

**THE CENTER FOR SOCIAL GERONTOLOGY**

# **CARING FOR AN OLDER PERSON AND FACING DIFFICULT DECISIONS?**



**CONSIDER MEDIATION**

**A Support Service to Help Meet the Needs of  
Elders and Family Caregivers through Shared  
Decision Making**

## Why try mediation?

- **Mediation** empowers participants. It gives them responsibility and control over the issues and outcome.
- **Mediation** is confidential and private.
- **Mediation** allows parties to move beyond surface issues in disputes and address underlying issues and problems.
- **Mediation** allows parties to hear and discuss one another's side of the story.
- **Mediation** allows parties to explore mutually acceptable solutions to difficult problems. It encourages creative problem solving within the private family setting.
- **Mediation** is highly effective because the parties design their own agreements.
- **Mediation**, in family caregiver cases, can help assure maximum possible control over basic life decisions for older persons and care recipients, while also addressing their need for assistance.

*On the opposite page is an example of how mediation might help in a family caregiver dispute. Based on actual mediated cases, it demonstrates not only the value of mediation, but also the significant differences in process and result that can occur with and without mediation.*

## **A snapshot of mediation**

Robert Jones is concerned that his sister, Linda Smith, a single working mother, is not giving her mother, Mary Jones, the care she needs and is wasting her assets. Mary Jones has lived in Linda's home for a year.

### ***Take One—without Mediation or Shared Decision-Making:***

*Robert and Linda become embattled and more mistrustful of one another. Whenever they try to discuss the situation, their conversations end in anger and accusations. Mary becomes upset when she hears her children talking in raised voices and sounding like they are making decisions about her life. She feels she is a burden and has told her children to stop worrying about her. She does not want to express her concerns for fear the situation will escalate and that Robert will think she's not getting good care and Linda will think she's not grateful for sharing Linda's home. Mary realizes she cannot live on her own and worries that Linda will "give up" if the situation becomes worse and that she will have to move to an adult care home, which she does not want. Robert believes Linda has manipulated their mother to side with Linda. They have reached an impasse, are unable to communicate, and relationships are worsening.*

### ***Take Two—with Mediation or Shared Decision-Making:***

*The parties meet with a mediator who helps them identify needs and issues. They recognize that Mary enjoys living with Linda and being close to her grandchildren, but she is lonely while Linda is at work. They acknowledge that Mary is confused about her finances and Robert is willing to help. With the mediator's help, they agree that Mary will continue to live with Linda; Robert will help Mary with her bills, and Mary will attend a senior center during the week. They agree to meet in three months to review the situation. The parties end up understanding and respecting each other's concerns.*

## What is mediation?

**Mediation** is a process in which people meet in a private, confidential setting to work out a solution to their problem with the help of a neutral person (a mediator). The mediator does not decide who is right or wrong and does not force the disputing parties to reach agreement or to accept particular terms in an agreement. Instead, the mediator listens to the parties explain the problem and their concerns as they see them and present their ideas on how the matter might be resolved. The mediator helps the parties develop and agree upon a workable solution.

Mediation can be thought of as a way of sharing decision-making responsibilities among family members. Another name for this kind of mediation is "**shared decision-making.**"

Mediation, or shared decision-making, may take the form of a family meeting to share information on a family member's care, develop options, and reach consensus on difficult decisions. Or, the mediation process may be helpful in resolving a dispute that is impacting family members, caregivers, and the care recipient.



# What happens in mediation?

In a typical mediation—

- The mediator explains the process and ground rules.
- One by one, each party explains his/her point of view in an uninterrupted manner.
- The mediator works with the parties to identify the issues in the dispute.
- The mediator encourages the parties to propose options and prioritize solutions on how they can resolve the matter to their satisfaction.
- If the parties reach agreement on the issues brought to mediation, the mediator helps the parties put the terms of the agreement in writing.
- A copy of the mediated agreement is then given to all the parties.
- The parties are responsible to follow through with the agreement.

*“Most helpful part was the family finally talking, giving input, and trying to come together with a positive solution.”*

*“The mediators were very fair to both parties and honestly seemed to care about the health of both parents.”*

## **What do I need to do to prepare for mediation?**

It is helpful to think about what you want the future to look like for you and your family. Because mediation deals with underlying issues, consider not only your own needs but those of others involved.

Come to the mediation with an open mind, ready to consider new options that may not have been raised previously, be willing to share information with the other parties, and expect to work hard toward reaching an understanding.

You may bring documents or information that you believe will be useful to the parties in the problem solving process. Your responsibilities in mediation are to decide what concerns you want to discuss, participate in good faith, keep an open mind, look for possible solutions, and work with the other parties to determine which solution is most appropriate.



