



THE BENEFITS OF A SUPPLEMENTAL NEEDS TRUST FOR DISABLED LOVED ONES

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If you are the parent or other caregiver for a person with a serious medical or physical disability, you may find yourself wanting to directly financially assist and support your loved one with special needs. But this can create problems if your loved one receives government benefits, such as Medicaid or Social Security Income (SSI). Because these government programs provide financial need based benefits, eligibility is based on strict income qualification requirements. This means that providing financial assistance to a family member with special needs must be done in a fashion that does not impact the person's eligibility for government benefits.

The dilemma faced by those with family members and loved ones with special needs is rooted in the limited benefits available through these government programs. While SSI and Medicaid may provide limited benefits to obtain basic necessities like medical coverage, clothing, housing and food, they are generally not adequate to provide for all of a disabled person's needs nor do they cover anything other than the absolute basic essentials. When you want to provide financial gifts that will allow a family member with a mental or physical impairment to maintain a higher standard of living, the support must be provided carefully so that it will not be considered as additional income that will disqualify the recipient from government benefit programs.

We regularly work with families of those with special needs to address these types of issues. An effective estate planning tool for addressing this problem is a Supplemental Needs Trust also often referred to as an SNT. If the SNT meets the strict requirements established by the government, assets can be held in this type of trust for the benefit of those receiving SSI and Medicaid benefits while at the same time maintaining their qualification for continued receipt of their government assistance.

Some families that have considerable financial resources assume that they do not need a

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Special Needs Trust. However, this form of trust can provide a number of advantages even for wealthy families.

Benefits of a Supplemental Needs Trust:

1. Protection from creditors

The trust can provide protection of the assets placed in the trust from the creditors of the special needs beneficiary. If the disabled family member is sued, the assets placed in the trust for the benefit of your loved one will generally be beyond the reach of the judgment creditors.

2. Provide better quality of life

The assets can be more readily used to promote a higher standard of living for the beneficiary of the trust because the assets are not counted as available assets for purposes of calculating eligibility for government benefits. The assets can be used to enhance their quality of life.

3. Protection from disqualification of government assistance

Often times Medicaid is the only viable source of medical assistance for your incapacitated loved one. Disqualification, even done inadvertently, may put the recipient at risk of losing medical coverage they are more likely depending on, on a daily life long basis. It may also require that the resources provided to them be spent-down and then a new application for the government benefits may be required.

The technical requirements for setting up a Special Needs Trust must be adhered to strictly so that the government cannot pierce the protection of the trust. While the beneficiary has no immediate control or access to the assets in the trust, the trustee who oversees the trust has broad discretion to make distributions to the beneficiary consistent with the terms of the trust.

There are clearly many more legal requirements that must be considered when drafting a Supplemental Needs Trust other than those discussed above. It makes it that much more important that you discuss your particular needs and circumstances with your Estate Planning attorney.

At our North Carolina Estate Planning Law Firm, we understand the concerns parents and other family members have with providing the highest quality of life to disabled loved ones. If you have estate planning questions in Charlotte or elsewhere in the surrounding area, we invite you to call us at (704) 843-1446 or email Sabrina Winters at swinters@sarbrinawinterslaw.com to learn how we can help.

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