mistreated.*

Read through and answer the following list of “yes” or “no” questions.

- Has anyone tried to force you to sign papers or to use your money against your will?
- Do you feel like someone is trying to take advantage of you?
- Is someone telling you that you can't do something because they have Power of Attorney “over you”?
- Are you afraid of anyone in your household or your family?
- Has anyone made you afraid or tried to hurt you or harm you recently?
- Has anyone prevented you from getting food, clothes, or medicine?
- Has anyone prevented you from being with people you wanted to be with?
- Has anyone forced you to do things you did not want to do?
- Has anyone taken things that belong to you without your OK?
- Have you been upset because someone talked to you in a way that made you feel shamed or threatened?

If you answered “yes” to any of these questions, you should talk to someone. If you are a Maine resident who is 60 or older, you can call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free.

Or visit the Legal Services for the Elderly website to learn where you can go to get help in Maine. [www.mainelse.org](http://www.mainelse.org)

# Age & Disability Discrimination



**It is against the law for you to be discriminated against because of your age or because of your disability.**

**T**his chapter will talk about the many forms discrimination can take, how to identify discrimination and how to deal with it.

Specifically:

- What discrimination means;
- How you are protected from discrimination; and
- What to do if you are denied a reasonable accommodation or modification.

## **WHAT IS DISCRIMINATION?**

Discrimination is what happens when you are treated less favorably by other people because of something like your age or disability. The law says that people who have certain characteristics, like a disability, are considered part of a “protected class.” Age, sexual orientation, and sex are examples of other protected classes. If you are a member of a protected class, then you can’t be discriminated against based on your membership in the protected class.

## **HOW AM I PROTECTED FROM DISCRIMINATION?**

If your boss or landlord discriminates against you because of your age (and you are over 40 years old), you are protected by the federal Age Discrimination in Employment Act and/or the Maine Human Rights Act. If you think you are being discriminated against because of your age, you should talk to an attorney. If you are a



## **FEDERAL AND STATE LAWS PROTECT MAINERS OVER 40 YEARS OLD FROM AGE DISCRIMINATION.**

**The most common issues regarding age discrimination involve either employment or housing. There are very specific laws regarding discrimination in these areas. If you feel you are being treated unfairly because of age or disability, call the LSE Helpline.**

Maine resident who is 60 or older, call the LSE Helpline to talk to an attorney for free.

If your boss or landlord discriminates against you because of your disability, you are protected by the federal Americans with Disabilities Act and the Maine Human Rights Act. If you think you are being discriminated against because of your disability, you should talk to an attorney. Call the Maine Disability Rights Center at 1-800-452-1948.

## **REASONABLE ACCOMMODATIONS AND MODIFICATIONS**

If you live in a rental property, your landlord must be willing to make “reasonable” changes to its rental policy or your rental housing structure if you need it because of your disability. This is true for private and public housing, with a few exceptions. You need to ask for the changes in writing. Your landlord cannot say “no” unless it would be too expensive, it would require too much of a change to the landlord’s rental program, or if you cannot show that the request is related to your disability.

For more information about reasonable accommodations and modifications and how to ask for them, read the chapter titled “Rental Agreements and Tenants Rights.”

### **What do I do if the landlord refuses my request?**

There are a few steps to take, but you should get an attorney to help. You may file a complaint with the Maine Human Rights Commission (MHRC); if you live in subsidized housing you may file a complaint with the U.S. Department of Housing and Urban Development (HUD). Or you can sue. If you decide to sue, you must do so within two years of the incident. You should have an attorney represent you. If you are a Maine resident who is 60 or older, call the LSE Helpline to talk to an attorney for free.

### **Filing a complaint with the Maine Human Rights Commission**

You should file a complaint as soon as possible after the denial, but the complaint must be filed within 300 days of the discriminatory act. The Maine Human Rights Commission will appoint an investigator to your case. The investigator will not represent you or your landlord, but you may have an attorney represent you during the Commission’s investigation. You may file a complaint with the Maine Human Rights Commission by calling, writing, or visiting their office. The Maine Human Rights Commission is located at:

**Maine Human Rights Commission**  
51 State House Station  
Augusta, ME 04333-0051  
(207) 624-6290 or TTY: Maine Relay 711

### **Filing a complaint if you live in subsidized housing**

If you live in subsidized housing, you may file a complaint with HUD. You should file a complaint as soon as possible after the denial, but the complaint must be filed within one year of the incident. HUD will investigate the complaint at no cost to you. You may file a complaint online if you have access to a computer, or you may call or write the regional office.

