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## Guardianship & Supported Decision Making Overview

Anita Raymond, LISW  
Supported Decision Making Series  
Regional Quality Councils & Regional Capacity Building Networks  
February 6, 2026

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## Outline

- Intro to Supported Decision Making (SDM)
- Guardianship Overview
- Understanding full range of decision making options: from SDM and other LRAs (Less Restrictive Alternatives) to guardianship

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## Meet Your Presenter

Anita Raymond, LISW  
Director, CESDM



- I am not a guardian.
- I do not have a guardian.
- I use supported decision making
- 35+ years in the field
- I've seen changes

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What's all this I'm hearing about Supported Decision Making?



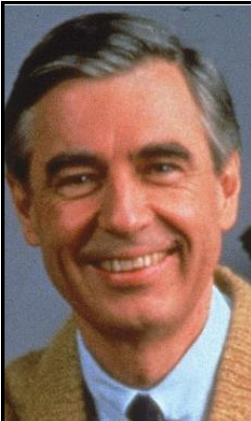
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## Dignity of Risk & SDM

- What choices do you make, from the mundane to the extraordinary, that gives you meaning, satisfaction, and/or purpose?
- How do you want to hear from the people who care about you that your choices worry that you are in unreasonable danger?
  - Do you want them find ways to keep you from doing it?
  - Do you prefer they would ask to have a conversation with you about it?

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Wisdom from Mr. Rogers

There's a world of difference between insisting on someone's doing something and establishing an atmosphere in which that person can grow into wanting to do it.

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*Supported Decision Making*

"a series of relationships, practices, arrangements, and agreements, of more or less formality and intensity, designed to assist an individual with a disability to make, and communicate to others, decisions about the individual's life"

(Dinerstein, 2012)



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*Principles of Supported Decision Making*

- People who get to make decisions about their lives are happier, healthier, more likely to live in community settings, and have jobs
- *Everyone* needs help sometimes
- No one is completely independent.
- How we ALL make decisions:
  - Gather more information
  - Talk to trusted others



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*What Is Supported Decision Making?*

Making decisions with help from others

- talk through the decision/issues
- hear what others would do in similar situation
- explain technical things in ways that are easier to understand
- explain how information applies to own situation
- help identify consequences of their decisions
- persuasion, reframing



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*"Supported Decision Making can sound like a new, foreign idea. But most families, people with disabilities, and advocates are already using [SDM] even if they don't call it that. In fact, most people without disabilities are also already using [SDM]!"*

*[SDM] means helping a person understand, make, and communicate her own decisions. This will look different for everyone."*

**SDM Brainstorming Guide**



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*SDM Brainstorming Guide: Money and Health*

- Money Management ...opening joint bank account, making a budget together, having an SSI rep payee and then discussing how to spend money
- Health Care Decisions ...attending medical appointments together, explaining healthcare choices in plain language, sharing access to medical records



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*SDM Brainstorming Guide: Housing and Daily Life*

- Living Arrangements ... visiting possible homes together, making lists of pros and cons, setting up "trial runs" visiting different homes, meeting possible roommates, discussing support staff needs
- Daily Life: helping the person find a job based on her interests, responding to her preferences about what she does every day, teaching her to take transit to get where she wants to be, talking about safety, consent, and choice in relationships, helping her think about different options and decide which is the best fit for her

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### *Supported Decision Making Examples*

- Going with person to the doctor
  - explain (and re-explain) in plain language
  - helping doctor understand person
- Explaining to person they'll lose their beloved apartment or group home if they keep letting their friends stay overnight and party with them
- Setting up their phone with medication alarms, mapping directions, ride-share apps to enhance independence and safety
- Helping person manage their money banking options / online monitoring
- Making appointments, filling prescriptions for them

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### *But I Thought We Were Supposed to Seek Guardianship*



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### *Historically...*

- Let's plan for guardianship!
  - Approaching 18<sup>th</sup> birthday
  - At diagnosis
  - Young teens or pre-teens
  - Other families
- Families are told it is:
  - benign and necessary step
  - Required by IDEA
  - Required by MN Choices, Health Care Providers, etc.

