

The Overlooked Risk in Every Estate Plan: Disability

Disability is often treated as a remote possibility, something that happens to other people. Yet one of the most persistent blind spots in planning conversations is disability risk. Disability is not limited to conditions that we are born with. It can arise for anyone, at any age, across income levels, and in virtually any circumstance. Comprehensive estate planning is not solely focused around death; it is also about preserving autonomy during life, including through any period of disability.

That is why an estate plan that overlooks disability altogether ignores one of life's most consequential what-ifs and risks falling short if a health crisis strikes.

The Ever-Present Risk of Disability

For many people, death may feel like something that reliably arrives at the end of old age, not as an imminent or unpredictable risk. The COVID-19 pandemic brought heightened awareness of illness and mortality to people of all ages and triggered a surge in estate planning as millions took steps to protect their loved ones and their futures.

Most Americans dramatically underestimate both the very real risk and significant financial consequences of disability.

- Approximately 1 in 4 20-year-olds will experience a disability lasting 90 days or more before reaching age 67.¹
- About 13 percent of Americans are classified as disabled,² yet two-thirds of workers believe their own risk of long-term disability is just 1 or 2 percent.³
- More than half of Americans turning 65 will develop a disability serious enough to require long-term services and supports.⁴
- Illness, not accidents, is the leading cause of disability, and mental health conditions account for roughly 1 in 10 long-term disability cases.⁵

¹ Soc. Sec. Admin., *Disability Benefits*, Pub. No. 05-10029, at 5 (Feb. 2025) <https://www.ssa.gov/pubs/EN-05-10029.pdf>.

² Rebecca Leppert & Katherine Schaeffer, *8 Facts About Americans with Disabilities*, Pew Rsch. Ctr. (July 24, 2023), <https://www.pewresearch.org/short-reads/2023/07/24/8-facts-about-americans-with-disabilities>.

³ Allan Checkoway, *Chance of Becoming Disabled*, in *A Lawyer's Guide to Filing Long-Term Disability Claims and Appeals* 1, 2 (2020), <https://www.americanbar.org/content/dam/aba-cms-dotorg/products/inv/book/346779304/Sample.pdf>.

⁴ HHS Off. of the Assistant Sec'y for Plan. and Evaluation, *Research Brief: Long-Term Services and Supports for Older Americans: Risks and Financing*, 2022, at 1 (Aug. 2022), <https://aspe.hhs.gov/sites/default/files/documents/08b8b7825f7bc12d2c79261fd7641c88/ltss-risks-financing-2022.pdf> [hereinafter ASPE Research Brief].

⁵ *Uncomfortable Truths About Disability That May Surprise You*, MassMutual 175 (Sept. 15, 2023), <https://blog.massmutual.com/insurance/disability-surprising-facts>.

- Households with a working-age disabled adult need 28 percent more income on average, or an extra \$17,000–\$18,000 annually, to maintain the same standard of living due to higher expenses for healthcare, equipment, personal care, housing, and lost earnings.⁶

Although many disabilities are temporary, a significant share are not. About 1 in 5 adults (22 percent) will have a disability for more than five years.⁷ The longer somebody is disabled, the more it impacts their finances. Estimates suggest that a 35-year-old earning \$75,000 who suffers a permanent disability could lose up to \$2.25 million in potential earnings by age 65, and a disability beginning at age 45 could result in more than \$1 million in lost lifetime income.⁸

Making Planning Decisions Before Disability Strikes

Because incapacity can strike without warning, you need to have incapacity planning in place **before** it becomes necessary, not after. Many planning decisions require *legal capacity* (the cognitive ability to make decisions) to create them, and if documents are executed after capacity is lost, they are likely to be challenged or invalidated.

Delaying planning can also have severe financial consequences because it may necessitate additional costly legal procedures at a time when care expenses may be rapidly mounting while income and savings decline. For many households, even a short disruption can be destabilizing.

- Roughly three-quarters of Americans live from paycheck to paycheck, leaving little margin to absorb the financial shock of disability, particularly a prolonged one.⁹
- Nearly 4 in 10 cannot cover an unexpected \$500 expense, let alone sustained increases in healthcare, housing, or caregiving costs.¹⁰
- Approximately 50 million adults lack disability insurance beyond Social Security,¹¹ and the average monthly Social Security benefit for a disabled worker is under \$2,000 per month.¹²
- Since most Americans have no estate plan, they lack powers of attorney and other critical disability and incapacity planning documents, forcing loved ones to pursue costly legal proceedings to get authority to access finances or make care decisions.

If any of these concerns hit uncomfortably close to home, you may benefit from adding disability protections to your estate plan to increase your financial resilience.

⁶ *The Extra Costs of Living with a Disability in the U.S. — Resetting the Policy Table*, ndi, <https://www.nationaldisabilityinstitute.org/reports/extra-costs-living-with-disability>, (last visited Feb. 25, 2026).

⁷ ASPE Research Brief, *supra* note 7, at 1.

⁸ *Uncomfortable Truths About Disability That May Surprise You*, *supra* note 8.

⁹ *Number of Americans Living Paycheck to Paycheck Has Increased*, PR Newswire (Sept. 14, 2022), <https://www.prnewswire.com/news-releases/number-of-americans-living-paycheck-to-paycheck-has-increased-301624801.html>.

¹⁰ Fed. Rsv. Bd., *Economic Well-Being of U.S. Households in 2023*, at 37 (May 2024), <https://www.federalreserve.gov/publications/files/2023-report-economic-well-being-us-households-202405.pdf>.

¹¹ *Illness or Injury—and the Accompanying Financial Challenges—Can Happen to Anyone*, CDIA, <https://thecdia.org/the-risk-is-very-real> (last visited Feb. 25, 2026).

¹² *Social Security Disability Benefits Calculator*, Disability Advice, <https://disabilityadvice.org/ssdi-calculator> (last visited Feb. 25, 2026).

Here are some options to discuss with an attorney:

- **Financial power of attorney.** Allows someone you trust to manage bills, accounts, and financial decisions if you are unable to do so yourself, helping prevent missed payments, account freezes, or court involvement
- **Healthcare planning (such as advance directives and living wills).** Allows you to document your medical preferences in advance and name someone to make healthcare decisions on your behalf if you cannot communicate them yourself
- **Advance planning for special needs trusts.** Can be planned for in advance either to support a loved one who is already disabled or to serve as a safeguard if disability arises later, helping preserve government benefits while providing additional financial support
- **Letters of intent.** While not legally binding, such letters explain your wishes, routines, preferences, and priorities in plain language, providing critical guidance to caregivers, trustees, and family members during unexpected transitions
- **Coordinated estate planning for income disruption and care costs.** Works best when paired with broader financial planning that anticipates the potentially destabilizing combination of lower income and higher healthcare costs

Because disability risks and their consequences can shift with age and change over time, disability-specific planning measures should be revisited regularly, along with the rest of your plan.

Disability planning is not alarmist, worst-case thinking. It is realistic, personal preparation for a possibility that may be difficult to face but, sadly, is far more common than most people expect.