

# SPECIAL NEEDS PLANNING

## *What Everyone Needs to Know... and Share With Others* BY GARY ALTMAN, ESQ.

Statistics show that the need for special needs planning is rapidly increasing. Cases of autism, substance abuse, dementia, and other psychological disorders, are on the rise. Many people have at least one family member (a child, grandchild, nephew, niece, parent, grandparent or other) who may always need help managing personal care and/or finances. And, since most of these conditions do not decrease life expectancy, many families are seeking answers on how to provide the best quality of life for their loved ones for the rest of their lives - which, for a young child, could be 70 years or longer!

### **It's a Family Affair**

Families with special needs loved ones struggle with many questions and face many challenges:

- Who will care for my loved one when I am gone?
- Who will be my loved one's advocate?
- Where will my loved one live?
- How much independence can be maintained?
- How can I make sure that my children or other family members are not over-burdened with caring for our loved one?
- What is fair in terms of distributing my estate between my special needs child and my other children?
- How can I make sure there is enough money to sustain my child or other family member over time?

### **Public Programs and Benefits**

Many special needs children and adults rely on public programs and benefits for assistance with their care. In the past, many practitioners focused exclusively on preserving public benefits at all costs. However, many public benefits programs are inadequate and need to be supplemented with other, more reliable, privatized resources. The reality is that all programs - government and non-government - are at risk for being reduced and even eliminated due to strains on budgets, competition among entitlement programs, and

pressures to reduce deficit spending. Once a program is cut, it may be difficult if not impossible to restore it in the future.

### **In Trusts, We Trust**

Even if a support programs thrives, a special needs individual can be rejected or cut if they are financially "overqualified". This can result if a substantial estate is left to them or their caregiver by deceased family member. This is why it's critically important to structure your estate in such a way as to leave funds for your loved one(s) without causing them to lose important public benefits. In the majority of cases, the most effective way of doing this is through establishing a trust.

More often than not, the best solution for many of the questions in the section above is a **Supplemental Needs Trust**, often called a "Third Party Special Needs Trust." Such trusts fulfill two primary functions: The first, to manage funds for someone who may not be able to do so himself due to disability. The second, to preserve the beneficiary's eligibility for public benefits, whether that be SSI, Medicaid, public housing, or any other program. A supplemental needs trust can also serve to hold any inheritance that may come from a grandparent or other family member. However, it should never hold funds belonging to the disabled individual as not to render him/her ineligible for Medicaid or SSI benefits.

### **The Bottom Line**

Planning today and for the future can ensure the highest quality of life for your child or other family member with special needs. Estate planning tools, such as trusts can help families manage funds while also preserving one's eligibility for public benefits. Only an experienced special needs planner can help you devise the best solution for your child.

For the latest information on special needs planning, follow our estate planning blog, *Altman Speaks*.

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