

Should You Get a Special Needs Trust For Your Child?

By

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Everyone should have an estate plan, but sadly most Americans do not or put off getting one until it is too late. If you have a disabled child, chances are they will outlive you and you're their primary form of support.

A basic estate plan consists of a Will, Advanced Medical Directive, HIPAA, Power of Attorney for Financial and Health Care, and sometimes a Living Trust. It may also include a Special Needs Trust. Here are some of the characteristics of a Special Needs Trust:

1) A Special Needs Trust provides funds for expenses that enhance a disabled person's quality of life while not cutting off access to government benefits, such as Medicaid or Supplemental Security Income (SSI).

Special-needs individuals under age 65 are allowed to have trusts funded with their own money (assets from an inheritance or legal settlement) and still have access to government benefits. Government benefits only pay out if an individual has less than \$2,000 (not including a home, vehicle and basic personal items) in assets.

2) There must be an independent trustee who makes distributions, communicates with the disabled person and works closely with government agencies. They handle the money management and file all the necessary paperwork for the trust.

3) Third party trusts can be funded by parents and act the same way. Parents need to be careful not to pay distributions directly to the special needs person but to a trustee of the trust, normally a financial services company, lawyer, accountant or financial adviser. Other relatives, too, should be aware that they should leave gifts or an inheritance to the Special Needs Trust not the person directly.

4) Each state has their own rules governing Special Needs Trusts, so make sure you work with attorneys who are aware of the specifics of your state.

It is up to you to ensure your disabled child or family member will still be taken care of properly once you are no longer around to do so.