

WorkWelfareWills



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Centrelink
Entitlements
Health Privacy
Powers of Attorney,
Guardianship
Superannuation,
Insurance
Travel Insurance
Wills

***A plain English guide to legal issues
around health and life changes***

***Created for people whose illness is
affecting their ability to work***




Chronic
Illness
Alliance

www.chronicillness.org.au/workwelfarewills

WorkWelfareWills

Home Page
Centrelink Entitlements
Health Privacy
Powers of Attorney, Guardianship
Superannuation, Insurance
Travel Insurance
Wills
About this site



WorkWelfareWills is a plain English web guide to legal issues around health and life changes. It was produced for use in Victoria only as some of the laws will be different in other states of Australia.

Chronic illnesses bring about lifestyle changes. This resource was designed by the Chronic Illness Alliance to help people with a chronic illness, their families and advisors, to make informed decisions about the future.

Having a chronic illness means you need to:

- ▣ Plan for income after leaving your job by learning about entitlements from your superannuation fund and from Centrelink.
- ▣ Manage your future financial, medical and lifestyle decisions.
- ▣ Know more about your health privacy and who you do and do not have to tell about your illness including travel insurance companies.

To get the best from this resource click on the topic you are interested in listed on the left hand side.

This website provides general information on the law and is not a substitute for individual legal advice. Click here for full disclaimer.

The development of this web-based information guide was made possible by a grant from the Victoria Law Foundation.



WorkWelfareWills

Home Page
Centrelink Entitlements
Health Privacy
Powers of Attorney, Guardianship
Superannuation, Insurance
Travel Insurance
Wills
About this site

Home

About this Site

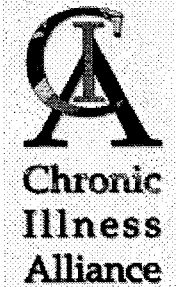
WorkWelfareWills fills an important gap for people with chronic illness. Through their client services work, member organisations of **the Chronic Illness Alliance found that many clients, too sick to work, were missing out on superannuation payments and other insurance and social security entitlements** right at the very time that they needed them most, simply because no one had told them about their entitlements.

This site developed from a long collaboration between the Chronic Illness Alliance and John Berrill, Superannuation Partner at Maurice Blackburn



Cashman. It began with a free legal superannuation and insurance advice service. Over the years, hundreds of people with a chronic illness benefited from the help and advice they received. The Alliance recognised that many more people in the community needed information, and a web page was the most affordable and effective way to reach the broader community while still providing a resource to our member organisations.

Funding was sought from the Victoria Law Foundation and since then many individuals and organisations have contributed their skills and the Alliance would like to acknowledge and thank them all.



Financial support

Thank you to the Victoria Law Foundation for its generous support and grant to create the site, and to the Department of Human Services (Victoria) for their very valuable grant to develop and maintain the site over the coming year.

Pro bono legal support

Thank you firstly to John Berrill and Maurice Blackburn Cashman whose support made this site possible and to the Public Interest Law Clearing House and Tabitha Lovett for their support and pro bono referrals. Thank you also to Anne Moon and Baker & McKenzie, and Paul Radlow and State Trustees for their very valuable contributions.

Thank you to Dale Nelson and the Welfare Rights Unit for the preparation of the Centrelink material.



Steering Committee

Thank you to the following members of the steering committee, past and present, for their guidance, support and commitment:

- John Berrill, Maurice Blackburn Cashman
- Joanna Betteridge, Joanna Betteridge Consulting
- Alan Blackwood, MS Society of Victoria and New South Wales
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- Jo-Anne Tamlyn, Chronic Illness Alliance

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And finally thanks to:

Laurence Carter, Dogsbody Publishing for WorkWelfareWills' design and construction and, Ros Wood, whose editing skills were at times, amazing.

[| About This Site](#) | [Disclaimer](#) | [A practical guide to legal issues around health & life changes](#)

WorkWelfareWills

Home Page
Centrelink Entitlements
Health Privacy
Powers of Attorney, Guardianship
Superannuation, Insurance
Travel Insurance
Wills
About this site

Home

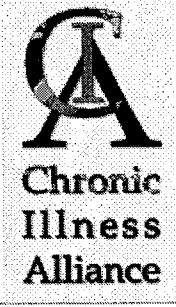
Centrelink Entitlements

Contents of this section

All the social security material contained in this section was prepared by the Welfare Rights Unit.

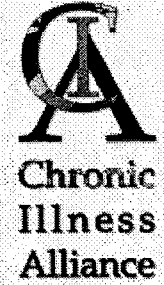
It focuses on issues and payments of particular interest to people with chronic illnesses. There are over 30 Centrelink payments, so seek independent advice (see 'Independent advice and assistance') about other payments not covered here.

It is essential that you lodge a written claim for most Centrelink payments. You have a right to lodge a written claim for any and every payment you think you may be entitled to, though you will not necessarily be able to receive multiple payments.



1. Can I get a Centrelink payment if I have a chronic illness?
2. What are the main Centrelink payments available to people with a chronic illness?
 1. Newstart Allowance / Youth Allowance
 2. Sickness Allowance
 3. Disability Support Pension
3. Concession cards and mobility allowance
4. What medical issues may affect your dealings with Centrelink?
5. Dealing with Centrelink
6. Common problems for chronically ill people
7. Activity Tests
8. Preparing for Work Agreements
9. Penalties
10. Social security appeals system
11. Appealing to Social Security Appeals Tribunal
12. Independent advice and assistance
13. Resources

WorkWelfareWills

Home Page
Centrelink Entitlements
Health Privacy
Powers of Attorney, Guardianship
Superannuation, Insurance
Travel Insurance
Wills
About this site


Home

Health Privacy

Contents of this section

The following information on privacy of health information is based on the *Victorian Health Records Act 2001 (Vic)* and to a lesser extent the national *Privacy Act 1988 (Cth)*. It is intended for use only in Victoria.

