

MAKE SURE YOUR ESTATE PLAN DOESN'T PUT YOUR CHILD AT RISK

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Most parents of children with special needs are well versed when it comes to the government benefits like Medicaid or Supplemental Security Income (SSI) that their child receives. Most know not to give the child any money outright and to establish a standalone supplemental needs trust to protect their child's assets, and they usually know all the ins and outs of the SSI and Medicaid application processes.

What many parents don't often think about is the effect that their own estate plan can have on their child's benefits.

WHY EVERY PARENT NEEDS AN ESTATE PLAN

The first thing for parents to keep in mind is that they must, without a doubt, *have an estate plan*. Parents who are often so good about getting their child's plan in order may neglect to create their own estate plan for a variety of reasons. But by failing to put together your own plan, you are placing your child's benefits at risk.

If you pass away without a valid will (known as dying intestate), your assets will be distributed according to state law. These laws will often leave a sizable portion of your estate to your children.

In the case of a child with special needs, receipt of these funds could eliminate benefits that the child relies on. Therefore, it is essential that you prepare an estate plan that will consider your child's unique circumstances.

LEAVING AN INHERITANCE THE RIGHT WAY

The next thing to remember when assembling your estate plan is that, except in very limited circumstances, you should not leave anything directly to your child with special needs. Instead, your estate should flow through your own will into a special needs trust for your child's benefit.

A properly drafted special needs trust will protect your child's benefits and allow your estate to be utilized as you intended without interference from outside sources.

The special needs trust will be a separate trust that can hold your child with special needs' share of your estate and free up the shares for your other children to be spent as they see fit.

As you review your will, you may also wish to consider whether there are charitable organizations, such as Family Residences and Essential Enterprises, Inc. (FREE), that you would like to remember as part of your legacy planning.

REVIEWING BENEFICIARY DESIGNATIONS

Another potential problem area is when parents name their children as beneficiaries of life insurance policies and retirement plans. These assets, which are not governed by the terms of your will, could easily pass to all of your children in equal shares if you are not careful about naming plan beneficiaries (this is a very common problem when your child develops a special need later in life, after you have had these policies in place for years).

As you did in your will, you can place your child's share of these important assets into a properly configured special needs trust. However, some complicated tax issues may have to be addressed first.

COORDINATE PLANNING WITH FAMILY MEMBERS

Finally, your estate plan may not be the only issue. Make sure to check with any relatives who may be leaving something for your children and make sure that they also speak with a qualified attorney before including your child with special needs in their estate plan.

If you don't have an estate plan at all or are worried that your current plan is not appropriate, please do not hesitate to contact our office at 1 (800) 680-1717. I look forward to the opportunity to speak with you.

Disclaimer: The information provided above is for general informational purposes only and is not legal advice.