

Special Needs Planning and Medicaid Law Newsletter



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A FREE LEGAL UPDATE FOR ELDERS AND OTHERS WHO SEEK ASSET PROTECTION ♦ APRIL, 2016 EDITION

12 CRITICAL STEPS TO EFFECTIVE SPECIAL NEEDS PLANNING

Special Needs Planning is extremely important for any family caring for a disabled child or adult. A disability can be diagnosed at birth, appear in an adult, or develop at any age by illness or injury. This means Special Needs Planning may be required at any point in a loved one's lifetime.

Advanced planning can ensure that important public benefits are not jeopardized. In a crisis situation, however, fewer options may be available to protect present and future needs of a person diagnosed with a disability.

1. Plan before things reach the crisis stage. Talk to an attorney who is experienced in **Special Needs Planning** to make sure that important documents are in place and in order.

Using an attorney who is unfamiliar with the laws that govern special needs trusts and government benefits may result in loss of benefits, financial hardship, and diminished quality of life for the disabled loved one.

2. A **Special Needs Trust** or **Supplemental Needs Trust** may be established. Many parents or loved ones of disabled persons want to provide the best possible care, but this care must be provided in the proper manner.

An outright gift or transfer of assets to the disabled loved one can result in the loss of critical government benefits. In effect, something meant to improve the loved one's life can result in an unwanted disruption in services.

Special Needs Trust and Supplemental Needs Trusts are vehicles for the parents and loved ones of disabled persons to make gifts or outright transfers for the benefit of their disabled loved one without fear of jeopardizing critical government benefits.

3. A current **Will** should be developed for the parents and/or loved ones of the disabled person. The Will should name the Special Needs Trust rather than the person with the disability as the beneficiary.

4. Review existing **Beneficiary Designations** for insurance policies, annuities, retirement accounts, or transfer on death accounts.

Anything that includes transfer on death or payable on death designations should be updated. The Special Needs Trust should be named as the beneficiary instead of the person with the disability.

5. Parents of a minor child with a disability should have **Powers of Attorney** in place for **financial and healthcare matters**. They should also consider establishing a standby guardian for their child in the event the parents become unable to care for or make decisions on behalf of the child.

6. A **guardian** or **caregiver** should be appointed to step in if the parent is no longer able to provide care or make decisions on behalf of the disabled child.

The family should discuss whether or not other members of the family would be appropriate caregivers and if they are able and willing to provide such care.

7. If a child with disability is 18 years of age or older, that child should have their **Powers of Attorney and Will** in place. In addition, if the child is not expected to be able to live independently, a **guardianship** may be necessary.

8. A **Summary of Our Wishes** should be developed. This will guide future caregivers, trustees and family members; it will provide a seamless transition in the level of care for your disabled child.

9. Participate in **goal setting** related to housing, post-high school vocational planning, and recreational and lifestyle decisions.

Addressing these issues early and completely will ensure that opportunities for a full and rewarding life are not missed.

10. Develop an understanding of your disabled child or loved one's **eligibility for public benefits**.

11. Plan to utilize **public benefits, governmental and community programs** and other services to increase the quality of life and opportunities for your special needs child or other loved one.

12. Arrange for **health insurance**. A child turning 18 should apply and be approved for **Social Security benefits, plus Medicare and Medicaid**.

Over the course of a lifetime, the Medical Assistance insurance provided through Social Security is far more valuable than the income received through Social Security.

News You Can Use

2016 FLORIDA MEDICAID LIMITS

Gross Monthly Income Limit for Medicaid Applicant:	\$2,199.00
Personal Needs Allowance:	\$105.00
Asset Limit (Individual):	\$2,000.00
Asset Limit (Couple):	\$3,000.00
Medicare Part B Premium:	\$104.90
Community Spouse Resource Allowance:	\$119,220.00
Minimum Monthly Maintenance Income Allowance:	\$1,966.25
Maximum Monthly Maintenance Income Allowance:	\$2,980.50