



## Special Needs Trusts

Many well-intentioned parents don't realize that an inheritance may cause many problems for their child. Under current federal law, any inheritance of more than \$2,000 disqualifies individuals with disabilities from most federal needs based assistance. Benefits from state public assistance programs may also be affected. A special needs trust, however, offers a means of protecting your child's eligibility for these benefits, while addressing the ongoing care and needs of your child or other dependent with special needs.

### Trusts, in General

Very generally, a trust is a legal entity which permits one person, the donor, to give something to a second person, the trustee, with qualifications that it must be used for the benefit of someone else, the beneficiary.

Assets are owned by the trust. The trustee is usually given the power to manage those assets (e.g., to sell assets, to invest trust funds). In addition, in the case of a special needs trust, the trustee has the discretion to use trust assets for the benefit of the child with special needs. Trusts are governed by state laws and should only be drafted by an attorney who is familiar with this area of law. In addition to legal fees, there may be costs associated with transferring assets to, and administration of, a trust.

### Advantage

The primary advantage a special needs trust offers over a direct gift or inheritance is that, if arranged properly, the assets in the trust do not actually belong to the beneficiary. In this way, the trust can provide benefits to an individual but not cause the individual who has a disability to be disqualified from government programs.

A special needs trust holds title to property for the benefit of a child or adult who has a disability. The special needs trust can be used to provide for the needs of a person with a disability and to supplement benefits received from various governmental assistance programs. Special needs trusts typically provide for:

- eyeglasses
- annual independent check-ups
- transportation (including vehicle purchase)
- equipment
- training programs
- maintenance
- education
- insurance (including payment of premiums)
- rehabilitation

Special needs trusts also may allow a trustee to give the beneficiary money for:

- various forms of entertainment (e.g., movies)
- electronic equipment
- trips and vacations
- computer equipment
- athletic training and competitions
- companion services/home health aide
- other items to enhance self-esteem
- higher quality of medical or dental care that is otherwise provided by any local, state or federal agency or any private insurance policy (where it is clearly supplemental)

A trust can hold cash, stocks, personal property, and real property. It can own and/or be the beneficiary of life insurance. Special needs trusts also can be used to protect personal injury settlements or judgments from jeopardizing government benefit eligibility. Most importantly, special needs trusts can help parents coordinate their estate plans and provide peace of mind, knowing their child will be provided for.