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# What's So Special about a Special Needs Trust? A lot

By Michelle C. Harrell

As parents of special needs children, we hear the term “special” so frequently that the meaning is sometimes lost. I personally began to check into the aspects of a special needs trust for my youngest son, Adam, who suffered a brain injury. I needed answers to the question of what was so special about a special needs trust and, more importantly, did we need one for Adam? I learned there are many benefits of having a special needs trust (also known as a supplemental needs trust) for a qualifying family member.

A special needs trust is a legal document that is meant to benefit an individual under a physical or mental disability, or with a chronic or acquired illness, by holding an unlimited amount of assets.

A special needs trust allows your qualifying child to continue to qualify for governmental benefits. Recent surveys show that more than 60% of special needs parents believe that their child will outlive them, will need lifetime care and yet have not done any estate planning. Disabled individuals often receive government benefits, such as Social Security (SSI) and Medicaid. However, these government programs require that the recipient not have assets that exceed \$2,000 (yes, the threshold is that low). If the individual's assets exceed \$2,000, then the individual can be disqualified from receiving any benefits. Public figures show that the cost for a disabled individual to reside in a group home exceeds \$50,000 per year.

The results of not having an estate plan, including a qualified special needs trust, for your disabled child can be catastrophic. For example, if you die and your disabled child inherits more than \$2,000, your child could be immediately disqualified from government benefits until they have exhausted all of their assets, can re-apply and qualify again. Unless your estate is so extensive that it can fund your child's support needs, including all medical expenses, for their lifetime, most likely your child will want to have access to government programs. Also, most special needs parents would not want their child to inherit and have control over an inheritance that is meant to support them for years to come. Money in the hands of a disabled individual often makes him a target for opportunists. In

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contrast, a special needs trust will shield any inheritance from the government's consideration and provide protection against third parties who seek to extract money from your child.

Another benefit of a special needs trust is that you, as the parent, designate the trustee to manage and distribute funds to your child after you are gone. You should give careful consideration to this appointment because the trustee must be a person that you are willing to entrust your child's future to, but also who is willing and able to manage, account for and protect the trust estate for the benefit of your child. There are public and bank trustees who can serve if you cannot find a trustee that meets your requirements. Government agencies may review the trust and its administration to verify that it is proper and meets the legal requirements to shield your child's assets from consideration.

The preparation of a special needs trust involves many legal requirements. Very particular language and provisions must be included to achieve the desired result, and we are available to help you with any questions.

[Read Michigan Lawyers Weekly's interview with Michelle on this topic.](#)