



The Special Needs

PLANNING INSTITUTE

www.SNPInst.org

Information Guide

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Special Needs Planning Institute

a 501(c)3 non-profit

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The Need to Plan for Today and Tomorrow

- Special Needs Planning is a greater necessity today than ever before.
- Your written plan plays an important role in the current daily life of the person with special needs and when the primary care providers are no longer able to care for them in the future.
- You wouldn't go out for an evening and not make sure that whoever is caring for your loved one with special needs knows what to do, how to do it, and how to reach you in an emergency.
- What would happen today if you were unable to provide care for an extended period of time or permanently?
- Without detailed information about the care of the person with special needs or the proper legal documents, care givers are going to have a difficult time trying to figure things out.
- Advances in medical science and social inclusion for people with developmental disabilities have increased their life expectancy resulting in children typically surviving their parents.
- The future guardianship or conservatorship of your child with special needs is a critical planning issue that should be discussed now. *Parents no longer have legal authority on behalf of their child, even though they may have special needs.*
- If family members do not make provisions for the supervision, care and security of the person with special needs, the courts will appoint guardians, trustees and decide the distribution of assets.

“On a personal note I want to thank you for all of the guidance that you have given me over the years. I also want to be sure that you are aware that you have made a big difference in the lives of so many Families with a loved one with disabilities and their Special Needs Planning. Your dedication to this issue has helped improve the lives of the most vulnerable in our world.” *Brad Doyle*

What Will Happen If You Don't Plan

No Wills – No Special Needs Trust – No Letter of Intent

No Government Benefit Planning – No Budgeting

The Good News – The government has a plan for you.

The Bad News – The government has a plan for you.

- Guardians, Trustees and Conservators will be appointed by the State in which they live.
- Your estate will be distributed according to the laws of the State.
- If assets received in the name of the person with special needs exceed \$2000, they will be ineligible for SSI (Social Security Insurance) cash benefits and Medicaid.
- Assets received in the name of the person with special needs are subject to “Payback” to MediCal for healthcare benefits previously received.
- Medicare may be the only healthcare benefit the person with special needs receives which does not offer the same benefits as MediCal. For example, there is no prescription benefit.
- Assets left to others to care for the person with special needs could be lost to creditors, litigation, divorce or their death. There is no guaranteed security or protection.
- Support provided by others for the person with special needs could be considered income and/or assets reducing or terminating SSI and MediCal.
- Not all assets pass through a Will. If you fail to make the necessary beneficiary changes and designations, your life insurance, retirement plans and annuities could pass directly to your person with special needs in his or her name resulting in termination and payback for government benefits.
- Without written information explaining the day-to-day care needs of the person with special needs and what your goals and wishes for their future care are, providers will only be able to do what they *think* you want not necessarily *what* should be done.

[“Thanks to the Special Needs Trust set up by Bart Stevens for my niece, her Special Needs Trust is NOT counted as part of her assets, so she is able to receive full Social Security benefits in addition to the trust indirectly supporting her needs. Many thanks!!! - Jim Adams, ASU Professor & Past President of the Greater Phoenix Autism Society](#)

“Don't be afraid of planning...be afraid if you don't!”

Key Points of Special Needs Planning

- Special Needs Planning - start as soon as possible to avoid important decisions being made for the individual with disabilities by government agencies, the state and the courts.
- Lifestyle preferences, legal issues, financial security and access to government benefits should all be considered during the planning process.
- A Special Needs Trust, prepared by a professional with experience in estate and future needs planning for persons with disabilities, can preserve government benefits and avoid the loss of assets intended for the person with disabilities.
- A Letter of Intent creates a record of critical information about the day-to-day care needs, abilities, diet, activities, rights, and medical care for the person with a disability.
- Upon attaining age 18, individuals with disabilities are emancipated adults under the law. Leaving the parents or primary caregivers without any authority to act on the person's behalf. Understanding your legal options pertaining to guardianship and conservatorship are an important part of planning.
- A Guardian is a legally appointed person responsible for the care and decisions made on behalf of a person deemed unable to manage certain necessary functions for themselves. A Conservator manages the person's financial affairs. A Trustee manages the trust established for the individual. The same person can serve in one or all capacities.
- Starting Special Needs Planning early enables the family to build the Special Needs Trust fund and make plans that will serve the individual with disabilities well for years to come.

10 of 29* Common Mistakes Families and Advisors Make in Special Needs Trusts and Planning

1. Fail to ask every client, “Are you now or will you be financially or personally responsible for a person with special needs?”
2. Try to create their version of a Special Needs Trust.
3. Do not specifically exclude, without disinheriting, the person with special needs by name from Wills and Trusts.
4. Think that excluding the person with special needs from wills and traditional trusts is sufficient planning.
5. Exclude person with special needs and give money to others for their care.
6. Give the person with special needs authority in trust provisions, (ie. change trustees and remainderman, request reports, and include the “Crummy” Trust withdrawal provision).
7. Coordinating the plan with other advisors (legal, financial, tax, insurance, and government agencies) is not addressed.
8. Not familiar with the different types of Special Needs Trusts and the appropriate circumstances or need for their use.
9. Not aware of Miller Qualified Income Trusts and their use in planning.
10. Fail to change beneficiaries on their life insurance, pensions, annuities, etc. and do not transfer assets into their traditional Revocable Living Trust.

*For the remaining 19 Common Mistakes, visit our website at www.SNPInst.org

Where are you today in the planning process?