If you decide to write, you should include the following information:

- Your name and address;
- The name and address of the person your complaint is against;
- The address or other identification of the housing involved;
- A short description of the alleged violation; and
- The date of the alleged violation.

### **HUD's regional office is located at:**

U.S. Department of Housing and Urban Development  
10 Causeway St., Room 321  
Boston, MA 02222-1092  
1-617-994-8300 or 1-800-827-5005  
TTY 1-617-565-5453

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you are experiencing discrimination, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to speak to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

### **Maine Disability Rights Center**

The Maine Disability Rights Center has attorneys who help people who are being discriminated against because of their disability. If you think you have been discriminated against because of your disability, call the Maine Disability Rights Center at 1-800-452-1948 to talk to an attorney for free.

### **Maine Human Rights Commission**

If your landlord refuses your request for a reasonable accommodation or modification, you may file a complaint with the Maine Human Rights Commission. Call the Maine Human Rights Commission at (207) 624-6290 for more information.

# Immigration



**Y**our citizenship status can affect many parts of your life. For example, some kinds of public benefits are only available to United States citizens. And, it can be harder for you to get a green card if you are getting certain kinds of public benefits. The agencies listed below can help.

## RESOURCES

### Immigrant Legal Advocacy Project

To get information and help with immigration issues, call the Helpline at 1-800-497-8505. Or go online and visit the ILAP website. [www.ilapmaine.org/contact.html](http://www.ilapmaine.org/contact.html)

ILAP created and maintains a list of trusted agencies that might be able to help you. Go online to get that list.

[www.ilapmaine.org/services/maine\\_resources.html](http://www.ilapmaine.org/services/maine_resources.html)

### Pine Tree Legal Assistance

Pine Tree Legal Assistance has a great publication for immigrants who move to Maine, called “The Legal Guide for Immigrants to Maine: Some Basics for Non-Citizens.” Go online to get the guide. [www.ptla.org/immigration/legal-guide-for-immigrants-in-maine](http://www.ptla.org/immigration/legal-guide-for-immigrants-in-maine)

### Maine Equal Justice Partners

For information about public benefits and immigration issues, visit the MEJP website. [www.mejp.org/library/help-immigrants](http://www.mejp.org/library/help-immigrants)

**The laws about immigration issues are very complex. It is very important that you get accurate information about your immigration issue. Read on to learn more.**



**Steps to take after the loss of a loved one.**

## Dealing with Death

**W**hen someone close to you dies, it can be a very emotional and difficult time. To make it easier to manage things when someone dies, this chapter will:

1. Provide a simple overview of the probate process;
2. Help surviving spouses handle situations that commonly arise after the death of a spouse.

The word “decedent” means the person who died.

**IMPORTANT NOTE:** Do not pay for any of the decedent’s debts until you speak with an attorney. Do not transfer any property to family or friends until the probate process is completed. If you are a Maine resident who is 60 or older, call the LSE Helpline to talk to an attorney for free.

### PROBATE BASICS

When someone dies, his or her property and assets are called the “estate.” Probate is the process of distributing the estate according to a Will, or if there is no Will, according to the state “intestacy” law. The intestacy law tells the court what to do with the estate. Usually, under the intestacy law, only relatives of the decedent get anything from the estate.

This section will give you some basic information about the probate process.

## What is probate?

Probate is the legal process that takes place after someone dies. To start the probate process, you need to file an “Application for Probate” in the probate court in the county where the decedent lived.

In Maine, each county has its own probate court.

If there is a Will, it needs to be submitted to the probate court. The probate judge will decide whether or not the Will is valid. If the Will names a “Personal Representative”—sometimes called “Executor” or “Executrix”—then the court will legally appoint that person to take care of the estate. If the Will does not name a Personal Representative, the court will appoint someone to do this job according to Maine law.

