What is a Special Needs Trust?

A Special Needs Trust is a legal document designed to benefit an individual who has a disability. A Special Needs Trust is most often a "stand alone" document, but it can form part of a Last Will and Testament. Special Needs Trusts have been in use for many years, and were given an “official” legal status by the United States Congress in 1993.

Why use a Special Needs Trust?

If you currently provide care for a child or loved one with special needs (such as mental or physical disabilities), you must have contemplated with concern about what may happen to them when you are no longer able to provide and care for them.

Your loved one may be eligible for essential public benefits under the Supplemental Security Income (SSI) and Medicaid programs. Other needs based benefits include Vocational Rehabilitation and Subsidized Housing. However, even if your loved one is eligible for these public monetary benefits, they provide only for the bare necessities such as food, housing and clothing. As you can imagine, these limited benefits will not provide those loved ones with the resources that would allow them to enjoy a richer quality of life. But if parents leave any assets to their child who is receiving public benefits, they run the risk of disqualifying the child from receiving even those bare necessities. Fortunately, the government has established rules allowing assets to be held in trust, called a Special Needs Trust, for a recipient of SSI and Medicaid, as long as certain requirements are met.

What Can a Special Needs Trust be Used for?

According to the law, a Special Needs Trust can be used for "supplemental and extra care over and above what the government provides." A properly-drafted Special Needs Trust will work on a "sliding scale"; that is, in the impossible event that the government provides for 100% of your loved one’s needs, the Trust will provide 0%. If there are no governmental benefits available, the Trust can provide 100%. Most people fall somewhere along the scale, and the Trust supplements governmental coverage.

The Special Needs Trust can be used for a variety of life-enhancing expenditures without compromising your loved ones’ benefits eligibility such as:

- Annual check-ups at an independent medical facility;
- Attendance of religious services;
- Supplemental education and tutoring;
- Out-of-pocket medical and dental expenses;
- Transportation (including purchase of a vehicle);
- Purchase materials for a hobby or recreation activity;
- Funds for trips or vacations;
- Funds for entertainment such as movies, shows or ballgames, and countless more.

Summary

Special Needs Trusts are a critical component of your estate planning if you have disabled loved ones for whom you wish to provide after your passing.