

## **Financial Planning for Children With Special Needs**

By: Kevin L. Nulton, Esq., CFP®

The two biggest planning mistakes made by families with special-needs children are failing to establish a special needs trust for the benefit of a disabled child and, if a trust has been created, having wills, life insurance policies or retirement accounts which name a child with disabilities as a direct beneficiary. Another common error is the granting of gifts or bequests from well-meaning relatives directly to a disabled child without utilizing a special needs trust to hold the assets.

The essential purpose of a special needs trust is to improve the quality of the beneficiary's life without disqualifying him or her from eligibility for public benefits. Most special needs trust beneficiaries are eligible for Supplemental Security Income (SSI) payments from the federal government upon reaching 18 years of age. In many states, receipt of SSI benefits automatically qualifies one for Medicaid eligibility which covers most medical expenses incurred by the disabled person. Also, other governmental programs such as vocational rehabilitation services and group housing frequently rely upon SSI eligibility rules as well. Over a lifetime, these programs can amount to over \$1 million in cumulative benefits to a recipient.

One of the key requirements for SSI eligibility is that the applicant have limited resources. Other than a home, automobile and household furnishings, if the person has more than \$2,000 in cash or other assets, he or she will not qualify for the SSI program. Thus, if gifts or bequests in excess of this amount are received directly from friends, family members or relatives, the disabled child will lose his or her government benefits. However, if the funds were instead transferred to a special needs trust, no portion of the gifts or bequests would count against the SSI asset limitation.

Administering the special needs trust also requires care to ensure that no portion of the funds distributed are included in the child's income or assets for SSI eligibility purposes. For example, purchasing a television for the child would be an acceptable expenditure and would not reduce benefits eligibility. However, if the trustee gave the child money to purchase the television, the amount would be attributed to the child and impact his or her benefits. The Special Needs Alliance publishes an excellent resource entitled "Administering a Special Needs Trust, A Handbook for Trustees", which is available for free at their website (<http://specialneedsalliance.com/free-trustee-handbook>).

Parents of special-needs children also must pay particular attention to their life and disability insurance coverages as their role as the primary caregiver to the child would be expensive to replace or supplement if outside service providers needed to be engaged. Accordingly, their financial plan should address continuing care issues, estate planning strategies, and the adequacy of insurance coverages in the event of the death or disability of one or both parents. As part of the planning process, many families choose to prepare a Letter of Intent explaining to a future guardian details about the child's day-to-day care needs, abilities, diet, activities, medical care, etc.

When the special-needs child becomes of adult age, other planning issues will be encountered. Under the laws of most states, parents are the natural guardians of minor children without the need of court appointment. Once the child turns 18, however, he or she is deemed to be an independent adult and thus his or her parents will no longer have legal authority to act for the child. The question then arises whether a guardian should be appointed by a judicial proceeding.

In some cases, the child can execute a Health Care Proxy and Durable Power of Attorney in favor of his or her parents which would allow them to make decisions with respect to most medical care issues and financial transactions. However, if the child may have the tendency to wander off or otherwise endanger himself or herself, a guardian may be needed for activities such as authorizing the police to locate and bring the child home. Guardianship proceedings are generally commenced to address such specific issues or problems. Otherwise, there typically is no reason to obtain such an appointment.

In summary, financial planning for a family which includes a special needs child must address a myriad of issues and concerns. The planner must blend and mold standard planning techniques with specialized tools and strategies designed specifically for people with disabilities. As there are no “one size fits all” solutions, a knowledgeable, thoughtful approach is required to carefully tailor the financial plan so that it achieves the family’s specific goals and objectives.

---