



BEGLEY LAW GROUP, P.C.

Leaders in Planning for the Elderly and Disabled

Estate Planning for Families with Special Needs Children

Ethan J. Ordog, Esquire



BEGLEY LAW GROUP, P.C.

Leaders in Planning for the Elderly and Disabled

Our Team



Tom D. Begley, Jr.



Ethan J. Ordog



Joellen C. Meckley



Adam Cohen

B Overview

- Estate planning requires extensive thought
- Documents and Action Plan in place
- Timing of planning is imperative
- Identification of family members and professionals to ensure implementation
- Public benefits and eligibility

B Parents and Family

- Advocacy
- Understanding of needs
 - Medical
 - Living Arrangements
 - Financial
- SSI – Age 18
- Guardianship – Age 18
- IEPs
- Life Care Plan

B Financial Considerations

- Cost of Services
- Health Care Options
- Public Benefits- Eligibility
- Tax Consequences
- Investment
- Employment

B Disability

- Inability to do any substantial gainful activity by reason of any medically-determinable physical or mental impairment
- Expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months
- 42 U.S.C. §1382c(a)(3)(A)

B Common Diagnoses

- Asperger's Disorder, ADD, ADHD
- Autism
- Cerebral Palsy
- Down Syndrome
- Traumatic Brain Injury
- Quadriplegia
- Blind/Deaf

B LEGAL DOCUMENTS

- Parents- Will, Powers of Attorney, Healthcare Power of Attorney/Living Will, Special Needs Trust
- Disabled Person- similar documents if competent
- Guardianship/Conservatorship
- Letter of Intent



Guardianship

- Two Physician certifications
- Complaint (detail facts)
- Care Plan/Guardian qualifications
- Guardianship Monitoring Program
- Annual Reports
- Court Appointed Counsel
- Asset Information

B WHAT IS A SPECIAL NEEDS TRUST?

- Document
- Account(s)
- Grantor
- Trustee
- Beneficiary
- Must comply with State and Federal regulations



Types of Special Needs Trusts

- 1st Party Special Needs Trust
 - Assets of the disabled individual
 - Inheritance, Personal injury
 - Irrevocable
 - Payback provisions- Medicaid
 - Limitations on distribution
 - Established before Age 65
 - Supplement rather than supplant



Types of Special Needs Trusts

- 3rd Party Special Needs Trust
 - Assets of 3rd Party
 - Can be established by anyone
 - No payback
 - Discretionary distributions
 - No age limit for establishment



Logistical Considerations

- Distribution – Discretionary
- Distribution on Death
- Establish Now
- Fund Later
- How is the Trust Funded
- Probate v. Non Probate



Distributions from Trust

- Directly to a beneficiary may be considered income and can impact Social Security
- In-Kind Support and Maintenance- food and shelter are typically covered by income received by individual
- Distributions which are considered- funds for food, mortgage, rent, fuel, gas and electric



Distributions from Trust

- Trustee distributes funds for:
 - Vehicle
 - Appliances/Computer/Furniture
 - Education
 - Insurance
 - Non-Food grocery items
 - Vacation
 - Telephone
 - Entertainment
 - Health care needs not covered

B WHEN TO UTILIZE

- SSI – Yes
- Medicaid – Yes
- SSDI – No
- Medicare – No
- SNAP – Yes- Food Assistance Program
- Section 8 Housing



THE IDEAL TRUSTEE

- Understands Public Benefits
- Act in Best Interest of Beneficiary
- Investment Expertise
- Understands Taxes
- Keeps Perfect Books
- Carries Insurance, is Bondable or Has Deep Pockets
- Can Identify Second Rate Services or Abuse

B THE IDEAL TRUSTEE

cont'd

- Professional/Family Member
- Can Navigate the System

B COUNSELING SESSION

- Person w/Disabilities
- Family Members
- Trustee
- Drafting Attorney
- Immediate Cash Needs
- Budget
- Manage Expectations
- Depletion Schedule

B Professionals/Family Involved

- Parents
- Disabled Individual
- Attorney
- Financial Advisor
- Care Manager
- Guardian/Trustee
- Family Members

B ALTERNATIVES TO SNT

- Asset Test- \$2,000.00
- Spend Down
- Transfer Assets
- Pooled Trust
- ABLE Accounts
 - Disability which manifested before 26
 - Annual contribution not to exceed \$16,000
 - More than \$100,000 in account- lose SSI
 - State Limits on total allowed
 - Education, housing, health



BEGLEY LAW GROUP, P.C.

Leaders in Planning for the Elderly and Disabled

How do you learn more?

www.begleylawgroup.com

THANK YOU!