THE HOW-TO'S OF INTEGRATED SPECIAL NEEDS LEGAL AND FINANCIAL PLANNING

By:

Shirley B. Whitenack, Esq.
Schenck, Price, Smith & King, LLP
220 Park Avenue, Florham Park, NJ 07932
973-539-1000

115 West Century Road, Paramus, NJ 07652
201-262-1600

351 Newton-Sparta Road, Sparta, NJ 07871
973-726-3011

sbw@spsk.com
website: www.spsk.com

Kelly Piacenti, ChSNC®
Head of MassMutual Special*Care*℠
860-835-8657
kpiacenti@massmutual.com
website: www.massmutual.com/specialcare

Jerry Hulick, CLU®, ChFC®, ChSNC®, CLTC®
MassMutual Special Care Planner
The Washington Group Special Care Planning Team

571-378-0245
jhulick@financialguide.com

I. INTRODUCTION

Estate planning for families who have loved ones with special needs requires the scrivener to have knowledge of public benefits that may be available to the individual with disabilities, as well as the tools and resources that may be utilized to improve that individual's quality of life without adversely impacting those public benefits. This paper will address the various tools and techniques available as well as funding options. The use of a special needs trust ("SNT') or supplemental benefits trust ("SBT")[1] can accomplish the dual goal of preserving a disabled person's eligibility for public benefit programs such as Medicaid and Supplemental Security Income ("SSI") and providing a vehicle to hold additional funds from that person or funds contributed by a third party to supplement those government benefits. A special needs trust ("SNT") can be funded with the assets of the disabled beneficiary, such as proceeds of a personal injury action on behalf of the beneficiary or inheritances or gifts received by the beneficiary before the creation of the trust. An SNT is authorized by, and must comply with, federal law. *See* 42 *U.S.C.* § 1396p(d)(4)(A). Depending on the circumstances, the SSI provisions of 42 U.S.C. § 1382b(e)(5) and relevant portions of the Social Security Administration's Program Operations Manual System (POMs), and state law must also be considered.[2]

An SBT can be established and funded with the assets of someone other than the disabled beneficiary (*e.g.*, parents who have created a SBT funded with gifts effected during lifetime by them or others for the

[1] Special needs trusts are also known as "supplemental benefits trusts" and "supplemental needs trusts." Many scriveners use "special needs trusts," "OBRA '93 trusts," "self-settled trusts," "first party special needs trusts" or d(4)(A) trusts to refer to trusts funded with the assets of the individual with disabilities and "supplemental benefits trusts," "supplemental needs trusts," or "third party special needs trusts" to refer to trusts funded with assets that do not belong to the individual with disabilities. This paper will refer to trusts funded with the assets of the individual with special needs as special needs trusts or SNTs and will refer to trusts funded with the assets of individuals other than the individual with disabilities as supplemental benefits trusts or SBTs.

[2] A state's adoption of the Uniform Trust Code may include provisions pertaining to SNTs. See, e.g. N.J.S.A. 3B:31-37. In addition, some states, such as New Jersey and New York may have statutes which apply to the creation of first and third-party special needs trusts. See, eg., N.J.S.A. 3B:11-36 and 37; NY EST. POWERS & TRUSTS LAW § 7-1.12.

benefit of a disabled child who receives some type of public assistance, or a testamentary trust created by a parent, spouse, domestic partner or other third party).

An injured party receiving money as a result of a tort action settlement or award may be disabled and receiving public benefits. In some instances, the settlement may consist of a structured settlement as well as a special needs trust. A structured settlement commonly involves the purchase of an annuity by the tortfeasor's insurance carrier that is calculated to pay a sum certain at regularly scheduled intervals in the future. Insurance carriers representing defendants in a personal injury case often favor structured settlements because they can settle the case for less money up front than the actual value of the case. The structured settlement may also be advantageous to the plaintiff because of the availability of large sums of money to the trustee of a special needs trust. Inasmuch as the structured settlement payments often provide a fixed stream of income, they usually will not be subject to unfavorable economic conditions such s recessions or inflation. Structured settlement payments may be made directly to a special needs trust to avoid compromising any public benefits for which the injured party may be eligible.