## What does the Personal Representative have to do?

The Personal Representative is in charge of settling the estate. This means that they must: find and make a list of the property in the estate; follow the instructions in the Will if there is one; and pay any outstanding bills if there is enough money to do so. If the Will does not tell the Personal Representative what to do with certain things in the estate, then the Personal Representative must distribute that property according to the state intestacy law.

If the decedent did not have a Will, the estate is distributed according to Maine’s intestacy law.

The probate court will supervise the Personal Representative during the probate process.

## Why does the estate have to go through probate?

The estate needs to go through probate in order to officially transfer title of the property in the estate to the person or persons who inherit according to the Will or state law. Once this happens, other people cannot claim any right to the property. This includes people or companies to which the decedent owed money.

## Does every estate have to go through probate?

No. Certain kinds of property can be passed without going through probate. Property owned with a “Right of Survivorship” automatically transfers to the joint owner at death and that person owns the property fully. Property can also pass through a Trust established during the decedent’s lifetime.



**BEFORE YOU  
DISTRIBUTE  
ANY MONEY OR  
PROPERTY, TALK  
TO AN ATTORNEY.**

**Even small estates  
(in Maine, not more  
than \$20,000)  
require some  
legal steps before  
you can divide  
property, distribute  
any money, or  
even pay the  
deceased person’s  
outstanding bills.**

**Probate, often  
referred to as  
“Settling the  
Estate” involves  
the court system  
and sometimes an  
attorney’s help.**

You should talk to an attorney to find out whether an estate needs to go through probate. If you are a Maine resident who is 60 or older, call the LSE Helpline.

### **Do small estates have to go through probate?**

In Maine, if an estate is worth no more than \$20,000, it is considered a “small estate.” Small estates can be wrapped up quickly by filing a document called a “Small Estate Affidavit.” This is usually a simple process, but there are some legal steps that must be taken before you can wrap up a small estate.

You should talk to an attorney before you transfer any of the property in a small estate. If you are a Maine resident who is 60 or older, call the LSE Helpline.

### **How long will it take to probate the estate?**

It depends on the estate. Larger estates can take longer to probate than smaller estates. But generally, probate doesn’t take very long in Maine. You should talk to an attorney to get advice on how best to wrap up an estate. The attorney will let you know if the estate needs to pass through informal or formal probate proceedings. Informal probate takes less time than formal probate, and is usually less expensive.

If you are a Maine resident who is 60 or older, call the LSE Helpline to talk to an attorney for free.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you have questions about the probate process, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free.  
[www.mainelse.org](http://www.mainelse.org)

## **GUIDE FOR SURVIVING SPOUSES**

If your spouse recently passed away and he or she did not have a Will and left behind a very simple estate, there are a few practical things that you need to do. This section will guide a surviving spouse through common property situations that arise with the death of a spouse.

If you have any questions about how your income or public benefits will be affected by the death of your spouse, call the LSE Helpline to talk to an attorney for free.

## **Cars—How to transfer the title**

### **If the title to the car is in your deceased spouse's name:**

- You need to get a copy of the death certificate; the old car title; and the “Appointment as Personal Representative” from the probate court (if the estate is being probated). Take these items to your local Bureau of Motor Vehicles (BMV) and ask to transfer the title to your name. You will likely be asked to fill out additional BMV forms, including a new title application and an “Affidavit of Surviving Spouse.” There is no fee for a new title for a surviving spouse.

If the car is still being financed, you need to get permission to transfer ownership. Talk to the bank or finance company that owns the loan.

### **If the title to the car is in both your name and your deceased spouse's name (Joint Ownership):**

- If the title to the vehicle is in both your name and your spouse's name, you just need to bring a copy of the death certificate and the old car title to the BMV and fill out forms available at the BMV.

## **Bank accounts**

A bank may continue to pay out on a deceased person's account for up to 10 days after the bank gets notice of the death.

Surviving spouses sometimes have a hard time getting into their deceased spouse's account. Here are a few helpful instructions to follow:

- If both your name and your deceased spouse's name are on the account, this is called a joint account. There should be no problem with getting into joint accounts.
- “Payable at Death Accounts” name a person, called the “beneficiary”, to get the money in the account at the time of the account holder's death. If your spouse named you as his or her beneficiary, you may be asked to show a photo ID.
- For a small estate, if the bank account was in your deceased spouse's name only, the bank may require you to complete the “Small Estate Affidavit” process before giving you access to the account. You cannot start this process until at least one month after the death. If you would like help with this process, call the LSE Helpline to talk to an attorney for free.



