



A Beginner's Guide to Including a Special Needs Beneficiary in Your Estate Plan

When you have special needs, everything is more complicated. Navigating the labyrinth of benefits and programs and locating service providers and support systems is overwhelming and frustrating, and once the support network is in place, disruption is devastating. These complexities are why it is critical for those including special needs beneficiaries in their estate plans to get it right.

Here's a checklist to help you succeed.

Preserve eligibility to government programs and benefits at all costs. Avoid making outright gifts to a special needs individual and instead leave assets in trust, such as a wholly discretionary trust, for the benefit of the special needs beneficiary. This is paramount because government programs are "need based" and a loved one with too many assets and resources will lose eligibility and the network of support eligibility provides.

Fund an ABLE account. Ohio had the nation's first 529A program. Funds in an ABLE account can be used to pay for housing without detriment to the special needs beneficiary's eligibility for certain government programs. To learn more and determine eligibility, visit <https://www.stableaccount.com/>.

Consider guardianship. If your loved one with special needs lacks capacity to sign a health care power of attorney and durable general power of attorney, guardianship will be necessary to establish a legal decision-maker for the special needs individual. Ohio law permits parents of an adult disabled child to nominate a guardian for that child in the parents' wills.

Leave a Letter of Instruction. This document is for the trustee of your trust. It should provide the trustee with an overview of the special needs individual's medical history, medications,

treatments, doctors and care plans. It should also summarize all government programs and benefits available to your loved one. Finally, it should state your goals and objectives for housing, family interaction, education, hobbies, activities and religious life for your loved one.

Be Sure You are Leaving Enough Money. Work with your financial advisor and CPA to run projections and model how much money will be enough to supplement the needs of your loved one with special needs. Perhaps life insurance is needed to fund the lifetime needs of the special needs loved one.



Educate all Family Members. Don't keep this knowledge a secret. It is imperative that all family members understand how to leave money to a special needs loved one.

For more information about how to include a special needs beneficiary in your estate plan, please get in touch with your CPM attorney or any attorney in the Family Wealth & Estate Planning Group at Carlile Patchen & Murphy LLP.