In either instance, to avoid the beneficiary being disqualified from public benefits, the trustee's discretion to use trust assets for that beneficiary must be sufficiently limited. Equally important, the trustee must not use trust assets to purchase too many "countable resources" or provide too much "income" as defined by applicable government benefits programs.

II. <u>TRUSTS FOR THE BENEFIT OF A DISABLED BENEFICIARY</u>

A special needs or supplemental benefits trust is a special type of trust that is intended to allow the beneficiary to continue to qualify for certain needs-based government benefit programs, even though the beneficiary may have thousands (or hundreds of thousands) of dollars in trust for his or her benefit. Generally speaking, a special needs trust is simply a discretionary spendthrift trust. The types of special needs trusts can be categorized broadly as follows:

A. Special Needs Trust: A Special Needs Trust is funded with the assets of the disabled beneficiary, such as proceeds of a personal injury action on behalf of the beneficiary or inheritances or gifts received by the beneficiary before the creation of the trust. A Special Needs Trust is authorized by, and must comply with, federal law. *See* 42 *U.S.C.* § 1396p(d)(4)(A).

B. Supplemental Benefits Trust: A Supplemental Benefits Trust is funded with the assets of someone other than the beneficiary (*e.g.*, parents who have created a Supplemental Benefits Trust funded with gifts effected during lifetime by them or others for the benefit of a disabled child who receives some type of public assistance, or a testamentary trust created by a parent, spouse, domestic partner or other third party).

C. General Trust Requirements: The laws and regulations governing the applicable benefit programs affect special needs and supplemental benefits trusts in two unique ways:

1. Supplement, not supplant, government benefits: Regardless of who creates the trust, the beneficiary will be disqualified from government benefits if the trust assets are used to purchase too many "countable resources" or provide the beneficiary with too much "income" or "in-kind income."

(a) Definition of “special need” or “supplemental benefit”: There is no definitive explanation of a "special need" or “supplemental benefit.” Special Needs Trusts are typically required to state that the purpose of the trust is to use trust assets to supplement, not supplant, impair or diminish, any benefits or assistance of any federal, state or other governmental entity.

It is probably easier to determine what is not a "special need" or “supplemental benefit.” The term does not include the basic necessities of life, such as food, shelter and utilities. Nor can it include incidental spending money (which will be considered unearned income), gifts to friends or relatives (which will not benefit the beneficiary, and will adversely affect a state’s right to repayment upon termination (if applicable)), or insurance on the life of the beneficiary (which will be a countable resource, will not benefit the beneficiary and which will adversely affect New Jersey’s right to repayment upon termination (if applicable)).

Likewise, special needs or supplemental benefits should not include items or services that are available from the government benefit programs, since the purpose of the trust is to maintain eligibility for those programs.

2. Medicaid Reimbursement: Special Needs Trusts must contain certain provisions requiring repayment of certain government benefits (in particular, Medicaid), upon termination.

III. SUPPLEMENTAL BENEFITS TRUST ESTABLISHED WITH ASSETS OF PARENTS, SPOUSE, DOMESTIC PARTNER OR OTHER THIRD PARTY

A. A parent, spouse, domestic partner or other third party who leaves a disabled individual his or her assets outright by Will or living trust may jeopardize the disabled individual’s eligibility to receive public benefits. To avoid that outcome, the Will or living trust of a parent, spouse, domestic partner or other third party can provide that the assets, including the home, if desired, be put into a supplemental benefits trust for the disabled individual's benefit.

B. Under the terms of a properly drafted supplemental benefits trust, the disabled individual has no control or access to the trust funds. Therefore, the funds are not considered a resource available to the disabled individual for purposes of Medicaid or SSI eligibility.