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### *Changing Perspectives About Guardianship*

- No longer the default
- Policy, law and best practices emphasize self-determination and person-centered approaches
- Removal of civil rights, transferred to guardian
- Some people need it. Permanently, or only for awhile

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### *Changing Perspectives About Guardianship (cont'd)*

Unintended Consequences: good intentions may lead to bad outcomes

- Overly protective decisions
- False sense of security
- Increased risk of abuse
- Learned helplessness
- Person never learns how to be a good decision maker

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### *Historically...*

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## Reframing and Modernizing Historical Approaches

- Let's plan for adulthood! What skills still need more developing? What tools might we explore?
  - Approaching 18<sup>th</sup> birthday
  - At diagnosis
  - Young teens or pre-teens
  - Other families
- Person and families can navigate challenges without guardianship in many cases
  - Neither fully benign nor necessary step
  - Planning, not guardianship, required by IDEA
  - Consent of someone, not necessarily guardian, required by MN Choices, Health Care Providers, etc.

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## Guardianship & Conservatorship

- Court appointed substitute decision-maker
- Petition, court hearing
- Guardian granted personal and care decision making powers over *Person Subject to Guardianship* (not ward)
- Conservator granted powers over money and assets of *Person Subject to Conservatorship*



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## Guardianship Is:

- an excellent tool....when it's necessary
- sometimes the only way to protect a person living with vulnerabilities
- sometimes the only way to meet the person's own goals
- best use: when there is no other way to meet needs: basic, quality of life, safety
- not necessary as often as we might think



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## How Do I Get Guardianship or Conservatorship

Petitioning Process

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## Preparing for Petitioning Process

- Both can happen at same time, same documents
- Nominated G/C
  - Same person; one guardian, one conservator
  - Consider avoiding co-guardian/co-conservator
  - May need to go through background checks
- Diagnosis, unmet needs (why this is needed)
- Ruling out less restrictive alternatives\*
- What powers needed\*



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### Less Restrictive Alternatives

- Petition must state *“what less restrictive means have been attempted and considered, how long...have been attempted, and...why...not sufficient to meet the respondent’s identified needs”*  
Minn. Stat. 524.5-303(b)(9) & Minn. Stat. 524.5-403 (b) 10
- *The court must make specific findings particular to the respondent why less restrictive alternatives do not work.*  
Minn. Stat. 524.5-310(a)(2) & Minn. Stat. 524.5-409 Subd. 1(3)

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### Statutory Powers & Responsibilities: Guardian

- Place of Abode
- Care, Comfort, Maintenance Needs
- Personal Property
- Medical Care
- Contracts (if no conservator)
- Supervisory Authority
- Governmental benefits (if no conservator)
- ABLE Accounts
- Institute suit on behalf (if no conservator)

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### Powers & Responsibilities: Conservator

- Pay reasonable charges
- Pay all lawful debts
- Possess and manage the estate, including real estate
- Sell, mortgage, purchase interest in inherited real estate
- Contracts
- Governmental Benefits
- Institute Suit on Behalf of



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### Petitioning Process

- Petitioner (usually attorney) files petition
- Doctor statement in support
- Court hearing scheduled (2-6 months in future)
- Person, next of kin, and others receive petition, notice of hearing in mail
- Court visitor: also gives copy of paperwork
- Court-appointed attorney
- Court hearing



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### After Appointment

- Oath and Acceptance paperwork
- Conservator
  - Obtain Bond
  - Complete and file Initial Inventory
  - Additional petitioning if selling real estate
- Annual Reports:
  - Annual Notice of Right to Petition (G'n and C'or)
  - Annual Well-Being Report (Guardian)
  - Annual Accounting (Conservator)



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### Time-Limited Guardianships

- Any guardianship/conservatorship can be limited in duration
- Some guardianships automatically terminate: Guardianship of person < 30 years old + appointed after 8.1.2020
  - Automatically terminates after 72 months (6 years)
  - Requires petition(s) for appointment of another guardianship if still needed after expiration
  - Once person turns 30, remains effective until person dies or successful petitions to terminate, modify, or appoint successor

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## Are There Limits to a Guardian's Authority?



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## Guardianship Authority

- Will not guarantee person's cooperation
- Is a consent power only; will not solve problems of compliance or change behaviors
- Will not solve problems of scarce resources (staffing, long waits for MA applications, the best fit for services / residential options)
- Bill of Rights for Persons Subject to Guardianship and Conservatorship
  - Right to due consideration of preferences, be involved in decision making, interact with people of their choosing and access to social media
  - exceptions if unavoidable substantial, significant harm

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## Summary: Court Involvement as a Last Resort

- Loss of rights
- Expensive (to families, or to counties)
- Lengthy process
- May be overly protective
- May not address areas of concern
- May lead to relationship challenges, anger and frustration by person being protected and other unintended consequences
- Many ways to avoid court involvement
- Law requires trying LRAs

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## What Are Less Restrictive Alternatives?

