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Planning Profile: Special Needs Trusts /

A Special Needs Planning Profile

While other parents worry about how they'll pay for their kids' education, special needs parents have additional concerns that extend far beyond the few years children are dependent—from current and future therapies to a lifetime of expenses for those extras that make their child's life a bit easier. Special needs families have to think about how they will pay these expenses while still meeting the needs of other children and saving for retirement. And finally, they have to think about how a special needs child will live after they're gone.

These are daunting questions indeed that stop many parents in their tracks. While creating a plan may feel overwhelming, it can actually ease financial and emotional concerns by addressing issues both simple and challenging. Families who begin now to tackle these issues will find they have peace of mind down the road. So let's look at the various items to consider during this planning process.

Create a Special Needs Trust Funded With Life Insurance

A special needs trust is the most important element in a comprehensive financial plan designed to benefit a special needs child. Parents, grandparents or others can set aside money now by making gifts to the trust without worrying that the money will affect the child's eligibility for government benefits.

Most parents fund a third-party special needs trust minimally during their lifetimes. Major funding takes place when a parent dies—typically from life insurance proceeds or an inheritance or both. Make the creation of a special needs trust a priority, even if no one contributes to the trust now.



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Historically, life insurance has proven to be the single most effective funding choice. The biggest benefit: proceeds are payable immediately at death in a lump sum. Knowing that funding will be there when it's needed provides peace of mind for all parties by ensuring that the special needs trust will be executed precisely as it was envisioned.

Review Beneficiary Designations

If you plan to leave money from retirement plans, IRAs, or life insurance policies to your special needs child, make sure to designate the special needs trust as the beneficiary. Money going directly to the child will likely result in a loss or reduction of state and federal benefits. This applies to anything with a beneficiary designation, including annuities, savings bonds, UTMA accounts, etc. Remember: beneficiary designations, not your will, determine these distributions.

Draft a Will

Your will specifies what happens to your assets after your death. Without a will, a probate court judge could name your special needs child as a beneficiary of your estate, which could make your child ineligible for government benefits. By drafting a will, you ensure assets are distributed properly to your heirs and to the special needs trust you create.

Name an Executor, Trustee, and Guardian

Selecting an executor for your estate, a trustee for the special needs trust, and a guardian for your special needs child is an important and often challenging task. In selecting these important people, keep in mind that the family member who may be best at handling administrative and financial matters after your death may not be the right person to supervise the care of your special needs child. Give careful consideration to whether or not there is a family member who is willing and capable of caring for your child after you are gone. If need be, consider naming an agency that specializes in providing the services your child will need.



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Apply for Guardianship or Power of Attorney

When children turn 18, they're considered adults in the eyes of the law. This gives your special needs child the right to make medical and financial decisions. If your special needs child is not capable of making these decisions or needs guidance, consider assuming legal guardianship. A less-restrictive alternative is to have a power of attorney and health care proxy for the child's financial, legal, and medical affairs.

Write a Letter of Intent

A letter of intent lets you express your personal concerns about how your child's everyday needs will be met when you are not around. Include a list of contact information for your child's physicians, therapists, and other medical support people, as well as current medications with their dosages and schedules. When your child's daily routine is very important, write it down and be as detailed as possible. The same goes for activities you want your child to maintain, travel or enrichment you want to be sure continues, your child's likes and dislikes. Write everything down. Since this is an informal document that lets you express your personal concerns, it's easy to keep it up-to-date. Keep a copy wherever you have your will, and make certain your child's appointed guardian has a copy.

Educate and Communicate

Communicate with family members to avoid costly misunderstandings. Grandparents and other loved ones may want to make gifts to your special needs child. If they are not aware of the existence of your special needs trust and the importance of making the gift to the trust and not the child, well-meant gifts can have adverse consequences. Explain to everyone the importance of not putting anything in your child's name, not even in wills or as a named beneficiary.



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1. Parents establish the trust and may fund it minimally during life. Friends and family members who wish to make gifts to the special needs child may also contribute to the trust.

2. Typically, the majority of funding comes from life insurance or an inheritance or both. Funds are directed to the trust at the parents' deaths.



3. A special needs trust fully funded with life insurance ensures continuing care and comfort for the child's lifetime, and the trust assets do not disqualify the child from Medicaid and Supplemental Security Income (both means-tested programs).



4. A carefully selected trustee makes distributions to service providers on behalf of the special needs child. Distributions supplement government benefits and enhance quality of life.

5. When the special needs child dies, the trust pays funeral costs, then distributes remaining assets to named beneficiaries.

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