C. Rather than permit the trustee of the supplemental benefits trust to make cash distributions to the disabled individual or pay for the disabled individual's primary needs, the trustee should have the discretion only to pay for supplemental goods and services that are not covered by public benefits. For example, the trustee should have the discretion to use trust funds to maintain the disabled person's home as well as for travel and entertainment. If the individual has physical disabilities, the trustee could use the funds to pay for a specially equipped van or home to accommodate his or her physical needs.

D. The spouse or domestic partner of a disabled individual also may wish to leave some or all of his or her estate in a testamentary supplemental benefits trust for the benefit of the public benefits recipient spouse or domestic partner. The scrivener, however, must keep in mind the elective share statutes in his or her state.

E. Specific dispositive provisions should be included for final disposition of the assets of the supplemental benefits trust. Generally, government agencies will not need to be repaid. State regulations may require that notice be given to the state Medicaid agency of the death of the Medicaid beneficiary. It is prudent when any supplemental benefits trust terminates, therefore, to ascertain whether the state Medicaid agency (or any other creditor) has an enforceable claim against the trust assets.

F. Estate Recovery: State regulations may provide that a right of recovery may apply to the assets held in a testamentary trust established by a third party, including a community spouse or domestic partner for the benefit of the surviving beneficiary spouse or domestic partner, to the extent that the assets in the predeceased third party's individual name at death, used to fund such trust, had been transferred to him or her from the disabled beneficiary within a certain time period prior to the disabled beneficiary's Medicaid eligibility.

G. Qualified Disability Trust: Election may be taken to treat a complex third party supplemental benefits trust as a Qualified Disability Trust ("QDT") under I.R.C. §642(b)(2)(C) if:

(a) The trust is irrevocable;

(b) The trust is established solely for the benefit of a disabled individual under the age of 65 and

(c) The beneficiary of the trust is disabled pursuant to the Social Security Act.

Qualified Disability Trusts are allowed a deduction of $4,150 in 2019 under I.R.C. §151.

H. SECURE ACT

On December 20, 2019 President Trump signed the Setting Every Community Up for Retirement Enhancement Act of 2019, now commonly referred to as the "SECURE Act." Among other things, the SECURE Act, makes significant changes to how IRAs and certain qualified retirement benefits including 401(k) plans must be treated at the death of the IRA owner or 401(k) plan participant. The most discussed change is the elimination of the "stretch" required minimum distribution from an IRA account or 401(k) plan that is inherited by a beneficiary.

Prior to the SECURE Act, many individuals utilized the "stretch" as a common planning technique. The stretch permitted a beneficiary of an inherited IRA or 401(k) to receive minimum distributions based upon the beneficiary's life expectancy. Accordingly, when IRAs or 401(k)s pass to beneficiaries younger than the IRA owner or plan participant (e.g. to a grandchild), the distributions could be paid out over the life expectancy of the beneficiary. Historically, this would defer income taxation on distributions and maximize continued tax-deferred growth on IRA or 401(k) account balances during the "stretch" period.

Now, most beneficiaries of inherited IRAs or 401(k)s will no longer be able to stretch distributions over their life expectancy and will be required to withdraw the entire account balance within 10 years of the death of the IRA owner or 401(k) participant. However, certain "eligible designated beneficiaries" will be exempt from this 10-year distribution rule including (i) surviving spouses, (ii) chronically ill heirs, (iii) disabled heirs, and (iv) minor children [until reaching the age of majority, whereupon the account balance must be distributed over the succeeding 10 years]. These eligible designated beneficiaries, together with any beneficiary that inherited an IRA or 401(k) prior to January 1, will retain the right to have required minimum distributions paid over life expectancy. Funding a properly drafted SBT with qualified savings while leaving other family members non-qualified assets can benefit all of the beneficiaries.

I. <u>Life Insurance</u>: Many families fund SBTs with life insurance. A term insurance policy covers a policyholder for an express period of time. The policy pays when the policy holder dies. The cost of a term policy usually increases substantially when the defined term period ends. A permanent life insurance policy covers the policyholder during lifetime and has a cash value and death benefits. There are different kinds of permanent life insurance, including whole, universal and variable life. The premiums are often very expensive. Survivorship life insurance, also known as "second to die" insurance is often an attractive option for funding an SBT. Survivorship policies insure two lives and pays when the second policyholder dies. It generally is less expensive than insuring each policyholder separately. Survivorship policies are usually whole life or universal life insurance policies.