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## MN Statute Requires Trying LRAs Before Seeking/Appointing Guardian

Guardianship: prove *identified needs cannot be met by less restrictive means, including but not limited to use of appropriate technological assistance, supported decision making, community or residential services, or appointment of a health care agent*



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## Less Restrictive Alternatives Examples: Guardianship

- Accepting needed services (community, residential, technology)
- Supported Decision Making or cooperation with others' ideas/input
- Release of Information
- Health Care Directive
- Authorized Representative for Economic Assistance
- County/Private Case Management
- Financial management

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*MN Statute Requires Trying LRAs  
Before Seeking/Appointing  
Conservator*

Conservatorship: prove *identified needs cannot be met by less restrictive means, including but not limited to use of appropriate technological assistance, supported decision making, representative payee, trusts, banking or bill paying assistance, or appt. of attorney-in-fact*



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*Less Restrictive Alternatives  
Examples: Conservatorship*

- SDM, Family, Trusted Friend
- Bank Tools: auto pay, direct deposit, co-signers, bill paying arrangements, on-line monitoring of accounts
- Authorized Rep for MA
- Representative Payee
- Power of Attorney
- Trust
- Protective Order

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*Supported Decision Making*

assistance from one or more persons of an individual's choosing  
in understanding the nature and consequences of potential personal and financial decisions  
which enables the individual to make the decisions and, when consistent with the individual's wishes, in communicating a decision once made.

MN Statutes 524.5-102 Subd. 16a



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*Guardianship is Not  
Necessarily Necessary*

For Example...



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*Guardianship is Not Necessary:  
Health Care*

Parents are often told they won't be able to talk to doctors, or fill prescriptions, or make medical decisions unless they become guardian

- Instead, try Supported Decision Making, Releases of Information, and appointing a Health Care Agent in a Health Care Directive



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*Guardianship is Not Necessary:  
Individual Education Plans*

Parents are often told they won't be able to participate in conversations or planning with Special Education, unless they become guardian

- Instead, try Supported Decision Making, Releases of Information, and Powers of Attorney



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*Guardianship is Not Necessary:  
Accessing Waiver and Other Services*

Parents are often told they have to become guardian to get their adult child enrolled with County Programs

- Instead, try Supported Decision Making, Releases of Information, and Authorized Representative for MA/Waiver programs



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*Guardianship is Not Necessary:  
Avoiding Being Taken Advantage Of*

Parents are often told their adult child will be exploited unless they have a guardian

- Instead, try Supported Decision Making, Releases of Information, coaching / teaching about money and budgeting, banking arrangements, Representative Payee, Trusts, POA



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*Guardianship is Not Necessary:  
Person Might Make Bad Choices*

Parents are often told their adult child needs guardianship because they'll make unsafe choices

- Instead, try supported decision making explore these potential choices together, discussing consequences, outcomes, other options



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*Navigating "Bad Choices"*

What is the Issue? Listen with non-judgmental, true curiosity

- Why is the choice important to the person?
- Why do they want to...? Why don't they want to...?
- Might the choice really about something else?
  - Trying to claim a sense of control in their life
  - Expressing frustration or anger or fear
  - Want to do what their peers are doing
- Person is just dreaming out loud?
- Creativity to discover other options that meet choice and safety concerns?



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*Building Scaffolds of Supports*

- Relationships
- Community
- Skill-building in tasks and decision making
- Safety Nets
- Risk/harm reduction
- Goal: as safe as necessary (vs. as safe as possible)



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*Planning for Adulthood*

- Consider areas needing more skills and knowledge development
  - budgeting? health care decisions? dating? life skills? apartment? jobs?
- Consider areas that need someone else to do
  - money management, medication admin and prescriptions, making appointments?
- Learning how to be good decision makers and learning from mistakes: trials and supports
  - dating, apartment, jobs, life skills



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Finding the Balance:  
what's important  
to the person and  
what's important  
for the person



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*In Summary...*



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*Countless Ways to Support Person*


- Making decisions *independently*
- Making decisions with the *support* of others to identify goals, options, and the consequences, benefits and possible outcomes of choices
- Appointing someone to be *surrogate* decision maker in areas where person can't (health care decisions, money management)
- Seek appointment as *substitute* decision maker: guardianship/conservatorship



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*Guardianship **May** Be Needed*


- Decision needs to be made, person unable to make decision due to disease/condition, even with lots of help or technological assistance
- Person can't recognize their needs and won't let others help
- Person can't understand/is unable to appoint decision maker
- No other way to get their needs met



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*Supported Decision Making  
Takeaways*

