

Special Needs Trust

A Special Needs Trust makes it possible to provide for the needs of your disabled child after you are gone, without disqualifying him or her from government programs such as Social Security and Medicaid.

In order to qualify for Supplemental Security Income (SSI), a disabled adult cannot have more than \$2,000 in assets. They may, however, own a home, car and normal personal effects without affecting eligibility.

SSI benefits, which average about \$400 per month, must be used to pay for food, housing expenses and clothes. When a person qualifies for SSI, they also qualify for Medicaid which pays for medical services, mental health services and nursing home care. Many municipalities and communities offer additional benefits that Medicaid recipients are eligible for.

If you leave an inheritance that would cause your disabled child to own more than \$2,000, you have disqualified him or her from receiving these benefits. So what options are available to you?

One option is to leave a set amount of money to your disabled child's sibling or other close relative with the understanding that it will be spent only on the disabled child. This option can be very dangerous:

- The money would be subject to any judgments, divorce, lawsuits or bankruptcies of the relative
- If the relative dies, the money goes to his or her heirs
- The relative is not legally obligated to spend the money on the disabled person

Another option is the Special Needs Trust. This type of trust avoids all of these problems and provides for a better life for the disabled person. SSI, Medicaid and any other benefits the person is entitled to or becomes eligible for in the future, are not jeopardized. The funds from the Special Needs Trust could be used for things that can greatly enrich your child's life, such as:

- Travel
- Concerts, sporting events, museums, movies, amusement parks, etc.
- Electronics, home furnishings and accessories
- Medical, dental and vision services that are not covered by Medicaid
- Other items and expenses not covered by SSI, Medicaid and other social benefits

Who should act as the Trustee? Most parents choose a trusted family member, such as the disabled child's sibling to act as the Trustee. It's a good idea to appoint an alternate, in case the first Trustee cannot, for some reason, serve. Of course, there are other possibilities, such as a close family friend, minister or trusted advisor.

How do you fund your Special Needs Trust? The Special Needs Trust can be funded through your Will or by gifts made directly to the Trust by you, relatives and friends. Most disabled children today outlive their parents and a high percentage of them will live a normal lifespan. Because of this, many parents want to be sure that the Special Needs Trust is sufficiently funded to provide its benefits for the entire life of the child. In order to accomplish this, most parents fund the Trust with life insurance. Since the funds are typically needed after the second parent dies, many parents utilize a special type of life insurance (survivorship) that pays at the death of the second parent. Your financial advisor or insurance agent can give you further guidance on this topic.

It is important to review existing life insurance, annuity contracts and other assets that have beneficiary designations, to be sure the disabled child is not named as a beneficiary. Instead, the Special Needs Trust should be named as the beneficiary for the disabled child's portion of the proceeds from these assets.

Letter of Intent. At your death, a letter of intent can be given to your child's Trustee. This letter can be informal and is intended to give guidance to the Trustee and family members. In it you can talk about things, such as your child's:

- Likes and dislikes
- Special medical needs
- Hobbies, interests and pastimes
- Friends and social contacts
- Personality traits
- Religious affiliations and spiritual beliefs
- Anything that you deem important for the happiness of your child

The information provided here is an overview and is not an exhaustive discussion. Nothing contained here is intended to be viewed as legal advice and is not a substitute for legal counsel.