

# Estate Planning for Dependents With Special Needs

Estate planning is a crucial process for any family, but it becomes an even more critical and complex task for families with dependents who have special needs. The objective is to ensure the dependent's long-term care and financial security without endangering their eligibility for essential government assistance programs, which can help support them in their later years. Families must consider some essential components as they work through the intricacies of estate planning, focusing on creating a secure and supportive future for their dependents with special needs.

## Create a Comprehensive Financial Plan

Start by creating a comprehensive financial plan that addresses the current and anticipated future needs of the individual with special needs. This plan should consider living arrangements, healthcare, education, employment, recreational activities and enrichments, and other specific requirements.

## Establish a Special Needs Trusts for Asset Protection and Government Benefit Eligibility

Establishing a Special Needs Trust (SNT) is crucial. This allows the person with special needs to receive inheritances, gifts or other funds without affecting their eligibility for certain government programs. There are a few types of SNTs:

- First-party special needs trusts: Funded with the beneficiary's assets, often established with an inheritance or settlement money.
- Third-party special needs trusts: These are vital for high-net-worth families. They are funded with assets from parents, relatives, or other benefactors, not the beneficiary's assets.
- Pooled trusts: These offer an alternative for families seeking professional management. They involve pooling resources with others under the stewardship of a nonprofit organization. Proper and complete due diligence is necessary when evaluating pooled trusts to ensure competent management, oversight and reasonable fees.

## Fund the Trust

Trusts can be funded with diverse assets, such as cash, stocks, real estate and life insurance. Families with significant resources might also structure the trust to benefit from future income sources or retirement accounts.

### Choose the Right Trustee

A person with special needs can be especially vulnerable, and you want to make sure they are well-protected into the future. The trustee's role is critical in managing and administering the trust's assets, including making distributions that do not compromise the beneficiary's government benefits. The trustee should understand the unique needs, wants and aspirations of your loved one. Many families benefit from appointing a professional trustee, like a bank or trust company, who is experienced in special needs and investment management. It is important to understand the costs involved as well as the professional qualifications.

### Guardianship and Conservatorship Considerations

Consider legal guardianship for making decisions on behalf of the dependent if they cannot do so themselves. Conservatorship might also be necessary for managing their financial affairs. Selecting individuals or entities for making important personal, healthcare and financial decisions is paramount. Families with considerable assets may need separate arrangements for financial (conservatorship) and personal care decisions (guardianship), involving experts in each field.

### Develop a Detailed Life Care Plan

While not a legal document, a Life Plan includes a letter of intent that outlines the family's wishes and guidelines for the future caregiver or trustee regarding the care and financial well-being of the dependent, including their routine, medical care, living arrangements, lifestyle preferences and other personal wishes.

### Review Health and Life Insurance

It's important to review health insurance options, including Medicaid and Medicare, and consider supplemental health insurance to cover services not provided by government programs. Additionally, life insurance on the life of the primary caregiver can be used to provide financial support to the beneficiary after the primary caregiver's death.

### Utilize Life Insurance as a Financial Tool

This can be a powerful means to provide for the financial needs of a dependent with special needs after you're gone. Life insurance can fund a special needs trust to ensure there are resources available for their care. Policies with cash value accumulation, like whole or universal life, can ensure the trust is well-funded. Premium financing strategies can preserve liquidity for other investments while securing the dependent's future.

### Navigate Government Benefits With Strategic Planning

Understanding how an inheritance or gift might impact your dependent's eligibility for government benefits is important. The trust(s) must be structured to support the beneficiary's needs without disqualifying them from receiving benefits, which means you will need skilled legal and financial guidance.

### Consider Tax-Advantaged Savings Accounts

You may consider exploring tax-advantaged savings accounts, such as ABLE accounts, which allow individuals with disabilities to save for qualified disability expenses without affecting SSI eligibility. However, it is important to understand the Medicaid reimbursement policies when funding an ABLE account.

### Involve Family Members

The adage "it takes a village" is especially true when doing life planning for a dependent with special needs. Open communication with family members about the special needs financial plan ensures that everyone understands the individual's needs and how to support them. It may seem obvious, but financial planning for people with special needs is highly individualized and must be tailored to their specific needs and circumstances.

### Consult With Specialists in Special Needs Planning

It's important to consult with financial professionals who specialize in special needs planning. They can provide advice tailored to your unique situation, ensuring that your dependent is well-cared for in the future and the estate plan is comprehensive, tax-efficient and aligned with the family's goals. You will also need legal experts who can help you create necessary legal documents, including a will, healthcare proxy and power of attorney.

### Review and Update Regularly

Estate plans should be reviewed and updated regularly to adapt to changes in laws, family circumstances and the dependent's needs. This proactive approach ensures the plan remains effective and relevant over time.

### The Bottom Line

Estate planning for a dependent with special needs is complex and requires thoughtful preparation and professional guidance. Providing for their needs requires a sophisticated estate planning strategy that balances financial security, care needs and eligibility for government assistance. Through careful planning, the establishment of a special needs trust and the involvement of experienced professionals, families can create a stable and enriching future for their loved ones. This process not only secures the well-being of the dependent but also reflects the family's values and loving commitment to their care.

If you have a family member who would benefit from exploring these considerations in your estate planning, reach out to a Choreo advisor today to ensure your loved one is protected — and you're prepared — for the future.

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