- No court involvement
- Better chance of preserving relationship
- Less expensive
- May lead to better outcomes for person
- Can accomplish a lot of what is accomplished in guardianship
- Required by law to try
- Guardianship still an option



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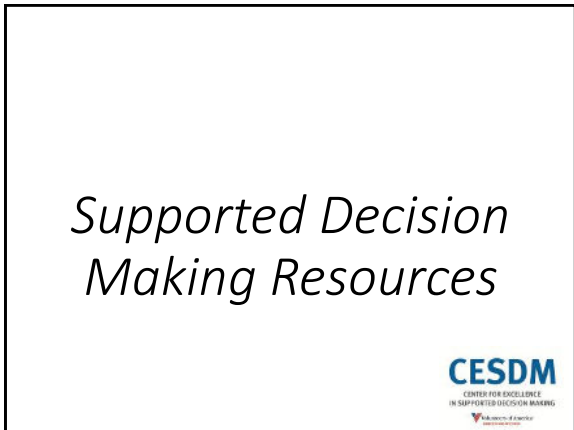


*I don't need a guardian.*

*I just need a little help!*

~Jenny Hatch

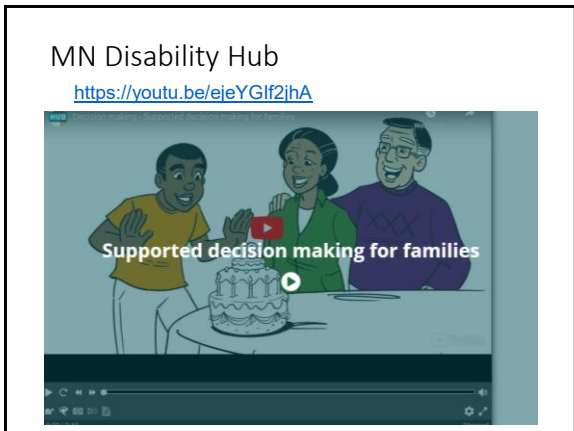
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**SDM Planning Tools and SDMA's**

- [Charting the Life Course Framework](#)
- [SDM Brainstorming Guide](#)
- [How to Make a Supported Decision-Making Agreement](#)
- [National Resource Center on Supported Decision Making](#)
- MN-specific [Supported Decision Making Agreement](#)

Remember: Written Supported Decision Making Agreements are **NOT** required!

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[SDM Brainstorming Guide](#)

*"This tool can help people brainstorm ways that they are already using supported decision-making, and think about new ways supported decision-making could help the person with a disability learn to make her own safe, informed choices."*

Quality Trust, 2016

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[How to Make a Supported Decision Making Agreement](#)

How to Make a  
Supported Decision-Making Agreement

American Civil Liberties Union

A Guide for People with Disabilities  
and their Families

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**IDENTIFYING ALTERNATIVES TO GUARDIANSHIP**

This tool was designed to assist with identifying a person's ability to make decisions and manage his or her life. It is intended to assist with exploring alternatives and less restrictive options to primary or full guardianship.

Name of individual: \_\_\_\_\_  
 Relationship to individual (Grandparent, Son, Family Friend, Guardian, Other): \_\_\_\_\_  
 How long have you known the individual? \_\_\_\_\_

**Step 1:** Decide for each question if the answer is yes or no. If yes, and is checked in the correct column. If no, check in the person's column to go to Step 2 and 3 in the yellow column.

**Step 2:** When you have completed all the questions, activate the navigation tool to go to the next question. If you are not sure, click on the question to go to it.

**Step 3:** ONLY IF NO alternative can be identified, non-limited guardianship might be considered for these specific areas of need.

**DAILY LIFE & EMPLOYMENT**

Can the person make and communicate choices in regard to employment? \_\_\_\_\_  
 Can the person look for and find a job or go to employment agency, career to talk and interview? \_\_\_\_\_  
 Is the person able to manage their money (i.e. most household commitments, such as regular bills)? \_\_\_\_\_  
 Is the person able to manage the monetary benefits for or of a disability benefit? \_\_\_\_\_  
 Is the person able to identify and reach financial institutions? \_\_\_\_\_

**HEALTHY LIVING**

Does the person make decisions about where, when, & what to eat? \_\_\_\_\_  
 Can the person manage a prescription plan and/or take medication as directed? \_\_\_\_\_  
 Does the person understand the need to maintain personal hygiene and dress (e.g.)? \_\_\_\_\_  
 Can the person make and communicate decisions regarding medical treatment, including understanding the consequences of not accepting treatment? \_\_\_\_\_  
 Does the person understand health consequences associated with high risk behaviors (substance abuse, swimming, high risk sexual activities, etc.)? \_\_\_\_\_  
 Can the person seek advice and seek medical help for serious health problems? \_\_\_\_\_  
 Is the person able to identify and direct what kinds of support they need or want and seek who provides those services? \_\_\_\_\_