- Do you have a written plan to let others know what you want in the future?
- Have you asked anyone to serve as a Guardian, Conservator or Trustee?
- Do you understand all the available government benefit programs for basic care and supervision?
- Have you identified resources to fund the future needs of the person with special needs?
- Do you have a properly drafted Special Needs Trust that will protect and manage assets provided for the person's lifetime?
- There are several types of Special Needs Trusts, is your trust the correct type for your intended purpose?
- Do you have current Wills? Does the Will name the person with special needs as a direct beneficiary?
- Is the person with special needs named as a direct beneficiary in your life insurance, annuities, 401(k) or IRA?
- Have monies been paid directly to the person with special needs from a structured settlement because of an accident or malpractice suit?
- Is your Special Needs Trust approved for compliance with Social Security and MediCal?
- Have you made final arrangements for the person with special needs?
- Have you met with relatives and friends to let them know about your plan?
- Have you reviewed your plan in the last year?
- Do you feel you have done everything possible for your person with special needs to ensure their supervision, security, care and quality of life?

The Impact of Government Benefits

When people talk about disability benefits, there is often confusion about Social Security and Supplemental Security Income (SSI). This is understandable because the Social Security Administration (SSA) administers both programs. However, the programs are different.

SSI disability benefits are paid to people who have a disability and who do not have assets valued over \$2,000 and/or have a limited income. SSI and MediCal are very important for people with disabilities in need, as they provide cash benefits as well as important medical coverage and long-term supports and services.

Cash benefits are paid by Social Security to a person with special needs through SSI (Supplemental Security Income), SSA (Social Security Survivor/Retirement Benefits) and/or SSDI (Social Security Disability Income).

Lifetime Cash Benefits
between ages 18 and 80 will exceed

\$1,000,000!

**Without proper planning
these funds and healthcare benefits
may be reduced or lost!**

2018 CA SSI Monthly Cash Benefit

\$911

About The Special Needs Planning Institute

The Special Needs Planning Institute is a 501(c)3 non-profit formed in 2007 to educate persons with a disability, their families and professionals on the various aspects of Special Needs Planning. Founded by Bart Stevens, author of “The Beginners’ Guide to Special Needs Planning” and nationally recognized speaker and planning consultant for over 25 years, continues to provide planning services nationally.

David M. Terk, a special needs planner and financial advisor, is a founding member of the Institute. David provides informative and educational workshops in the Greater Los Angeles area for families and care givers who have loved ones living with special need.

About David M. Terk

- Founding member of the Special Needs Planning Institute, a non-profit offering educational seminars.
- Special Needs Planning Educator, Trainer and Consultant
- Past Seminar and Speaker for Autism Works Now, DSALA, C.A.R.D., United Cerebral Palsy, Special Education Centers, Career Transition Centers, Mychal’s Learning Place, We Rock the Spectrum, Area SELPA’s, support service organizations, parent support groups and more.
- Services: Special Needs Trusts and related Legal Documents, Conservatorship/Guardianship, Letter of Intent (Information/Care Directive), Government Benefits, Funding Budgetary needs

Conference/Seminar Speaker

David brings personal anecdotes and technical expertise, with an engaging sense of compassion to the sensitive topic of Special Needs Planning. He is available for local, state, regional, national and international speaking events for families and professionals. Please call for information and availability.

Serenitas Special Needs Planning Services

- **Complimentary Initial Consultation -**
 - ~ Discuss abilities and needs of your loved one with special needs
 - ~ Identify your primary concerns, objectives, address questions
 - ~ Define roles of Guardians, Conservators, Trustees, etc
 - ~ Review Current Legal Documents
 - ~ Provide Course of Action

- **Planning Process**
 - ~ You will receive:
 - Life Planning Data forms
 - Letter of Intent forms
 - ~ Schedule Meeting with family, care givers and advisors
 - The purpose of this meeting is to review the provided information, ask, and answer additional questions
 - ~ Contact other involved family members and/or friends: Grandparents, Siblings, Aunts and Uncles, etc to explain process and obtain their legal documents for review
 - ~ Prepare plan including drafts of legal documents (includes codicils and amendments for all family members involved)
 - ~ Legal Documents: Special Needs Trust, Wills, Family Trust, Living Will, Powers of Attorney for Healthcare, Mental Health, and Legal and Financial issues
 - ~ Present/Finalize/Implement your plan
 - ~ Steps after signing legal documents:
 - Obtain Tax ID# for the Special Needs Trust
 - Change Beneficiaries: Life Insurance, Pensions, Annuities, etc
 - Confirm other family members have signed codicils/amendments
 - Review plan and administration of Special Needs Trust

- **Additional Services**
 - ~ Guardianship/Conservatorship Filing
 - ~ Government Benefits
 - Assistance regarding eligibility and other issues related to Social Security, AHCCCS/Medi-Cal (Medicaid), DES/DDD, Reg. Ctrs.
 - ~ Divorced or Separated Parents
 - If agreed to by parents working together, an additional Special Needs Trust is included
 - ~ Special Treatment Trusts/Disability Trust CA (Medicaid Payback) if person with special needs under age 65 has assets in their name (gifts, inheritance, structured settlements)
 - ~ Miller Trust (Medicaid Qualified Income Trust) if person with special needs income causes ineligibility for ALTCS or Medi-Cal (CA)
 - ~ ABLE Act Accounts & SNT Fairness Act Information and Assistance

*Fees are typically tax deductible, consult your tax advisor. We accept all major credit cards



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Notes