

The Most Frequently Asked Questions about Special Needs Planning

By David M. Terk

1. **Why is it so important for us to plan?**

Many persons with a disability are enjoying a typical life expectancy. Therefore, many will survive their parents and siblings. For this reason, it is important that families prepare a plan for the care and supervision of their loved one. Planning is not an option, it is a necessity.

2. **When should we begin this process?**

Yesterday! Regardless of whether the person with special needs is four months old or 40 years old, planning is necessary.

3. **Who can generally do the planning work?**

Few professionals have the extensive experience in this field. Work with someone who specializes in estate and future needs planning for persons with a disability.

4. **What is a Special Needs Trust?**

This document enables families and friends to leave assets to provide for the person with a disability. When properly drafted, the assets funding the trust are not considered to belong to the person, but are intended to provide for supplemental needs. The Special Needs Trust provides protection and management of the assets and avoids termination or reimbursement of government benefits during the person's lifetime. Be aware that there are different types of Special Needs Trusts.

5. **Do we have to have a large estate to create a Special Needs Trust?**

No. Since the person with special needs cannot have more than \$2,000 of assets in their name to qualify for certain government benefits, the Special Needs Trust is essential to hold and protect assets.

6. **Is there any risk leaving assets to family members designated to provide for the person with a disability?**

Yes, problems can arise that they will have no control over. Assets left to another person, legally belong to them. The assets are exposed to loss due to lawsuits, creditors, divorce and their death.

7. **What is the best way to leave information for the person's care when you are no longer able to provide for them?**

A detailed document known as the "Letter of Intent" is used. It provides information for future care providers such as daily needs and activities, diet, abilities and skills, medical care and your desires for the quality of life for your person with a disability.

8. **What are the key issues to address in planning?**

Legal includes Wills, Special Needs Trusts, Guardianship, and Trustees. **Benefits**, include Social Security, Medicare, Medicaid, private insurance and pensions. **Financial** includes a budget and the funds you choose to support it. **Lifestyle**, addresses the day-to-day care of the person.

9. **As a parent, do I retain the same legal authority on behalf of my child after they reach age 18?**

No, your child becomes an adult at the age of 18. It is important to be knowledgeable of the legal options available in order to have the right to make medical and legal decisions on their behalf. Consult the Governors Council on Developmental Disabilities in your state for more information.

10. **Whom can I choose to serve as a Guardian/Conservator and/or Trustee?**

Anyone whom you feel you can trust to fulfill your wishes and provide the best care and attention for your loved one. A trustee must be chosen carefully with consideration for his or her age relative to that of the person with special needs, knowledge and empathy for the circumstances and a willingness to handle the decisions related to managing the trust.

Serenitas Special Needs Planning
Los Angeles, CA

David Terk – Executive Director
818-231-6759 www.serenitassnp.com