

Special Needs Trusts

Providing adequate care and protection for children and family members with special needs is one of the most important discussions you can have when planning your estate. There are many considerations that must be addressed when planning for your loved one with special needs — Especially when it comes to government benefits.

Special Needs Trusts are designed to *supplement, not replace*, the basic support provided by government programs such as Medicaid and Supplemental Security Income (SSI). Special Needs Trusts pay for comforts that would not be paid for by public assistance funds.

The receipt of a personal injury award or an inheritance can jeopardize initial eligibility or continuing eligibility for SSI and Medicaid. However, a properly drafted Special Needs Trust can be used to preserve these benefits despite assets in excess of the qualifying amount for eligibility.

There are two types of Special Needs Trusts we offer: a first-party trust and a third-party trust. The first-party is a trust that is *self-funded* by the beneficiary (such as receiving an award or settlement in a litigation recovery). The Beneficiary must be under 65 and they must name the state Medicaid department as the beneficiary after death (the trust needs to include a payback provision). Any remaining balance of the trust estate can then be paid to the heirs of the beneficiary.

The second type of trust is the most common. This trust is funded by a third party (such as a parent, grandparent, or other relative or friend's will, gift, or other transfers of assets). That's why it's called a third-party trust.

This trust can have other contingent beneficiaries, such as siblings, etc. instead of the state Medicaid department. There is no payback provision required.

Deciding to create a Special Needs Trust requires a careful assessment of long term care and living needs. Being able to set aside some funds for a special needs individual can mean all the difference between a life that is rich in experiences provided by having extra funds, or a subsistence style life that just barely covers their needs.

A Special Needs Trust May Provide Extras

- ◆ The purchase of housing or modifications to housing
- ◆ The purchase of specially equipped vehicles
- ◆ The hiring of caregivers
- ◆ A private room in a nursing home (pay the differential)
- ◆ Attorney, accountants or other professional fees
- ◆ Care management or guardian services
- ◆ Medical procedures not covered
- ◆ Entertainment expenses
- ◆ Most travel expenses

DISCLAIMER

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