

Special Needs Planning

If you currently provide care for a child or loved one with special needs (such as mental or physical disabilities), you must have contemplated with concern about what may happen to them when you are no longer able to provide and care for them.

While you can certainly provide that they receive money and assets, such a bequest may prevent them from qualifying for essential benefits under the Supplemental Security Income (SSI) and Medicaid programs. However, public monetary benefits provide only for the bare necessities such as food, housing and clothing. As you can imagine, these limited benefits will not provide those loved ones with the resources that would allow them to enjoy a richer quality of life. But if parents leave any assets to their child who is receiving public benefits, they run the risk of disqualifying the child from receiving them. Fortunately, the government has established rules allowing assets to be held in trust, called a “Special Needs” or “Supplemental Needs” Trust for a recipient of SSI and Medicaid, as long as certain requirements are met.

Our law firm can help you set up a **Special Needs Trust** so that government benefit eligibility is preserved while at the same time providing assets that will meet the supplemental needs of the person with a disability (those that go beyond food, shelter, and clothing and the medical and long term supports and services of Medicaid). The Special Needs Trust can fund those additional needs. In fact, the Special Needs Trust must be designed specifically to supplement, not replace public benefits. Parents should be aware that funds from the trust cannot be distributed directly to the disabled beneficiary. Instead, it must be disbursed to third parties who provide goods and services for use and enjoyment by the disabled beneficiary.

The Special Needs Trust can be used for a variety of life-enhancing expenditures without compromising your loved ones’ eligibility such as:

- Annual check-ups at an independent medical facility
- Attendance of religious services
- Supplemental education and tutoring
- Out-of-pocket medical and dental expenses
- Transportation (including purchase of a vehicle)
- Maintenance of vehicles
- Purchase materials for a hobby or recreation activity
- Funds for trips or vacations
- Funds for entertainment such as movies, shows or ballgames.
- Purchase of goods and services that add pleasure and quality to life: computers, videos, furniture, or electronics.
- Athletic training or competitions
- Special dietary needs
- Personal care attendant or escort

Special Needs Trusts are a critical component of your estate planning if you have disabled beneficiaries for whom you wish to provide after your passing. Generally, Special Needs Trusts

are either stand alone trusts funded with a separate asset like a life insurance policy or they can be a sub-trust in your existing living trust.

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