## WHAT ABOUT MY DECEASED SPOUSE'S OUTSTANDING BILLS?

**Maine law states that unless you agreed in writing to pay your spouse's bills, you don't have to pay them. If a debt collector is harassing you about these bills, ask to see the document you signed agreeing to pay the bills.**

**In some cases, you may want to pay the bills, such as a car loan or home mortgage payment. These secured debts require that payments be made if you want to keep the property (the car or house).**

For larger estates, a surviving spouse may gain access if he or she is named Personal Representative in the decedent's Will. You may need to show to the bank either the "Appointment as Personal Representative" from the probate court or the "Small Estate Affidavit."

### **Safety deposit box**

Banks have their own rules about safety deposit boxes. Some banks allow a survivor to open a decedent's safety deposit box to look for a Will. A bank employee will accompany the survivor to make sure only the Will is removed.

- For a "small estate," a "Small Estate Affidavit" should permit access to the safety deposit box. Some banks have their own forms which serve the same purpose as the Affidavit.
- Other banks require the "Appointment of Personal Representative" from the probate court before allowing access to the safety deposit box.
- If the safety deposit box is in both your name and your deceased spouse's name, it depends on the bank's policy. Some banks will allow you to access the safety deposit box without any special process; others seal the box and will only allow the Personal Representative access.

### **What to do if a debt collector is calling about your spouse's bills**

Maine law says that a husband or wife is NOT responsible for the bills of the other JUST because they are married. If you did not agree in writing to pay your spouse's bills, **you don't have to pay them.** If a debt collector is harassing you about your deceased spouse's debt, here's what to do: Ask to see the written evidence that YOU, not your spouse, agreed to pay the debt. If they can't show it to you, you don't have to pay from your own property.

Remember to use common sense. If your spouse had a secured debt like a car loan or a house mortgage and you inherited the car or house, you must keep up on the payments on the debt. Otherwise, the creditor will take away the car or foreclose on the house. So, even if you are not legally responsible for the debt, you probably want to make those payments!

If you are a Maine resident who is 60 or older and you are having a problem with a debt collector, call the LSE Helpline to talk to an attorney for free.

## **Selling your house**

If you owned your house as “joint tenants” with your deceased spouse, you need to do a few things before you can sell it. It should not take long to do, but it may require the help of an attorney.

- First, make sure you do not need the court’s permission to sell the house. Your attorney will contact the probate court to make this determination.
- Next, get a “Certificate of Discharge of Estate Tax Lien.” To do this, your attorney must file two forms with Maine Revenue Services: an Estate Tax Return stating that no estate tax is due; and, the Certificate of Discharge itself that describes your house and says there’s no estate tax due. Maine Revenue Services signs the Certificate and returns it to your attorney.
- Once your attorney files the original Certificate with the Registry of Deeds, you are free to sell the house.

If you are a Maine resident who is 60 or older, call the LSE Helpline to talk to an attorney for free.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older and you are having a problem arising from your spouse’s death, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### **Maine Office of Vital Records**

To obtain copies of the death certificate call (207) 287-3181 or visit the Office of Vital Records at  
244 Water Street, SHS #11  
Augusta, ME 04333-0011

### **Area Agency on Aging**

To find out if you are eligible to receive survivor benefits, or to get help dealing with your deceased spouse’s benefits, call your local Area Agency on Aging at 1-877-353-3771.

### **Social Security Administration**

To inform the Social Security Administration of the death, call 1-800-772-1213. To find out if you are eligible to receive survivor benefits, visit the Social Security’s website on the topic. [www.socialsecurity.gov/survivorplan/ifyou.htm](http://www.socialsecurity.gov/survivorplan/ifyou.htm)

### **Veterans Affairs**

Call the Veterans Affairs office at 1-800-827-1000 to inform them of the death. To find out if you are eligible to receive survivor benefits, visit the Veterans Affairs website on the topic.

[www.vba.va.gov/survivors/](http://www.vba.va.gov/survivors/)

# Are You Worried About a Senior?

If you think that a senior is being mistreated, taken advantage of, or neglected, you need to do something.

