



7 Costly Mistakes to Avoid When Planning for a Child with Special Needs

Costly Mistake #1: Disinheriting the special needs child.

Many families who have children with special needs rely on government benefits such as SSI and Medicaid to provide food, clothing and shelter. You may have been advised to disinherit your special needs child to protect that child's public benefits but you are forgetting who needs your help the most. These benefits rarely provide more than the basics of daily living and this "solution" does not allow you to help your child after you are gone or your assets are depleted to meet your own health care needs. If your child requires governmental assistance to meet their needs, you should consider establishing a special needs trust.

Costly Mistake #2: Counting on your other children to use their funds to provide for your child with special needs.

You can rely on your other children to provide for your child with special needs from their own funds or from an inheritance. That can be a temporary solution if your other children are financially secure and have money to spare. However, the reliance on siblings is not a long-term solution that will protect your special needs child after you and your spouse die. Even well-intentioned siblings have their own lives and financial concerns that they will have to deal with it as they grow older and raise their own family.

For example, what if your child with the money divorces? His or her spouse may be entitled to half of it and may not want to set aside the money that was allocated to take care of your child with special needs. What if your child with the money dies or becomes incapacitated while your child with special needs is still living? Will his or her heirs then care for your child with special needs as thoughtfully and completely as your child with the money did?

What if your child with the money has a judgment rendered against him/her or has other significant creditor problems? The court will certainly require your child to turn the money over to the creditors. If you create a special needs trust, you protect all of your children. The trust provides for easier record-keeping, establishes guidelines and allows your other children to rely on the assistance of a professional trustee, if needed.

Siblings of a child with special needs often feel a great responsibility to their brother or sister and will continue to have this feeling all of their lives. When you provide clear instructions and a written document to follow, you lessen the burden on all your children and you support a loving and involved relationship among them.

Costly Mistake #3: Creating a General Needs Trust instead of a Special Needs Trust

A General Trust that addresses your child's special needs but does not contain certain mandated language could render your child ineligible for essential government benefits. The Special Needs Trust however is designed to comply with state and federal regulations and enhance the quality of your child's life without sacrificing eligibility.

Funds from the Special Needs Trust can be used for medical and dental expenses that are not covered by insurance and government benefits, necessary or desirable medical equipment (such as specially equipped vans or wheelchairs), education, insurance premiums, transportation expenses, and certain household expenses (phone, cable, homemaker services). If the trust is sufficiently funded, your child can also receive money for recreational expenses such as electronic equipment & appliances, computers, vacations, movies, payments for a companion, clothing and other self-esteem enhancing and quality-of-life expenses. The Special Needs Trust allows your child to purchase items and services that he/she may want rather than the basic needs that are provided through government benefits.

Costly Mistake #4: Choosing the wrong trustee.

During your life, you can manage the Special Needs Trust. When you and your spouse are no longer able to serve as trustee, you can choose who will serve as the trustee next. You may choose a team of advisors, a professional successor trustee such as an accountant or another individual such as a family member. You want to make sure that whomever you choose has knowledge of finances, is well-organized, and most importantly is ethical and caring.

Costly Mistake #5: Failing to seek contributions to the trust from family and friends.

An important benefit of creating a Special Needs Trust now is that your extended family and friends who love your child can make gifts to the trust or refer to the trust as they plan their own estates and stipulate who receives an inheritance. You can also name the trust as a

Costly Mistake #6: Not funding and maintaining the trust correctly.

When creating a Trust within a special needs plan, changes to the ownership of certain assets and beneficiary designations may be required. Some of these changes can be complicated and if not accomplished correctly will impact the success of the plan. The Trust must be properly funded and maintained in order for the special needs child to be protected. Creating a trust requires funding that trust before it can be of any benefit.

Costly Mistake #7: Waiting too long to take action

Since none of us know when we will die or if we will become incapacitated, it is important to plan for your child with special needs early, just as you would for any minor child. Unlike minor beneficiaries who will eventually reach majority and take care of their own estate/long term care planning, your child with special needs may never have the capacity to formulate a plan for him/himself.

For more information on planning for individuals with special needs or to schedule an appointment contact us by e-mail at contact@HauptmanLaw.com or by telephone 973-994-2287.



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