



DISABILITY KNOWLEDGE SERIES: Future Planning

As a parent, when your child is diagnosed with autism or another disability, anxiety about their future can be overwhelming. If something were to happen to you today, who would care for your child? And, how would they pay for everything he or she needs? We can help.

Why is estate planning so important when a child has a disability?

Grandma didn't know that a \$15,000 gift for Hannah, her disabled granddaughter, would disrupt Hannah's health care coverage, living arrangement and her job. Hannah is 23 and depends on Medical Assistance for her health-care, and on social security for her residential supports and services. Even Hannah's job is dependent on social security. These programs have assets and income limits for eligibility. Unfortunately, this happens all too often when grandparents or parents leave money for an individual who has a disability.

Can I leave money to my child who has a disability?

Yes, you can - but you should use a **Supplemental Needs Trust** and a carefully drafted Will. You can plan to distribute money or other assets to a Supplemental Needs Trust for the benefit of your child or grandchild who has a disability. Assets held in a Supplemental Needs Trust are not considered "available resources" and do not prevent eligibility for Medical Assistance or Social Security programs.

Most of our children who have disabilities will need to rely upon government benefits for healthcare as well as for residential and vocational supports and services. These programs have very low asset eligibility requirements. That is why failing to plan for the future can disrupt just about everything.

Specialized estate planning can help you ensure that your child's guardian will have the financial resources to take care of your child. Families who have a disabled child generally need an estate plan that includes a Supplemental Needs Trust and a Will that excludes your child who has a disability. The Will should instead make a distribution directly to the Supplemental Needs Trust. The Will should also say who will be the guardian for your child

who has a disability, and for other minor children as well. When there are other minor children, the Will should also establish testamentary trusts for their benefit.

Once a Supplemental Needs Trust is established, parents and others (such as grandparents) can designate the trust as a **beneficiary of life insurance or assets such as a retirement account**. In fact, most Supplemental Needs Trusts are funded in this manner.

Money and other assets in the trust, including a home or condominium, are used to meet the supplemental needs of the individual who has a disability. Government benefits should be used to meet the basic needs of the individual.

What should we do if our child suddenly receives a large amount of money?

If a disabled individual suddenly receives a large sum of money, there are options to maintain eligibility for benefits. One option is to spend the money in the same calendar month it is received. Certain assets, such as a home, a car, and a pre-paid funeral plan, are exempt from the eligibility requirements for most programs.

Another option is to put the money into a **Special Needs Trust**. A Special Needs Trust (as opposed to a Supplemental Needs Trust) is required if the disabled individual has assets in their own name.

Establishing a Special Needs Trust is generally more expensive than proactive planning to use a Supplemental Needs Trust. Often, there must be a court hearing to put money into a Special Needs Trust -- especially if parents and grandparents are no longer living.

Another difference between a Supplemental Needs Trust and a Special Needs Trust is that the government will have a claim on any money remaining in the trust when the beneficiary passes away. Most families would rather have the money given directly to a Supplemental Needs Trust that distributes remaining assets to other family members.

The Autism Advocacy and Law Center, L.L.C. offers comprehensive estate planning services at affordable prices for families who have a child with autism or any other disability.

Please contact Amy Dawson at the Autism Advocacy & Law Center, LLC for more information and a free initial consultation.