Essential Elements of Supplemental Needs Trusts

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1) **Special Needs Person –** This person is currently receiving or will likely receive government benefits because their disability prevents them from earning an independent living.
2) **Government Benefits –** After age 18 special needs persons often apply for SSI, SSDI, Medicaid or some combination of "means tested" benefits. Holding assets in the name of the special needs person would disqualify or terminate those important monthly benefits.
3) **How to Help –** Create a trust that benefits the Special Needs Person while not disqualifying them for benefits. Custodial accounts and 529 accounts do not work. ABLE accounts are capped at $100,000 and have a payback provision to the state.
4) **Supplemental Needs Trust –** A better answer is to create a Supplemental Needs Trust for the sole benefit of the Special Needs Person to pay for things over and above shelter and food and medical expenses covered by Medicaid such as: dental care, eyeglasses, hearing aides, certain therapies, haircuts, movies, internet, and a host of other "extras."
5) **Remainder Beneficiaries –** A Supplemental Needs Trust can be drafted in most instances to pay out to siblings or other family members of the Special Needs Person upon death, thereby preserving assets for the family.
6) **Inheritance Protection –** If you are leaving an inheritance to a Special Needs Person, it must be directed to a Supplemental Needs Trust to prevent the loss of current or future benefits. A Special Needs Person cannot simply "disclaim" an inheritance.
7) **Special Needs Persons –** May be minor children with a disability (e.g., autism) or an elder parent on Medicaid (e.g., dementia).
8) **Supplemental Needs Trust Under a Will –** This is the simplest form of a "backup" Supplemental Needs Trust in an estate plan, however, it can only receive assets after your death.
9) **Stand Alone Supplemental Needs Trust –** This is a better version of a Supplemental Needs Trust because it can be funded with seed money during your life and other family members (e.g., grandparents) can direct gifts or inheritances to it now.
10) **Life Insurance –** Supplemental Needs Trusts are often funded with parents' second to die life insurance policies so that the Special Needs Person is "cushioned" financially without burdening their siblings.
11) **Letter of Intent –** A Supplemental Needs Trust should be accompanied by a Letter of Intent written by the Special Needs Person's closest relatives, most often parents, about their specific goals and wishes (e.g., to live in a group home, to participate in certain favorite activities, etc.).

The Goal: To maximize resources for the Special Needs Person; to provide for lifelong comfort not covered by government benefits; to leave assets to other family members.

To learn more, please contact our offices at 201-327-7000.