## **What kinds of issues can be mediated?**

1. **Health/medical care decisions.** *Who should provide the care? What care is needed? Who should make medical decisions?*
2. **Financial decisions.** *How should money be spent? How should investments be handled? Concerns over "unwise spending", etc.*
3. **Living arrangements.** *Where? With whom? Who decides? How much independence/supervision?*
4. **Communication issues.** *What information is needed or missing? How to share information with those who need it?*
5. **Family relationship issues.** *(New or long-standing.) How should the family deal with sibling rivalries, new spouse or companion, death of spouse/caregiver, other changes in relationships?*
6. **Decision making.** *Who should have authority to make decisions? What input (if any) should others have?*
7. **Respite care and support for caregivers.**
8. **Personal, household care and maintenance.** *Identify caregiver/service provider. What type of care/service is needed?*
9. **Safety/risk-taking/autonomy.** *What safety issues are identified? Is the level of risk understood and acceptable? Should autonomy be limited?*
10. **Needs of other family members/caregivers.** *Dependent children. Grandparents caring for grandchildren. Career demands. Reimbursement for services. Visitation issues.*

# Frequently Asked Questions

## **Q.1. Why mediate family caregiver cases?**

Family caregiver mediation, or shared decision-making, is extremely beneficial in difficult cases involving the care of a vulnerable family member. Family conflicts frequently get worse over time, often with the care recipient being placed in the middle of the dispute. In some cases, if the problems are not resolved, family caregivers "give up," leaving a frail person with fewer choices for good care.

## **Q.2. How can mediation help my situation?**

Dealing with decisions about personal or financial needs of a family member can be complicated and stressful when options appear limited. Some family members may feel overwhelmed by the care needs of their loved one, particularly when juggling those needs with needs of children, other family members, or career demands. Mediation gives families a chance to talk together about problems - and with guidance from a trained neutral facilitator - work together to find solutions acceptable to everyone involved.

## **Q.3. How successful is mediation?**

Mediation is very successful when parties come together with the goal of improving communication, understanding one another's concerns, and working toward a mutually acceptable solution. A recent national study of adult guardianship mediation found that 8 out of 10 cases were successfully resolved. And, on average, in approximately 8.5 out of 10 cases, mediated agreements are followed through by the parties. The high success rate is because the solution is designed by the parties themselves.

# Frequently Asked Questions (cont'd.)

**Q.4. What if we can't reach an agreement?**

If the parties cannot reach agreement, at least they will have had an opportunity to clarify the issues and better understand one another's viewpoints with the help of a professional mediator who is trained in facilitating difficult family conversations. If a case was referred by a court, the case will go back to the court that referred the case. In a matter not pending in court, it is up to the parties to decide another approach.

**Q.5. How long does a mediation typically last?**

Mediation sessions normally last 3 to 6 hours.

**Q.6. Is there a charge for mediation services?**

Typically, there is a small mediation fee, determined by the local mediation center and charged to the parties involved in the dispute. Usually, parties split the costs of the mediation equally, but other arrangements may be made.

**Q.7. What if I can't afford the mediation fee?**

For this caregiver mediation demonstration project, limited funds are available to assist with costs. If you feel that you are unable to afford mediation services, special accommodations can be made, and in some cases the fee may be waived.

**Q.8. How can I learn more about caregiver mediation or set up a mediation? Contact:**

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Visit us on  
the web!!  
[www.tcsg.org](http://www.tcsg.org)

# Who are the mediators and what are their roles?

**Mediators** are community members who receive training in basic conflict resolution techniques and communication skills. In addition, mediators receive specialized training in guardianship and elder care issues.

**Mediators** serve as impartial facilitators who assist disputing parties resolve their own conflicts. The mediator's role is to help parties communicate, clarify issues, and find mutually agreeable solutions to their dispute. Throughout the mediation process, the mediator makes sure that every participant has an opportunity to be heard and contribute ideas for resolution.

**Mediators** are trained to facilitate stressful or difficult conversations among family members so that the parties can participate as fully as possible in the process and can understand and be comfortable with the terms they choose for their agreement.

## What type of training does a mediator receive?

- 40-Hour Mediator Training
- 16-Hour Adult Guardianship/Caregiver Training
- 10-Hour Internship

**Mediators are not judges;  
they do not decide who is  
right or wrong.**

## Where are mediations held?

Mediations can be held at local community dispute resolution centers or in a location convenient to the parties. Project service areas include: Livingston, Macomb, Monroe, Oakland, St. Clair, and Washtenaw Counties of Southeast Michigan; Georgia; and Vermont.

**Family Caregiver Mediation/Shared Decision Making Services** are provided through a project of The Center for Social Gerontology in Ann Arbor, Michigan in collaboration with:

- The Area Agency on Aging 1-B and the dispute resolution centers of Livingston, Macomb, Monroe, Oakland, St. Clair and Washtenaw Counties of Southeast Michigan.
- The Georgia Department of Human Resources, Division of Aging Services and the Atlanta Legal Aid Society's Georgia Senior Legal Hotline.
- The Vermont Department of Aging and Disabilities and Woodbury College Dispute Resolution Center.

## What types of cases?

Under the Caregiver/Shared Decision-Making project, mediation services are available in cases where

- Younger family members are providing care and assistance to an older person.
- An older person is providing care to a younger family member.

*"The most helpful part was the opportunity to speak everyone's true feelings without being interrupted."*

*"I feel this was a positive step in the right direction and I would recommend this to other families."*



**To learn more or to set up a mediation in  
Livingston, Macomb, Monroe, Oakland, St. Clair  
or Washtenaw County, contact:**

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