**If there is immediate danger, call 911.**

If the threat of danger is not immediate, try talking to the senior about your concerns. Encourage him or her to seek help. Offer your support and be respectful. Understand that these situations can be incredibly complicated. It can be very difficult for a senior to recognize that they are being mistreated. This is especially true if the situation involves a family member.

If the senior agrees to seek help, you can help them call the LSE Helpline for free and confidential legal advice.

If the senior can't or won't seek help, you can report your concerns to Adult Protective Services (APS) at 1-800-624-8404. You do not have to prove anything; you just have to report what you are seeing and explain why you are concerned. If your suspicions are confirmed, APS will help get the senior to a safe place or set up the appropriate support services.

**REMEMBER:** If you are concerned for someone's immediate safety, call 911!



**What to do if you think a senior is being mistreated.**

## RESOURCES

### **State of Maine Department of Health and Human Services Adult Protective Services (APS) – Office of Aging and Disability Services**

You can call and report your concerns to APS. APS provides and arranges for services to protect incapacitated and dependent adults (age 18 and over) in danger of abuse, neglect or exploitation. 1-800-624-8404 (Nationwide, 24 Hour, toll free)  
Maine Relay 711 (TTY, 24/7)

### **Legal Services for the Elderly**

You can help the senior call the Legal Services for the Elderly Helpline at 1-800-750-5353. Legal Services for the Elderly provides free legal help to Maine seniors who are 60 or older. [www.mainelse.org](http://www.mainelse.org)

### **Sexual Violence Statewide Crisis and Support Line**

Immediately following a sexual assault, take whatever steps you can to ensure the senior's safety. You may want to call the statewide sexual assault crisis and support line at 1-800-871-7741 or TTY 1-888-458-5599. When you call, you will be connected to someone nearby who can listen, offer support and information, and help the senior decide what to do next.

### **Domestic Violence Statewide Helpline**

If the senior needs help with a domestic violence situation, call the Helpline at 1-866-843-4357. When you call, you will be connected to someone who can listen, offer emotional support and information, help with safety planning, and help the senior decide what to do next.

### **Area Agency on Aging**

If you are concerned that the senior is not getting the care that they need or if they need more support services, the local Area Agency on Aging can help. You can help the senior call the local Area Agency on Aging at 1-877-353-3771.

### **Maine Council for Elder Abuse Prevention**

For more information about the different types of elder abuse and the various agencies in Maine that are available to provide assistance, visit the Maine Council for Elder Abuse Prevention website. [www.elderabuseprevention.info/](http://www.elderabuseprevention.info/)

### **The National Center on Elder Abuse**

NCEA is a great resource for people interested in ending elder abuse. For more information on how to help someone you suspect is being abused, mistreated, taken advantage of, or neglected, visit the NCEA website. [www.ncea.aoa.gov](http://www.ncea.aoa.gov)

# Getting Legal Help



**If you have a problem that you need help fixing or understanding, you might need to talk to an attorney.**

**T**his chapter talks about getting legal help. The first part of this chapter will help you decide whether you need to talk to an attorney. The second section will tell you how to find an attorney if you need one. The final section will talk about how much it can cost to hire an attorney.

## **DO I NEED AN ATTORNEY?**

Sometimes it is hard to figure out whether a problem is a legal problem or not. This handbook is designed to help you figure that out. Read through the index to find the chapter topic that best relates to your problem.

If you are a Maine resident who is 60 or older and you think you have a problem that is not covered in this handbook, or you aren't sure what to do next, call the LSE Helpline to talk to an attorney for free.

## **HOW DO I FIND AN ATTORNEY?**

If you are a Maine resident and you are 60 or older, call the LSE Helpline to get free legal help. The Helpline is open Monday-Friday 9 a.m. to 12:00 p.m. and 1:00 p.m. to 4 p.m. If you call after hours you can leave a message and the LSE intake paralegal will call you back.

You can also call the Maine Bar Association's Lawyer Referral Service at 1-800-860-1460 to find an attorney to hire.