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[Missouri Guardianship Stoplign Tool](#)

Life Course Nexus [www.lifecoursetools.com/lifecourse-library/exploring-the-life-domains/supported-decision-making/](http://www.lifecoursetools.com/lifecourse-library/exploring-the-life-domains/supported-decision-making/)

**LIFE TRAJECTORY | SUPPORTED DECISION-MAKING**

**Past Life Experiences**

**Moving Forward**

**What I Don't Want**

**What I Don't Want**

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**CHARTING the LifeCourse**

**Tool for Exploring Decision Making Supports**

This tool was designed to assist individuals and supporters with exploring decision-making support needs for each life domain.

Name of individual: \_\_\_\_\_  
 Name of person completing this form: \_\_\_\_\_  
 Relationship to individual (Grandparent, Son, Family Friend, Guardian, Other): \_\_\_\_\_  
 How long have you known the individual? \_\_\_\_\_

For each question below, mark the level of support you need when making and communicating decisions and choices in the **Charting the LifeCourse** life domains.

**DAILY LIFE & EMPLOYMENT**

Can I decide if or when to work? \_\_\_\_\_  
 Can I look for and find a job (read ads, apply, and personal contacts)? \_\_\_\_\_  
 Do I know what my work tasks are? \_\_\_\_\_  
 Do I know if I want to learn something new and how to best go about it? \_\_\_\_\_  
 Can I make my decisions about money (open bank account, make my purchases)? \_\_\_\_\_  
 Can I understand the particular legal, financial, crime, reputation, etc. risks to take on, lose, gain, and affect myself? \_\_\_\_\_  
 Can I manage to manage the monetary benefits for or of a disability benefit? \_\_\_\_\_  
 Can I make my own choices about where to live or where to travel? \_\_\_\_\_

**HEALTHY LIVING**

Do I choose when to go to the doctor or dentist? \_\_\_\_\_  
 Do I understand what medicine, health, health care, hygiene, sanitation or other health care providers (and) \_\_\_\_\_  
 Can I make medical choices for me (do I see my own lawyer)? \_\_\_\_\_  
 Can I understand the consequences of not accepting treatment? \_\_\_\_\_  
 Can I make medical choices in an emergency? \_\_\_\_\_  
 Can I understand the consequences of not accepting treatment? \_\_\_\_\_  
 Can I know the support who I like my condition? \_\_\_\_\_  
 Can I understand the consequences of not accepting treatment? \_\_\_\_\_  
 Can I seek advice and seek medical help for serious health problems? \_\_\_\_\_  
 Can I make choices about where to live or where to travel? \_\_\_\_\_  
 Can I make choices about where to live or where to travel? \_\_\_\_\_  
 Can I understand the need for personal hygiene and dental care? \_\_\_\_\_  
 Do I understand the need for personal hygiene and dental care? \_\_\_\_\_

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**Person Centered Planning**

*Person-centered planning is all about you – living, learning, working and enjoying life in the way you choose...*

[Disability Hub MN - Person-centered guidebook](#)

**What does person-centered mean for me?**  
 I control. I dream. I choose. I participate.

**HUB**  
 You lead this, you lead.

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**Resource for Skill-Building**

[Elevatus Training - Leaders in Sexuality and Developmental Disability](#)

- evidence-informed and trauma-informed products to help...skillfully and confidently navigate the topic of sexuality
- newsletters, webinars, curriculum, workbooks

**ELEVATUS TRAINING**



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 MINNESOTA AND WISCONSIN

Our mission is to help people build hope, resilience, and well-being through the integration of health, housing, and human services.

We embrace a whole-person approach that builds on human potential and promotes thriving communities. From infants to elders, our services encompass the entire human lifespan — and the whole human experience.

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**What We Do**

- Guardianship Information Line
- Social Work Direct Services, including
  - SDM Navigation
  - Evaluating need for guardianship
  - Facilitating decision making supports
- Training, Education & Outreach, Technical Assistance

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*Guardianship Information Line*

Individualized consultation with experienced, empathetic social workers regarding guardianship, supported decision making, health care directives, decision-making capacity and more



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*Contact Us!*



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This training was supported with funding from the Minnesota Department of Human Services, Aging and Disability Services Division



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