

Consider the following when making plans to create a special needs trust:

Draft a letter of intent that provides instructions for the care of your family member or friend and how the funds should be invested.

Carefully choose a trustee who understands your goals for the special needs trust, the needs of your family member or friend, and money management. This can be a family member, attorney, or a trusted individual.

Fund the special needs trust by naming the special needs trust as a beneficiary to your will, another trust, life insurance policy, or other payable on death contracts.

Draft the trust so it can adjust to changing circumstances, such as a change in trustee, investment strategy, or disbursement plan.

Review and revise your other legal documents, such as wills, trusts, powers of attorney, and health care proxies, to make certain that they will work successfully in special needs planning situations and preserve eligibility for government benefits.

Review and revise financial assets to make certain that distributions made during life or upon death will not cause the loss of government benefits.

How can I create a special needs trust?

- **CONSULT AN ATTORNEY OR PROFESSIONAL IN ESTATE PLANNING**

Your special needs trust will only reach its goal when the trust document is drafted correctly and in sync with all of your other estate planning devices. The law governing



special needs trusts are complex, subject to change, and vary by state. Setting up a special needs trust requires coordinated planning with an attorney or estate planner who is knowledgeable in special needs planning and can draft a will or other necessary trust documents.

SOURCE OF MORE INFORMATION

The ARC, www.thearc.org

ORGANIZATIONS OF FINANCIAL PLANNERS

The Financial Planning Association,
www.fpanet.org

The National Association of Personal Financial
Advisors, www.napfa.org

ORGANIZATIONS OF ATTORNEYS

The Philadelphia Bar Association,
www.philabar.org

The Pennsylvania Bar Association,
www.pabar.org

The New Jersey State Bar Association,
www.njsba.com

The Delaware State Bar Association,
www.dsba.org

Financial Planning for Your Family Member or Friend with Special Needs

Create a Special Needs Trust!



Why do you need to make financial plans TODAY for your family member or friend with special needs?

- **GOVERNMENT BENEFITS ALONE WILL NOT SUPPORT YOUR FAMILY MEMBER OR FRIEND WITH SPECIAL NEEDS**

Your family member or friend with special needs may require more financial support in the future than that provided by government benefits. Government benefits provide for basic necessities such as food, shelter, and clothing. Such minimal assistance does not allow an individual to live a satisfying and comfortable life. Government benefits often fail to provide for “necessary luxuries” such as a paid caregiver, special equipment, and transportation to leisure activities. Right now you help take care of the extras that government benefits do not offer your family member or friend with special needs. Who will provide these resources in the future when you are not there? You can make financial plans now to allow your family member or friend with special needs to live tomorrow with the same support as they do today.

- **YOUR FAMILY MEMBER OR FRIEND WITH SPECIAL NEEDS MAY LOSE GOVERNMENT BENEFITS IF YOU DO NOT MAKE YOUR FINANCIAL PLANS WITH CAREFUL PRECISION.**

Your family member or friend with special needs may not be eligible to receive certain government benefits if they own assets. Despite their limitations, government benefits are very important for your family member or friend with special needs. Two of the most common and vital forms of government benefits are Medicaid and Social Security Supplemental Income (SSI). Medicaid and SSI impose strict income and asset limitations on their recipients. While eligibility rules for Medicaid and SSI vary by state, an applicant is generally not eligible for Medicaid or SSI when they own as little as \$2,000 in assets, such as checking or savings accounts, stocks, bonds, and other property. This means that your family member or friend with special needs may lose access to Medicaid if they receive a standard gift or inheritance.

The Solution: SPECIAL NEEDS TRUSTS

A special needs trust allows you to give money to your family member or friend with special needs while still preserving their eligibility for government benefits!

- **WHAT IS A SPECIAL NEEDS TRUST?**

A special needs trust is a legal device that sets aside assets of a grantor to be used to supplement government benefits provided to an individual with special needs. The individual with special needs is the sole beneficiary under the trust and their eligibility for government benefits is preserved.

- **WHAT DOES A SPECIAL NEEDS TRUST PAY FOR?**

A special needs trust pays for things not provided for by government benefits. For example, a special needs trust may provide for transportation, vacations and leisure activities, out of pocket medical treatment, rehabilitation, transportation, dietary needs, a personal care attendant, and home goods and equipment.



- **HOW ARE FUNDS DISBURSED FROM A SPECIAL NEEDS TRUST?**

Money from a special needs trust cannot be distributed directly to the individual with special needs. Instead, it must be distributed to third parties to pay for goods and services to be used by the individual with special needs.

- **WHAT ARE THE BASIC REQUIREMENTS TO CREATE A SPECIAL NEEDS TRUST?**

A special needs trust generally requires the following:

1. The trust must be established for the benefit of a person with special needs that is under the age of 65;
2. The trust must be irrevocable, which means the trust cannot be changed, canceled, or revoked once it is set;
3. The trust must express the intent to (a) provide for the supplemental needs, not the basic support, of the individual with special needs, and (b) give absolute authority to the trustee to make distributions to the individual with special needs;
4. Upon the death of the beneficiary, the state will receive all amounts remaining in the trust that the individual with special needs originally transferred into the trust, up to an amount equal to the dollar amount of Medicaid received by the beneficiary. But, a special needs trust that is funded by parents or other third party sources will not be required to pay back Medicaid;
5. The trust must be established by a parent, grandparent, legal guardian, or court;
6. A trustee for the trust must be appointed. A trustee is the manager of the trust and uses the assets in the trust to provide for the needs of the individual with special needs;
7. The trustee must accurately and completely report the creation and existence of the special needs trust in a timely manner under the government program rules.