

Providing for Family Members with Special Needs

Providing in your estate plan for a loved one with special needs requires that you be aware of and take into consideration some special legal and practical considerations.

Those with special needs are often dependent upon government assistance programs to meet their basic needs. The two most prominent of those are Medicaid, which is available to pay for the medical care for which those with special needs often have a particular need, and supplemental security income ("SSI"), which provides funds to pay for the basic necessities – food, clothing and shelter. Eligibility for both programs requires that the recipient have very limited financial resources.

A direct bequest to someone who is receiving Medicaid or SSI assistance can, in fact, do that person more harm than good. It can, and most often does, immediately disqualify them from receiving government assistance until the inheritance is spent down.

For a beneficiary who is living in a sheltered care home or long-term care facility, or participating in special programs, the results can be disastrous. A facility may have only a limited number of "Medicaid beds," and there may be a long waiting list for those beds. Eligibility for participation in a special program or for housing in a special facility may be limited to those eligible for government assistance. Even a relatively small legacy left directly to someone in that circumstance can cause their eligibility for housing or participation in a program to end. After the inheritance has been spent down, the special needs person must reapply for benefits. That puts the special needs family member back at the end of the waiting list, often leaving him or her in a desperate scramble to find viable alternatives.

We can enable you to successfully provide for a loved one with special needs by helping you establish a "special needs trust." It can become effective upon your death, or even during your lifetime, if you choose. Properly structured and administered, it enables you to provide funds available to purchase items and services that will help the beneficiary enjoy the best possible quality of life, without jeopardizing his or her eligibility for government assistance. Funds can even be made available to encourage and enable siblings or other loved ones who might otherwise be unable to afford the expense, to travel to visit the special needs person.

In many instances, the parents of a special needs child have made choices that have involved a level of financial sacrifice in order to best meet that child's needs. Instead of both spouses working outside the home, one has stayed home to care for the special needs child. Or money that would otherwise have been invested in savings has instead been spent for the benefit of the special needs child.

For those parents, there is a real concern regarding their financial ability to provide for the special needs child. If the wage-earning spouse dies, there may be no source of income to support the surviving spouse, the special needs child or other dependents; if the care-giving spouse dies, the cost of hiring a replacement in-home caregiver may be

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prohibitive based on the wage-earning spouse's income. That is a concern that can, in many instances, be addressed by the purchase of life insurance, either by the parents themselves or perhaps by grandparents (insuring the lives of the parents to keep the cost down).

Naturally, the needs of any special needs person cannot be met simply by "throwing money at the problem." Great care must be taken in making decisions regarding caregivers, living arrangements, and other considerations that will substantially impact that person's quality of life. We can help you in addressing those very important concerns by working with you to develop a "life care plan" that will guide your successors and help enable them to best care for your loved one with special needs.

A core concept of Better Estate Planning is that an estate plan should recognize and promote the dignity of every human life. Special needs require special care and merit special attention.

We're here to help.

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