

Special Needs Planning

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Julia Ann Singer Therapeutic School

- I. Special Needs Trust: Is It Right For You & Alternatives
- II. Types of Special Needs Trusts - Pooled / 3rd Party / 1st Party
- III. Tips for Preserving Eligibility for Government Benefits
- IV. Using Trust Funds - What You Can & Cannot Do
- V. Tips for Selecting Your Team & Funding Options

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I. Is A Special Needs Trust Right For You & Alternatives

Alternatives to a Special Needs Trust:

- A. Leave assets to someone else (usually a sibling) for the benefit of your loved one;
- B. Leave assets to your beneficiary in your own trust for his or her support;
- C. Leave assets directly to your loved one with the idea that the assets will go a long way and once depleted your loved one can qualify for governmental assistance;
- D. Disinheritance.

Each of these alternatives has drawbacks and pitfalls.

Is a Special Needs Trust Right For You: A special needs trust protects eligibility for needs-based government benefits and provides options for the care and support of your beneficiary.

II. Types of Special Needs Trusts

A. Pooled Trust

A special needs pooled trust, also known as a D(4)(C) trust, is an irrevocable trust operated by a nonprofit organization. The pooled trust contains individual trust accounts that are funded with the beneficiary's own assets and the disabled individual must be the sole beneficiary.

B. Third Party Special Needs Trust

A third party special needs trust must be set up and funded by someone other than the beneficiary; the beneficiary must not be able to revoke it; and the beneficiary must not be able to direct the use of the funds for the beneficiary's support or maintenance.

C. First Party (D)(4)(A) Trust

A first party (D)(4)(A) special needs trust is established by a parent, grandparent, legal guardian with a small initial dollar amount then the trust is funded with cash or other property belonging to the beneficiary OR a first party (D)(4)(A) special needs trust is established by court for the receipt, management, and disbursement of a settlement or judgment proceeds awarded for the beneficiary.

Each trust must meet certain requirements so the trust assets are not deemed to have been owned by, or to be available to, the beneficiary for public benefit eligibility purposes and to comply with other laws and regulations. This information is general and summary in nature and cannot take the place of legal consultation and advice.

III. Preserving Eligibility for Government Benefits

An outright gift or inheritance of more than \$2,000 will disqualify your loved one for SSI and Medi-Cal.

- A. Third Party Special Needs Trust tips
- B. First Party Special Needs Trust tips
- C. Spending Down Assets / Purchasing Exempt Assets

IV. Using Trust Funds - What You Can & Cannot Do

- A. Distributions that could disqualify the beneficiary from SSI & Medi-Cal
- B. Permissible distributions for items and services

V. Selecting Your Team & Funding - Things To Consider

A. Funding The Special Needs Trust

- 1. Things to consider in deciding how much to set aside
- 2. Ways to Fund the Trust

B. Your Team

- 1. Successor trustees
- 2. Trust Advisory Committee
- 3. Care Manager/Advocate
- 4. Trust Protector/Attorney

This information is general in nature and cannot take the place of legal consultation and advice tailored to your specific situation. You may set up a free initial consultation by calling 310-342-8287.