## **WHAT TYPE OF PROBLEMS CAN LSE HELP WITH?**

**Threats, abuse, scams, debt collectors, evictions, Social Security or other social benefits... these are just some of the things LSE deals with.**

**Our attorneys advise seniors about problems involving basic human needs. If you're not sure LSE can help, call to find out!**

## **What happens when I call LSE for help?**

When you call LSE, you will talk to the intake paralegal. The intake paralegal will ask you for some basic information about yourself and your legal problem. Then one of the Helpline attorneys will call you back. If it is not an emergency, you will usually get a call back within three to five working days. If it is an emergency, you will likely talk to someone the same day. It's very helpful to be ready with any important papers and other information when the attorney calls you back.

Usually, the Helpline attorney will be able to help you with your problem over the telephone. But, in some situations, you will be assigned a LSE area office attorney who works right in your local area to help you with your problem.

## **What problems can LSE help with?**

The LSE Helpline attorneys provide legal information and advice on many legal issues and questions that often come up for Maine seniors. LSE attorneys advise seniors about consumer debt problems, MaineCare, Medicare, housing, public benefits, Advance Health Care Directives, financial Powers of Attorney, and other civil (non-criminal) matters. LSE also helps seniors who have been taken advantage of, or mistreated by scammers, caregivers, family members, or others.

LSE helps with problems involving basic needs. LSE does not handle criminal matters, divorces, or personal injury cases. But, if LSE can't help you, we will refer you to another legal resource, like Volunteer Lawyers Project, the Maine Bar Association's Lawyer Referral Services, or a private attorney.

## **Situations LSE can help with:**

- A caregiver or relative is hurting you, threatening, or taking advantage of you.
- Someone is trying to get Guardianship over you.
- You are the victim of a scam.
- Debt collectors are bothering you.
- You may lose your home or be evicted.
- You are being discharged from a nursing home.

- You have been denied MaineCare benefits or drugs under Medicare Part D.
- You want to know how to plan ahead in case something happens to you.
- You have a problem with Social Security or some other public benefit.
- You are worried you'll lose your house if you go to a nursing home.
- You were pressured into signing a loan you can't afford to pay.

**Questions Helpline attorneys often answer:**

- Can I change a contract that I've signed?
- Do I need a Will?
- My husband just died. What do I do?
- I lost MaineCare. How can I get back on it?
- I got a letter from Social Security saying that they overpaid me. Do I have to pay it back?
- I moved out of an apartment a month ago and my landlord still hasn't returned my security deposit. How can I get it back from him?
- I need a Power of Attorney. Is there a standard form for that?
- I had a Financial Power of Attorney and Living Will drawn up in another state. Are they good in Maine?
- I need to use my credit card to pay for everyday things like food. I pay my bills, but my debt is just getting bigger. Is there anything I can do?

**HOW MUCH WILL IT COST TO HIRE AN ATTORNEY?**

It depends on your legal problem or situation. If you think you need an attorney but don't think you can afford one, call the the LSE Helpline. LSE's services are free and confidential. If LSE can't help you, you might qualify for a reduced fee referral to a private attorney.

## **RESOURCES**

### **Legal Services for the Elderly**

If you are a Maine resident who is 60 or older, call the Legal Services for the Elderly Helpline at 1-800-750-5353 to talk to an attorney for free. [www.mainelse.org](http://www.mainelse.org)

### **Help Me Law**

To find people who may be able to help you with a specific legal problem or for information about laws that affect you, visit the Help Me Law website. <http://helpmelaw.org/>

### **Maine Bar Association Lawyer Referral Service**

Call the Maine Bar Association Lawyer Referral Service at 1-800-860-1460 to find an attorney to hire. Visit the Maine Bar Association Referral Service website for more information. [www.mainebar.org/lawyer\\_need.asp](http://www.mainebar.org/lawyer_need.asp)

Rental Agreements  
Protection  
Legal Help  
Important Options  
Considerations  
Homeowner Rights  
Accommodation  
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Housing Pro  
Insurance  
Helpline  
Provider  
Management  
Loan Payment  
Grandparent Rights  
Physical Health  
Power of Attorney  
Manage Debt  
Family  
Trust  
Shared Ac  
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Planning  
In  
Senior Citizens  
Payments



Legal  
Services  
for the Elderly

Free legal help for Maine's seniors

5 Wabon St., Augusta ME 04330

[www.mainelse.org](http://www.mainelse.org)

Helpline: 1-800-750-5353