

# Issues and Considerations: Planning for Children with Special Needs



Planning for children with special needs will address numerous emotional and intellectual issues, which may make it difficult to know where to begin. To help you get started, let's look at the benefits and rewards of timely and proper planning, as well as the possible consequences of delay.

Here are some issues you may want to consider as you begin to address this important planning area for your family.

- **Start Now.** It is human nature to put off thinking about difficult topics; however, waiting to plan for your loved one with special needs can have many unintended consequences.
- **Review Your Situation And Resources.** Every family's situation is unique. Think about your personal goals and objectives and create a vision statement of how you envision your child's future. Then, do an accounting of the available resources that would help accomplish these goals.
- **Consider Placing Assets In Other Than The Child's Name.** Putting assets directly in your child's name could jeopardize his or her ability to qualify for certain government benefits.
- **Consider Establishing A Special Needs Trust.** One option is a specialized trust that allows assets to accumulate over time for the benefit of your child, while preserving his or her government benefits.
- **Arrange Guardianship With Care.** This is a tough decision parents must make. However, it is essential to nominate a suitable guardian to provide care for your loved one when you are no longer here to do so. For a child with special needs, the guardian relationship can extend into adulthood.
- **Arrange Funding.** Children of all ages require funds for a variety of reasons, from necessities to basic pleasures. Your vision statement will dictate what these things are and how much is needed. Each child's care and needs are different, and, for some, this funding may need to last a lifetime.
- **Memorialize Detailed Instructions In A "Letter Of Intent."** Parents know what they want for their children, and a detailed LETTER OF INTENT can serve as your "road map" for the guardian.
- **Don't Overlook Other Family Members.** Parents need to focus their planning and attention on their child with special needs. However, it is also important to consider the needs of other children, dependents, and loved ones as you engage in this planning.
- **Be Aware Of State-Specific Legal Considerations.** In addition to federal assistance programs, many states have their own way of administering them or offering benefits. It is important to know how state laws affect your situation and to engage the counsel of local attorneys and other professionals.
- **Seek Professional Advice.** Financial and estate planning can be overwhelming, particularly with loved ones with special needs. It is important to work with a good team of advisors who specialize in this area and take the time to understand your unique situation. Your team may include your financial planner, attorney, and accountant.

Timely and proper planning may seem like the best approach. However, that does not always motivate people to get started. Perhaps understanding some of the unexpected and unintended consequences of putting this planning off, will persuade others.

An awareness of some of the problems that can arise without thoughtful and timely planning might be helpful.

- **Your Child With Special Needs Could Become A Ward Of The State.** If you fail to select a guardian for your child with special needs, the court will appoint one. The court's selection may not be the same as yours would have been. Also, assets your child receives will be administered by the court-appointed guardian. This process can be time consuming and costly and may not be consistent with your wishes.
- **Your Child Could Lose Medicaid Benefits.** Medicaid is a federally run program, which is administered by the states. It provides health coverage to "needy" individuals. In order to qualify, a person must have very little income and few assets. With the high cost of health care today, it may be very important to qualify for this coverage. Without timely proper planning, however, your child could inherit assets that disqualify him or her from these valuable benefits.
- **Your Child Could Lose Future Social Security Payments.** Social Security is a federal program intended to provide income to retirees, as well as disabled individuals. If one is pre-retirement age and becomes disabled, they could qualify for benefits, but only if they meet strict needs-based guidelines, such as having very little income and few assets. If you fail to plan and leave assets to your child, he or she could be disqualified from receiving income they would otherwise have been entitled to.

- **Your Child Could Struggle With An Inheritance He Or She Is Unable To Manage.** Placing assets directly in the hands of a child could have harsh consequences. Many young adults, with or without a disability, have trouble managing their finances. Inheritances are often squandered or preyed-upon. Having a plan in place that safeguards an inheritance can help ensure it is used as you intended.
- **Your Child May Not Have Sufficient Funds.** Children with disabilities may have needs that last a lifetime. These could include medical expenses, treatments, continued care, and other essentials. Without being employable, these needs might not be met. Government programs can help, but they may impose difficult requirements for qualification and often only pay for the basics. A thoughtful plan can consider these expenses and provide proper funding.
- **Your Assets May Not Be Distributed As You Wish.** Without proper planning, your assets could be distributed according to the intestacy laws of your state. This could mean leaving assets to family members you did not want to include or leaving too much to one person and not enough to another.
- **You May End Up Paying Excessive Estate Taxes.** If your estate is large enough, there may be federal and states taxes due at your death. Without proper planning, these taxes can be significant and greatly reducing what you expected to pass to your children and loved ones. With planning, you may have choices of leaving more assets to family and charity, and less to the government via taxes.

For information and assistance on special needs planning, contact your local New York Life agent.

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