1. Your right to privacy
2. What laws protect my health information?
3. What is health information?
4. Who must comply with the privacy principles?
5. What are the privacy principles?
6. How can I make a complaint?
7. Case Studies
8. Resources

WorkWelfareWills

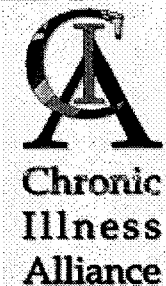
Home Page
Centrelink Entitlements
Health Privacy
Powers of Attorney, Guardianship
Superannuation, Insurance
Travel Insurance
Wills
About this site

Home / Powers of Attorney index

Introduction

Page Contents

1. What are the different types of powers of attorney?
2. What is the difference between a general power of attorney and an enduring power of attorney?
3. What are the three enduring powers of attorney?
4. Which powers do I need?
5. Who can make a power of attorney?
6. What is legal capacity?
7. What if I am very ill and want to appoint an attorney?
8. Do I need a lawyer?
9. What is VCAT and what does it do?
10. What happens if I don't have an enduring power of attorney?



A power of attorney is a document that authorises another person to make decisions on your behalf. This can assist you when you are temporarily or permanently unable to manage your own affairs.

It is worthwhile thinking about appointing an attorney now while you are still of sound mind and able to do so, particularly if you have been diagnosed with a serious illness or are about to have major surgery. Appointing an attorney enables you to have someone you trust manage your affairs and make decisions on your behalf should you be unable to do so.

Choose your attorney(s) carefully. Their job is to make decisions that are right for you and in your best interests, so take care to choose someone who will understand your wishes and follow them whenever possible.

1. What are the different types of powers of attorney?

The four powers of attorney are designed to cover different situations and different types of decisions: temporary and permanent situations, and personal, lifestyle, financial, legal and medical decisions. {each to have links to explanatory notes}

- General power of attorney
- Enduring power of guardianship
- Enduring power of attorney (financial)
- Enduring power of attorney (medical)

2. What is the difference between a general power of attorney and an enduring power of attorney?

A general power of attorney is for use in short-term and long-term situations for legal and financial matters only. It is typically used when you travel overseas and need someone to pay your bills and attend to your legal and financial affairs while you are away. It can remain valid for your lifetime, but it automatically becomes invalid if you become mentally incapacitated.

In contrast, the three enduring powers of attorney are designed to continue through mental incapacity, that is, if and when you are unable to understand and make decisions for yourself. They are called enduring because they last until your death unless you revoke them or they are terminated by the Victorian Civil and Administrative Tribunal.

3. What are the three enduring powers of attorney?

Each of the three enduring powers of attorney and guardianship has its own purpose and gives the appointed person specific powers.

An **enduring power of guardianship** gives the appointed person authority to make personal and lifestyle decisions on your behalf. It takes effect from the time you become mentally incapacitated (*Guardianship and Administration Act 1986*).

An **enduring power of attorney (financial)** gives the appointed person authority to make financial and legal decisions on your behalf. It takes effect from whatever time you nominate: immediately, on a specific date, or if you so specify, when you become mentally incapacitated (*Instruments Act 1958*).

An **enduring power of attorney (medical)** gives the appointed person authority to make medical decisions on your behalf. It takes effect from the time you become mentally incapacitated (*Medical Treatment Act 1988*).

4. Which powers do I need?

The powers you need will depend on your wishes, and your personal, financial and family circumstances. Provided the legal requirements are met, you can make whichever powers you wish, and you can appoint whoever you wish to take on those powers. For example, you may choose to make only an enduring medical power of attorney, or you may choose to make all three enduring powers of guardianship and attorney. Similarly, you may choose to appoint only one person for all the powers you make, or you may choose different people for each of the powers you make.

In deciding which powers you want to make, take note of the type of decision covered by each document. For example, an enduring power of guardianship covers only personal and lifestyle decisions; it does not cover legal and financial decisions. An enduring power of attorney (medical) covers only medical decisions; it does not cover personal, lifestyle, financial or legal decisions. An enduring power of attorney (financial) covers only legal and financial decisions although these can impact on personal and lifestyle decisions, for example, when a house is sold or leased to live in, or in the choice of an aged care facility.

However, note that there is potential overlap between an enduring power of guardianship and an enduring power of attorney (medical) in relation to medical decisions, because both have the power to make medical decisions. However, in practice, a guardian can make medical decisions only if there is no medical attorney. If a medical attorney has been appointed, their decisions take precedence over those of the guardian.

5. Who can make a power of attorney?

Anyone can make a power of attorney, but, for the power to be valid, both the person making the power of attorney and the person accepting the appointment must

- be at least 18 years of age
- have sufficient legal capacity to fully understand the nature and meaning of the documents.

6. What is legal capacity?

To have sufficient legal capacity, a person must have the mental capacity to

- understand the nature and meaning of legal documents
- understand the responsibilities and consequences of making a power of guardianship or attorney appointment
- understand the responsibilities and consequences of accepting a power of guardianship or attorney appointment.

7. What if I am very ill and want to appoint an attorney?

If you are very ill and you want to appoint or change an attorney but

