



Top Financial Mistakes to Avoid

Important Disclosures

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Disinheriting someone with special needs



- Many people with special needs rely on government benefits to help with food, shelter, and medical care.
- These government benefits only provide the 'bare bones' necessities.
- There are ways to leave money to a loved one with special needs without disqualifying them for government benefits

Having assets in the name of a loved one with special needs



- Funds or assets may have to be ‘spent down’ in order to qualify for important government benefits
- Can include UTMA (Uniform Transfers to Minors Act) account and certain types of Savings Bonds
- May subject them to predators and creditors
- Leaves them open to lawsuits, bankruptcy, and spendthrift situations

Leaving money directly to others to support a loved one with special needs

- What if the assumed caregiver dies, divorces, gets sued, or goes bankrupt?
- Funds may be lost forever
- Lack of accounting could lead to mismanaged funds



Assuming who will become future caregiver

- A moral obligation may be thrust on the sibling of a person with special needs or other family members to become the future caregiver
- Shouldering this type of burden can cause resentment
- If the assumed future caregiver gets married, would taking care of the individual with special needs interfere in their lives?
- Will the spouse understand and be supportive?
- Consider guardianship or alternatives, if applicable



Not having the right kind of special needs trust

- Special Needs Trusts (SNTs)
 - Third Party SNTs
 - First Party SNTs
 - Pooled SNTs or (d)(4)(C) SNTs
 - Special Needs Trust Fairness Act
- How does it protect a dependent's government benefit eligibility?
- What can it provide?
- Are there restrictions?



Not funding special needs trusts

- A special needs trust doesn't have to be funded at the time created, but it is useless if never funded
- It's important that the proper forms and beneficiary designations are selected in order to fund the special needs trust
- Work with a financial professional with experience in special needs planning

Improperly drafted special needs trusts

- Having a special needs trust set up properly requires specialized expertise
- State specific verbiage must be included, or the state can deny essential services

National Special Needs Attorney Groups:



Not considering an ABLÉ account

Achieving a Better Life Experience (ABLE)

- President Barack Obama signed the ABLE Act on Dec 19, 2014 as part of the Tax Increase Prevention Act of 2014
- Allows qualified individuals with disabilities to have an ABLE Account with tax-free accumulation modeled after 529 College Savings Plan. An ABLE Account allows the use of funds for any disability related expense.
- The majority of states have adopted ABLE legislation and several states offer ABLE Plans nationally
- Only one ABLE Account allowed per person/beneficiary
- Contributions can be made by anyone (bene, family members, friends, SNT, etc.)

For the latest information on ABLE, including which states offer ABLE Accounts, visit

www.ablenrc.org

Failing to communicate future plans

- Share future plans with family/friends
- You never know who may want to leave assets to a dependent with special needs
- A plan is only as good as it's weakest link



Failing to review and update beneficiaries



- Life Insurance, Annuities, IRAs (Individual Retirement Accounts) or Other Retirement Accounts
- Have you forgotten who you named as a beneficiary?
- Never named a beneficiary?
- Name the special needs trust as beneficiary, if applicable

Failure to create or keep will or trust current

- Dying intestate means dying without a will or trust
- Everyone has a will even if you didn't create it – don't let the state decide for you
- Distributions specified in wills can result in money going directly to a person with special needs, which may result in reduction or loss of their government benefits



Not planning at all for the future



Legal considerations

- Titling ; Ownership, Beneficiaries, TOD and POD
- Special Needs Trusts
- Successor Caregivers, Guardian(s) & Trustee(s), and Alternatives
- Estate Planning
 - Last Will & Testament
 - Advanced Medical Directives
 - Durable General Powers of Attorney
 - Trusts
- Letter of Intent
- Financial considerations



How to Start the Planning Process?

With **Special Needs Professionals:**

- **Legal Estate & Special Needs Attorneys**
(Special Needs Alliance, The Academy of Special Needs Planners, and National Academy of Elder Law Attorneys)
- **Financial Professional with a focus on Special Needs**
(Special Care Planner or ChSNC[®] designation)



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