

# Help For Special Needs Children

One in six families will have a loved one with special medical needs or a disability. Those of you who have children, grandchildren or other loved ones with special needs face unique planning challenges—and the stakes are high. Many special needs children will outlive the adults who care and provide for them. Therefore, it is essential to plan for the day when you are no longer able to provide the care and financial assistance necessary for the special needs child to enjoy a high quality of life. Through careful planning, it is possible to establish a plan that will provide for the child's needs even after your own death or disability. Having a plan in place is critical to the child's continued well-being, yet this is an area where misconception persists and poor advice abounds. Following are 5 common mistakes and planning tips to help you avoid making them.

## **Mistake #1: Disinheriting the Child**

Many disabled people rely on SSI, Medicaid or other government benefits to provide food, shelter, and basic medical care. You may have been advised to disinherit a disabled child or loved one to protect their eligibility for these public benefits. However, these benefits rarely provide more than minimum essential needs and frequently do not cover items that are critical for self-esteem, comfort, and quality of life. Disinheriting the special needs child limits your ability to provide assistance to your child after you become incapacitated or pass away.

**Planning Tip:** It is unnecessary and in fact poor planning to disinherit a special needs child. When a child requires, or is likely to require, governmental assistance to meet his or her basic needs, parents, grandparents, and others who love the child should consider establishing a Special Needs Trust. A properly drafted Special Needs Trust enables you to provide for the disabled person during your incapacity or after your death without sacrificing eligibility for public benefits.

## **Mistake # 2: Procrastination**

Because none of us knows when we may die or become incapacitated, it is important to plan early

to ensure that spouses, children, and other loved ones are provided for. However, planning takes on an extra degree of urgency when a special needs child is involved. Unlike other beneficiaries, a child with special needs may never be able to compensate for a failure to plan. A minor beneficiary without special needs can obtain more resources as he or she reaches adulthood and can work to meet essential needs. However, a child with special needs may never have that ability.

**Planning Tip:** Frequently, people hesitate to begin planning because they mistakenly believe they have too few assets to make a difference. That simply isn't the case. Proper planning will maximize the benefit you are able to provide. Additionally, there may be options you haven't considered. For example, there are options that use life insurance to fund trust arrangements that provide for and protect the special needs child. Additionally, once the Trust is established, extended family and friends who are so inclined may contribute additional resources.

Start now. Although it may be worrisome to contemplate what the future may bring, you will be more at ease knowing you have taken the steps necessary to protect your child, grandchild, or other loved ones.

*For more information or to schedule a free consultation, contact us at 1-800-928-0034*

### **Mistake #3: Ignoring the Special Needs When Creating an Estate Plan**

Estate planning documents that are not specifically designed to accommodate the beneficiary's special needs will likely render the special needs person ineligible for essential government benefits. A properly drafted Special Needs Trust will provide additional support for the special needs person's comfort without sacrificing eligibility for SSI, Medicaid or other government benefits.

With a properly drafted plan, you will be able to maintain government benefits for the special needs person while also providing quality of life necessities that are rarely covered by government programs, such as specially equipped vehicles, dental expenses, educational and training opportunities, or essential dietary needs.

**Planning Tip:** When planning for a child with special needs, it is critical to use a Special Needs Trust to pass assets to that child. Otherwise, the assets may disqualify the child from receiving public benefits or be considered available funds to repay the state for benefits that were provided.

### **Mistake #4: Choosing the Wrong Trustee**

During your lifetime, you can manage trust assets on behalf of your child. However, it is essential to choose a qualified successor trustee who will act in your child's best interest if you become incapacitated or after you pass away.

**Planning Tip:** Carefully consider who will manage assets on behalf of your special needs child when you are no longer able to. The person who succeeds you should be a good money manager, well-organized, ethical, and caring. Talk with your potential trustees to ensure they are willing and able to serve according to the guidelines you set forth in the Special Needs Trust. Regularly assess your choice of trustee. Is the person still able and willing to serve? How is their health? Do they still live in the area? Have their own family circumstances changed?

Sometimes, it is difficult to choose one person who can manage all of the financial responsibilities as well as all of the care-related responsibilities. In that case, you may want to choose a team of

advisors or divide financial and care responsibilities according to individual strengths.

### **Mistake #5: Relying on Siblings to Use Their Money for the Benefit of the Child with Special Needs**

Leaving extra assets to a sibling of a special needs child with the understanding that the sibling will use the resources to care for the special needs child is a risky strategy. What if the inheriting sibling divorces or loses a lawsuit? His or her spouse may be entitled to a share of the assets and is unlikely to care for the special needs child. If the inheriting child is involved in a car accident and loses a lawsuit, the funds you intended for the special needs child can be siphoned away to satisfy the judgment. What if the sibling dies or becomes incapacitated while the child with special needs is still living? Will his or her heirs care for the special needs child as thoughtfully and completely as the sibling did.

**Planning Tip:** Siblings of a child with special needs often feel a great responsibility for that child and strive to provide the best care possible. As parents, you make their job easier by providing your children with the legal tools to carry out your wishes and to provide the best care possible. By utilizing a Special Needs Trust, you can provide clear instructions regarding how the funds are to be used, protect assets from divorcing spouses and lawsuits, and still maintain eligibility for public benefits.



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This tip sheet is provided for informational purposes only. Determining an appropriate recommendation and remedy depends upon the details of your particular situation.

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