

## Backup Plans Are Loving Too: Why You Need Contingent Agents and Guardians

Progressive Insurance recently rolled out a series of commercials featuring “backup” quarterbacks stepping in to handle everyday challenges, such as ordering food, giving advice, and even parking a trailer. After the “backup” salvages the situation, each commercial ends with the same line: “If only there were backups in real life.”

The ads are designed to emphasize how a backup can provide peace of mind when the unexpected occurs, as it often does, in both football and life. Progressive frames the point simply: “It’s always a good idea to have a backup plan.”

The humor hinges on the premise’s absurdity. In most areas of life, a person cannot summon a backup to act on their behalf during a deeply personal moment and expect that substitute to seamlessly complete the task.

Estate planning represents a notable exception. Real-life backups are *contingent* decision-makers designated in advance to step in if a primary decision-maker cannot serve. These contingents function much like backup quarterbacks: prepared to act quickly, often under pressure, and sometimes when the stakes are high.

An estate plan that names only primary decision-makers may appear complete on paper. Without contingents, however, the plan lacks the depth needed to remain effective when circumstances change, much like a football team without a backup quarterback.

### Backups Prevent Chaos

When a team has no backup quarterback, it risks losing its entire passing game the moment the starter goes down. In desperation, coaches may be forced to put a non-quarterback under center to keep the game moving, with predictably disastrous results.

After a high-profile game exposed this exact problem, the National Football League changed its rules,<sup>1</sup> adopting an “emergency quarterback” policy to ensure that, even in extreme circumstances, a team would not be left without an on-field quarterback.

The logic is structural rather than sentimental: the quarterback is a control point for the entire strategy, and the system quickly falls apart when no prepared backup exists to take over.

The same dynamic exists in estate planning. When a plan relies on a single decision-maker with no designated contingency, it creates a fragile structure—one illness, conflict, relocation, or instance of unavailability away from confusion, delay, or court involvement.

Contingents provide stabilization and strategic depth. They allow your estate plan to keep functioning even when life goes off script.

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<sup>1</sup> *NFL emergency third-quarterback rule: Questions and answers*, NFL (Sept. 4, 2023), <https://www.nfl.com/news/nfl-emergency-third-quarterback-rule-questions-and-answers>.

## **Fielding the Right Team in an Estate Plan**

Backups are not expected to completely fill the starter's shoes. If they could, they would be starting. However, they are expected to be part of the game plan so that, if they are needed, the drop-off is manageable and the system can continue to operate.

That is an excellent way to think about contingents in an estate plan. Their role is not perfection but continuity.

When backup decision-makers are not built in, all bets are off. Decisions stall. Authority becomes unclear. Courts or third parties may be forced to step in. And unlike football, where the fallout affects both players and fans, the real-world consequences land on family members, often during moments of stress, grief, or medical crisis.

Just as damaging as having no backup is having the wrong one. Naming someone who is unavailable, unprepared, or no longer appropriate can be the equivalent of signing a player off the street and hoping for the best. The position may be filled, but the drop-off is glaring, and the system will not function as intended.

## **Common Contingent Oversights and the Problems They Cause**

Contingents, like backup quarterbacks, are best viewed as necessary additions to your decision-making team. Whether on the field or in real life, things rarely go exactly as planned. Not having the right backups in place can cause an otherwise well-drafted estate plan to quickly break down, sometimes at the worst possible moment.

### ***Financial Power of Attorney***

- Only one agent has been named, with no contingent agent.
- A contingent agent was named years ago and may no longer be an appropriate choice.
- Coagents are named without clear instructions on authority (for example, whether they must act jointly or may act independently, and how disagreements are to be resolved).

**Result:** Financial decisions stall, accounts freeze, and families may be forced to go to court.

### ***Healthcare Agent***

- Only one health care agent has been named, with no alternate.
- The named agent may be unavailable (out of state, difficult to reach, or unable to respond quickly during a medical event).
- The agent's current views may no longer align with the client's wishes (or the client's wishes have evolved and have not been clearly communicated).

**Result:** Treatment decisions may be delayed, authority can become unclear, and family conflict often escalates during medical crises.

### ***Executor or Personal Representative***

- No alternate executor has been named.
- The named executor is unwilling or unable to serve.
- The named executor lacks capacity or lives far away, limiting availability for time-sensitive tasks.

**Result:** Probate is delayed, costs increase, and court involvement becomes more likely at a sensitive time.

### ***Guardians for Minor Children***

- A guardian has been named for one child but not for others.
- No backup guardian has been named.
- The named guardian's circumstances have materially changed (health, location, family responsibilities, or financial stability).

**Result:** Courts must decide custody and identify backup choices without knowing the parents' wishes.

Across all these roles, the pattern is the same. Change was unanticipated, and the plan failed as a result. Depth was never built into the system. Or if it was, it was the wrong kind of depth. The listed backup was not read into the game plan or in "playing shape." They had not had sufficient practice to be game-ready.

### **Backups Are a Sign of Readiness**

Nobody would accuse a team with a solid backup quarterback of being pessimistic or overly worrisome. Backups are standard procedure because the position carries high stakes, and the consequences of being unprepared are immediate.

Estate plans work the same way. Naming backups (successor trustees, alternate personal representatives, backup agents under powers of attorney, and contingent guardians) is not "expecting the worst." It is smart redundancy: an added layer of protection that helps your plan hold up when life does not cooperate. And, just as with a team's lineup order, those choices should be revisited and updated during regular plan reviews.

Teams do not hesitate to replace a backup when the fit is wrong for the system or the locker room, and you should not hesitate either. Sometimes the person you picked years ago has moved, become unavailable, changed in capacity, or is simply not the best match for what your family needs today.

In real life, just as in football, you sometimes need someone ready to step in when life does not go according to plan.

However you look at it, your backups are every bit as important as the starters in your estate plan and require a specific skill set—and preparation—to succeed when they are called.

Do you need help choosing the right backups or coaching your chosen contingents? We are here for more than a temporary start; we have dynasty and legacy building in mind.