

What powers does a substitute decision maker have?

A substitute decision maker is given the power to make only those decisions that a QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ is unable to make. The Act divides the powers that may be granted in two major areas: personal care and property.

An individual can apply to be appointed as the substitute decision maker for the management of a QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ personal care, their property, or both.

1) Personal Care

Powers are only granted in those areas where a QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ is unable to make a decision that needs to be made. For example, the power to decide where to live would not be granted to the substitute decision maker unless there are plans for the adult living with an intellectual disability to move. Some of the powers that may be granted to the substitute decision maker for personal care are:

- to make decisions regarding the adult living with an intellectual disability's living arrangements;
- to make health care decisions on the adult living with an intellectual disability's behalf;
- to make decisions regarding the adult living with an intellectual disability's working arrangements;
- to make decisions regarding the QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ participation in educational or life skills training;
- to make decisions regarding the QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ participation in recreational activities; and
- to make decisions about daily living on behalf of the QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\.

2) Property

Powers are only granted in those areas where a QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ is unable to make a decision that needs to be made. For example, the power to operate a QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ business should not be granted if he or she has no business. Some of the powers that may be granted to the substitute decision maker for property are:

- to purchase, sell, dispose of or transfer personal belongings on behalf of the QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\;
- to receive, deposit and invest money on behalf of the QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\;
- to pay bills on the QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ behalf; and
- to apply for any benefits for which the QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ may be eligible.

What are the duties of a substitute decision maker?

The duties of a substitute decision maker vary with the powers he or she is granted. For example, a substitute decision maker with responsibility only for specific areas of personal care will confine his or her duties to these areas. Similarly, a substitute decision maker for property will restrict his or her activities to those specific areas for which he or she has been given decision making power. A substitute decision maker with power for personal care and property will have duties in relation to both areas. However, there are differences between the duties for personal care and property. These are:

1) Personal Care

In exercising his or her powers, the substitute decision maker for personal care is required to:

- comply with the terms and conditions of his or her appointment;
- act diligently and in good faith;
- make reasonable efforts to explain his or her powers and duties to the QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\;
- seek to foster the QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ independence;
- encourage the QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ to participate in the substitute decision maker's decision;
- choose the least restrictive and least intrusive course of action available in a situation; and
- take into consideration the QDGO WOLYQZWBQ LQWOOHFWBOGLVDEOLW\ wishes, beliefs and best interests.

2) Property

A substitute decision maker for property is expected to perform the duties listed under personal care as well as:

- keep a record of all transactions involving the adult living with an intellectual disability's property;
- make expenditures that are necessary for the adult living with an intellectual disability's support, education and care; and
- provide regular written reports to the Commissioner which detail the substitute decision maker's management of the adult living with an intellectual disability's property.

How is an application made to have a substitute decision maker appointed?

Anyone may obtain and complete an application form asking the Commissioner to appoint a substitute decision maker for an adult living with an intellectual disability. The applicant may ask to be appointed as the substitute decision maker, or may indicate that someone else is willing to be considered for the appointment.

Application forms are available on-line. They can also be picked up or be requested for mail out from regional offices of The Department of Family Services and Consumer Affairs or from the Office of the Commissioner for Adults Living with an Intellectual Disability.

How does the application process work?

- The applicant submits an application for the appointment of a substitute decision maker to the Commissioner's office.
- The Commissioner will provide the person for whom the application is made with a copy of the application.
- Once the Commissioner conducts a preliminary investigation of the application, the Commissioner will decide whether to dismiss the application or refer it to a hearing panel.
- If the application is referred to a hearing panel, the three-member panel will conduct a hearing and make recommendations to the Commissioner. After considering the hearing panel's recommendations, the Commissioner will decide to either dismiss the application or appoint a substitute decision maker.

Must an adult living with an intellectual disability have a substitute decision maker?

No. If an adult living with an intellectual disability is making his or her own decisions, alone or with the assistance of a support network, or if there are no decisions to be made, no substitute decision maker needs to be appointed.

Is it possible to appeal the Commissioner's decision?

Most of the decisions made by the Commissioner can be appealed to the Court of King's Bench. Upon hearing the appeal, the court may decide to set aside, vary or confirm the decision of the Commissioner.

Additional information:

For more information about *The Adults Living with an Intellectual Disability Act* contact your nearest regional office of The Department of Family Services and Consumer Affairs or the Office of the Commissioner for Adults Living with an Intellectual Disability (CALIDO):

Northern

Thompson (204) 677-6570

Flin Flon (204) 687-1700

The Pas (204) 627-8311

Parkland

Dauphin (204) 622-2035

Swan River (204) 734-3491

Eastman

Beausejour (204) 268-6226

Steinbach (204) 346-6390

Interlake (204) 785-5106

Westman (204) 726-6336

Toll Free: 1-800-230-1885

Central

Portage La Prairie (204) 239-3092

Morden (204) 822-2870

Winnipeg (204) 945-1335

Office of the Commissioner for Adults Living with an Intellectual Disability (CALIDO)

315-258 Portage Avenue
Winnipeg, Manitoba R3C 0B6
(204) 945-5039

Toll-free 1-800-757-9857 outside Winnipeg