

WHAT IS A SPECIAL NEEDS TRUST IN CONNECTICUT?

“With this in mind, let's look at the legal device called a special needs trust.”



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Estate planning is not a one-size-fits-all, cookie-cutter affair. Each family is unique, and there are many different ways to proceed.

Some people look for easy answers, and they can yield negative results. This mentality is fueled by the DIY estate planning notions that circulate around the Internet.

There are websites out there that sell do-it-yourself estate planning downloads and worksheets that guide you as you are creating legal documents. Legal professors engaged by *Consumer Reports* magazine found flaws in documents created using online tools back in 2012.

This is one danger to consider, but there is also the matter of choice. If you are not properly informed, you may use an estate planning document that is not appropriate for a particular heir given his or her life circumstances.

With this in mind, let's look at the legal device called a special needs trust.

DIRECT INHERITANCES AND GOVERNMENT BENEFITS

You may have someone who has a disability on your inheritance list. Many people who have special needs are heavily reliant on government benefit programs. These would include Medicaid and Supplemental Security

Income (SSI).



Supplemental Security Income provides a basic source of ongoing

income for those who cannot earn income on their own because they are physically incapable of working.

Medicaid is a health insurance program that is available to people who can demonstrate significant financial need. In most states, the upper asset limit for Medicaid coverage is just \$2000 for an individual. Clearly, this is a very small amount of money.

Depending on the disability in question, Medicaid can pay for millions of dollars of care and treatment over the course of a lifetime. The program is a lifeline for many benefit recipients. A loss of benefits could be catastrophic.

Consider a hypothetical example. You do in fact have a person with a disability on your inheritance list, and this individual is reliant on Medicaid coverage. This relative is named in your last will, and you leave her a direct inheritance, because you want to improve her quality of life.

When you pass away, she receives her inheritance, and she is suddenly catapulted into a different financial stratosphere. Her financial profile no longer fits within the Medicaid asset limits. Much-needed benefit eligibility would be lost.

SPECIAL NEEDS TRUSTS

You could safely provide for a loved one with a disability who is enrolled in



need-based government benefit programs through the creation of a special needs trust. These trusts are alternately called supplemental

needs trusts.

When you create the trust agreement you are going to name the heir with a disability as the beneficiary, and you will also choose a trustee to administer the trust. The trustee is going to handle the assets that have been conveyed into the trust.

The beneficiary cannot directly receive monetary distributions from the trust, and the beneficiary cannot dictate the actions of the trust.

Under Medicaid regulations, the trustee can utilize assets that have been conveyed into the trust to provide for the supplemental needs of the

beneficiary. These would be needs that are not covered by Medicaid or Supplemental Security Income.

The quality of life of the beneficiary can be improved significantly. However, because the expenditures are only used to satisfy the supplemental needs of the person in question, government benefit eligibility is not impacted.

CONCLUSION

If you are not completely informed when you are planning your estate, you could make errors that yield unintended negative consequences.

People with special needs are typically enrolled in government benefit programs that are only available to individuals who can demonstrate significant financial need. Someone who is enrolled in these programs could become ineligible if he or she was to receive a significant inheritance.

You could provide for a loved one with a disability through the creation of a special needs trust. The assets in the trust could be used to improve the beneficiary's quality of life, but benefit eligibility would not be jeopardized.

To learn more about special needs planning, schedule a consultation with a licensed estate planning attorney. Your attorney will become apprised of

your situation, answer all of your questions, and make the appropriate recommendations. Ultimately, everyone in your family will be provided for in the optimal manner.

REFERENCES

American Bar Association

http://www.americanbar.org/newsletter/publications/law_trends_news_practice_area_e_newsletter_home/0501_estate_financialplanning.html

Social Security Administration

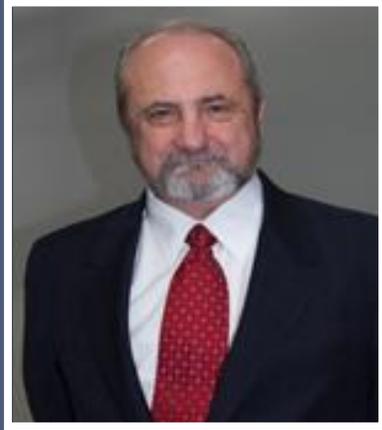
<http://www.ssa.gov/ssi/>

Medicaid

<http://www.medicaid.gov/>

About the Author

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Barry D. Horowitz is a founding partner in the law firm of Nirenstein, Horowitz & Associates, P.C. He received his diploma from the Loomis Chaffee School and his Bachelor of Arts from Bennington College, where he dual majored in philosophy and music.

Mr. Horowitz was awarded his Juris Doctor degree with honors from the University of Connecticut School of Law. While attending law school, Mr. Horowitz received the American Jurisprudence Award in Legal Ethics and the Nathan Burkan Award.

After graduation from law school, Mr. Horowitz continued his legal education at New York University School of Law where he received a Post Doctorate Law Degree in Taxation. He has also recently received a national achievement award.

Mr. Horowitz is admitted to practice before all the state courts in the State of Connecticut and the United States District Court. He is a member of the Hartford County Bar Association, a charter member of the American Academy of Estate Planning Attorneys, and has recently received the American Academy Award. Mr. Horowitz is also an active member of the Connecticut Bar Association where he is a member of the Elder Law Section, the Estate Planning and Probate Section, and the Professional Ethics Committee. Mr. Horowitz practices exclusively in the area of Estate Planning where he has earned a reputation as a dynamic and entertaining speaker. He also has recently published a book entitled "Guiding Those Left Behind in Connecticut."

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