

Financial Issues of the Heart for Our Citizens with Special Needs

OVER THE YEARS parents of children with disabilities have come to me frightened, frustrated and absolutely at their wits end. In most cases by the time I see these families they have come to terms with their emotions and are motivated both to provide and plan for the future of their loved ones with disabilities. Beyond the day-to-day support and care, these parents are well aware that they may die before their loved ones with special needs die. They either do not know how or do not know where to find proper financial advice to guide them in making plans for their loved ones' future needs.

Some Common Concerns

After years of care from birth to present day, parents are also aware of their unique responsibilities to special family members. They wish to rest assured their child will be able to at least maintain the same quality of life they have come to enjoy. Clearly, there can be no substitute for a loving parental care giver: most of my clients realize that. At a minimum, however, they want to at least preserve a standard of living. I have seen many different circumstances, desires, and financial abilities. Each family is different. Some of the most common concerns that I hear expressed by a parent:

- ❖ How can I pass on assets for the benefit of my child?
- ❖ Can I pass on assets without negatively impacting present and future federal or state benefit programs?
- ❖ If I am able to set aside assets for his or her benefit what would happen to those assets should he or she pass away before my other siblings?
- ❖ My child may receive an inheritance; will he or she be allowed to keep it?

Careful Considerations

State and federal governments have benefit programs available to assist people with disabilities. I have observed that my clients have received excellent counseling about how to access these benefits, but many are not fully aware of the requirements to maintain benefits. There are several considerations that need to be evaluated. For example, it is important to know what assets SSI (Supplemental Security Income) and Medicaid count against eligibility. A person with disabilities enrolled in these benefit programs must meet stringent financial guidelines to maintain eligibility. Should these established guidelines be exceeded, any excess must be reduced in order to regain

eligibility. In other words, SSI and Medicaid may be stopped or withheld until one's assets have been reduced. For instance a gift to the child may result in a corresponding, direct reduction of benefits. Before any financial planning for a family with these unique circumstances is contemplated, a complete and thorough assessment of present and future benefit program eligibility must be conducted.

So What is the Answer?

My family is no different than yours. With a family member with a disability, we faced these same concerns. Even working with our family attorney we found it was difficult to find answers to these critical issues. Families should be informed and know how to navigate these legal avenues. The only accepted method available today that allows family members to pass on personal assets while maintaining benefit program eligibility is called a Special or Supplemental Needs Trust.

What is a Special Needs Trust?

Under current law, a special needs trust, when properly worded, is not considered an asset of the beneficiary. Therefore, assets within the trust are not considered as part of the beneficiary's estate when it comes to benefit eligibility. It also provides that the trustee may distribute funds from the trust for items not provided for by the government to the beneficiary.

The Solution and How it Works

In my practice, I have developed a network of legal professionals to properly structure and then monitor these trusts. Only attorneys that specialize in Disabilities Law are consulted. Additionally, a respected CPA firm is available for the families to address specific taxes issues should the need arise. Working as a team, we not only address the present need, if a trust is indicated, but also remain abreast of possible legislative changes that may be adopted in the future at the state or federal level. Should there be a need to establish or modify the trust in order to maintain eligibility for the beneficiary, we are able to provide this service.

Our citizens with disabilities deserve the same right to a life of dignity and choices as those without disabilities. My mission is to be a mentor to families with the goal of financial security for the lifetimes of their loved ones with disabilities. I have found that special citizens with special needs require special planning, and that is what I believe I have been called to do.