



Making Sure a Special Needs Trust Will Be There for Your Loved One

By Susan Zurek, CFTA, FPQP™

Having a child or grandchild who faces physical or intellectual challenges brings about its own difficulties in a family. A Special Needs Trust, properly set up and administered, can alleviate some of the uncertainty by providing ongoing financial support for a loved one, as needed over time.

Usually, a Special Needs Trust is created for a family member with a disability, who may now or in the future qualify for government assistance, such as Supplemental Security Income (SSI) and/or Medicaid. The rules for qualifying for government programs are very specific: Beneficiaries can own a house and furnishings, a car, and ordinary personal items. But if they have cash or other assets valued at more than \$2,000 in their name in any one month, they could be disqualified for assistance or their benefits could be reduced.

Assets placed in a Special Needs Trust, which is irrevocable (cannot be dissolved), are not counted in means-based testing, and therefore not included in the \$2,000 a month limit.

There are three basic types of Special Needs Trusts that can be created (see box to the right), depending on the beneficiary's current financial situation.

A good thing to know is that Special Needs Trusts can be set up as a precaution. We often suggest to our clients who have an inheritance going to children or grandchildren to include a provision in their trust or will to shift those funds into a Third-Party Special Needs Trust should the need arise. This becomes very important if a beneficiary is currently receiving government benefits or may need them in the future. An outright distribution from a regular trust or estate could result in a reduction of government benefits or elimination altogether.

Our Role as Trustee

Choosing a trustee for a Special Needs Trust is critically important. That trustee must be highly knowledgeable about trust laws and regulations, but also respectful of the needs of the beneficiary and the family.

At LNWM, we have deep experience administering Special Needs Trusts and focus our efforts on four key components:

Types of Special Needs Trusts (SNTs)

- **First-Party (or Self-Settled) Special Needs Trust.** If the beneficiary previously owned the assets going into the trust (by way of inheritance, lawsuit proceeds, or beneficiary designation), those funds must go into a First-Party Special Needs Trust. If the beneficiary then uses government benefits such as Medicaid, payback rules apply. A lien is placed on the trust at the beneficiary's death equal to the total amount of government assistance provided.
- **Third-Party Special Needs Trust.** These are the most common SNTs, usually set up by parents or grandparents for a family member with special needs who may be eligible for public benefits now or later in their lifetime. These funds can never be placed outright into the hands of a beneficiary. In contrast to a First Party Special Needs Trust, these assets are not subject to the Medicaid payback requirement.
- **Pooled Special Needs Trust.** This type of trust is offered and managed by a variety of nonprofit organizations to benefit many different beneficiaries with disabilities. Like a mutual fund, incoming assets are co-mingled, invested and then distributed in proportion to each beneficiary's share of the total amount. For trust assets of \$100,000 or less, a pooled trust can be a good solution.



- 1. The trust is functioning as intended given changing laws and regulations.** We review and understand the rules for government programs and how they relate to Special Needs Trusts. We use the “True Link” pre-paid VISA card, which is recognized by these programs as an acceptable method of providing for the needs of the beneficiary without jeopardizing government benefits. We also have relationships with attorneys who specialize in this field to get advice and support on upcoming changes to rules and regulations. And we attend educational seminars to remain up-to-date.
- 2. We proficiently respond to requests from the family and/or the beneficiary,** knowing that needs can change quickly and having the right care in place can make a big difference. We have seen situations where the beneficiary is eventually able to function independently and the Special Needs Trust acts as a support system. In other situations, the beneficiary’s needs increase over time and the trust becomes vitally important in day-to-day maintenance and well-being. Because we work so closely with the beneficiary, we are ready to adapt to the changing circumstances.
- 3. We manage the assets within the Special Needs Trust so they can continue to grow and last for the life of the beneficiary.** By getting to know beneficiaries and working closely with them, we can establish an appropriate investment model for the trust that satisfies the individual’s goals while also meeting the trust’s objectives. As part of our investment management process, we review investment performance and provide beneficiaries with the knowledge they need to properly maintain their finances. Sometimes a beneficiary isn’t quite ready to manage finances on their own. When things go off course, we are here to help and restore balance.
- 4. We take the time to create a relationship with the grantor (usually the parents), as well as the trust beneficiary,** who is trying to feel normal despite the situation. We do not bill by the hour to manage or administer trusts, but instead charge a set fee for all services. This allows us to spend quality time with beneficiaries and their families to really get to know them. We realize that financial decisions that affect the trust can sometimes be confusing, so we encourage families to reach out and ask questions.

The Co-Trustee Solution

Over the years, we have seen that Special Needs Trusts can benefit greatly from having two trustees, known as co-trustees: (1) A family member who has a strong relationship with the beneficiary; and (2) a professional trustee, such as Laird Norton Wealth Management, whose trust department gets to know the family and the beneficiary well and can respond to changing needs quickly and effectively.

Laird Norton Wealth Management has been administering trusts for more than 50 years, in line with the values and the needs of the families we serve. Myself and the people who head our trust department — Robert Hille, Jeanne Goussev and Carla Wigen — all have families of our own, and we strive to use both our personal and professional experience to provide great service and peace of mind to the families we work with on Special Needs Trusts. ■



ABOUT THE AUTHOR

Susan Zurek joined Laird Norton Wealth Management in 1999 and is currently a client advisor, specializing in trust administration. Susan works closely with the beneficiaries of trusts set up by LNWM clients, providing guidance on a wide variety of financial planning issues (goal-setting, budgeting, informed decision-making) while making sure the trust is performing as intended. Susan makes it a point to get to know beneficiaries well and then works diligently to ensure their needs are being met.

With over two decades of trust administration experience, Susan was formerly a client associate and a client analyst, both at Laird Norton Wealth Management. Before that, she worked as a trust operations specialist and trust associate at Shoreline Bank and Trust (now Chemical Bank) in the state of Michigan. Susan has earned the designations CTFA (Certified Trust and Financial Advisor) and FPQP™ (Financial Paraplanner Qualified Professional). She has a Bachelor's in Business Administration from Sienna Heights University.

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