



## ESTATE PLANNING FOR FAMILIES WITH SPECIAL NEEDS

**M**any families are impacted by children with special needs. Although parents go to extraordinary lengths during their lifetimes to ensure their children with special needs are physically and financially provided for and protected, parents should also consider the disposition of their assets at death to ensure that their children with special needs are not adversely impacted. By working with a team of estate planning professionals to clarify long-term goals for the care of their children, parents can be confident they have an appropriate plan in place that will benefit their families and not unwittingly sabotage the long-term health and well-being of children with special needs.

### **Disinheritance is rarely the best approach.**

Some improperly prepared estate plans assume incorrectly that access to money, either outright or in trust, automatically disqualifies disabled individuals from eligibility for governmental benefits. While it is true that disabled individuals may be eligible for government benefits that are “means-tested” (supplemental security income and Medicaid), a properly drafted special needs trust—a stand-alone document, or one created within a parent’s will (a “testamentary” special needs trust)—can allow disabled individuals’ inheritances to supplement, and not supplant, such benefits.

This does not mean estate planners can disregard benefits that are based on an individual’s work history (Social Security disability income and Medicare).

Rather, the trustee of a special needs trust must consider the availability of, and a disabled individual’s eligibility for, such benefits, to ensure that the administration of a special needs trust does not jeopardize eligibility for such benefits. For example, although a disabled individual may not rely on Medicaid for day-to-day health benefits, that individual may need to qualify for Medicaid for life skills or work training programs.

### **Consider division of assets among heirs.**

When planning their estates, parents frequently divide their assets equally among their children. In the case of a child with special needs, this approach may result in an inappropriate amount of assets held in trust for the benefit of that child. There is no “one size fits all” approach to structuring the forms

of descendants’ inheritances, and parents should give careful consideration to the amounts of descendants’ inheritances, and—in the case of a child with special needs—consider engaging a life care planner to understand the amount of assets the child is likely to need, or find beneficial, for the rest of his or her life.

### **Do not forget beneficiary designation forms.**

High net worth individuals often hold significant wealth in beneficiary-designated assets, such as individual retirement accounts. A carefully designed estate plan will ensure that beneficiary designation forms are completed properly and coordinate with the overall goals of the estate plan. As discussed above, outright receipt of such assets by a special needs child could have negative consequences for that child’s eligibility for benefits.



*We offer clients and families peace of mind in knowing that their family member’s care has been provided for.*

*Peter J. Johnson, Esq.*

## Trustee selection is crucial.

Administration of a special needs trust is not for the faint of heart. It may be tempting to name a trusted individual or family member as the trustee due to the individual's familiarity with the family, but legal compliance and documentation requirements are extensive. The appointment of a professional trustee with specific knowledge

of the subject area provides assurance that the goals of the trust will be carried out in compliance with applicable law.

Many complex considerations face families of children with special needs. Our Trust Administration team offers considerable expertise gained from years of experience in the Special Needs and Guardianship arena, as well as a measure of sensitivity and compassion that affords

clients and families peace of mind in knowing that their family member's care has been provided for. We look forward to working with you to design an appropriate and effective estate plan that includes all your wealth management needs.

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these are some of the concerns of  
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can make them less onerous by  
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Pennsylvania Trust provides investment management and trust administration, tax, estate, and related account services to individuals, families, foundations, and endowments. The company currently has over \$2 billion under management. Founded in 1986, Pennsylvania Trust is independent and employee owned.

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