J. Beneficiary Designations: It is important to ensure that beneficiary designations for life insurance policies, qualified savings accounts and payable on death accounts are consistent with the clients' estate plan.

Summary: A supplemental benefits trust can allow the individual with disabilities to live with greater dignity by covering supplemental needs not met through government, charitable or other benefits. Preparing a trust that is appropriate for a particular client requires that the elder and disability law practitioner understand the differences between the various special needs and supplemental benefits trusts available and the tax and government benefits planning ramifications of each. Only with such knowledge can the elder and disability law practitioner draft the documents required to meet the needs of his or her clients.

IV. SPECIAL NEEDS TRUST -- ESTABLISHED WITH THE ASSETS OF THE DISABLED INDIVIDUAL

A. Overview

Special needs trusts, funded by assets of the disabled individual, are authorized under the Omnibus Budget Reconciliation Act of 1993 ("OBRA 93"), and codified at 42 *U.S.C.* § 1396p(d)(4)(A).

1. A special needs trust is an attractive option for individuals disabled as a result of medical malpractice or other types of personal injury or who are disabled and otherwise have assets. Settlement or jury award proceeds are treated as assets owned by the disabled individual but can be placed in the trust without disqualifying the individual for Medicaid or SSI benefits. Under federal law,

such a trust is authorized to be established by a competent adult with disabilities or by the individual's parent, grandparent, legal guardian or a court if the individual is disabled and under age 65 at the time the trust is created. 42 *U.S.C.* § 1396p(d)(4)(A).

2. The definition of disability for such a trust is the same as that contained in the Social Security Act which is used to determine eligibility for SSI or Social Security Disability ("SSD") benefits. *See* 42 *U.S.C.* § 1382c(a)(3)(A). "An individual shall be considered to be disabled for purposes of this subchapter if he is unable to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)." *Id.*

3. Unlike a trust created and funded with the assets of a parent or third party for the benefit of a disabled individual, a special needs trust created under these statutory provisions is called a "payback trust" or "OBRA '93 trust" since, upon the death of the disabled individual, any state which paid medical assistance on behalf of the individual (*i.e.*, under a Medicaid program), must be reimbursed, in accordance with Medicaid and SSI requirements, from any funds remaining in the payback/OBRA '93 trust. The state is entitled to

reimbursement up to an amount equal to the total medical assistance paid by that state. 42 *U.S.C.* § 1396p(d)(4)(A).

B. Federal Drafting Requirements

1. Federal law requires that the following three conditions be met in order for the trust to be considered an excluded resource:

(a) The beneficiary must be under age 65 when the trust is established and funded. (Turning 65 thereafter does not affect the validity of the trust.)

(b) The beneficiary must be disabled.

(c) Both Medicaid and SSI rules require that the trust contain a provision that upon the death of the beneficiary or earlier termination of the trust, any state agency that has provided Medicaid benefits must be repaid out of the trust up to the amount of the benefits provided during the existence of the trust. *See* 42 *U.S.C.* §§ 1396p(d)(4)(A), 1382b(e)(5) and 1382b(c)(1)(C)(ii).

C. **Government Benefits**: There are a number of government benefits programs which must be considered in effecting a proper tort recovery settlement or award and a special needs trust, or otherwise protecting a disabled individual's assets in this regard. These programs include SSI, Medicaid, SSD, Medicare and Federally-Assisted and DDD Housing.

1. SSI. A federal welfare program found at Title XVI of the Social Security Act, 42 *U.S.C.* §§ 1381, 1381a. SSI provides the recipient with a cash benefit to cover the basics of living which are food, and shelter. SSI is a means-tested program. SSI benefits are reduced dollar-for-dollar for "countable income."

An SSI recipient may not have more than $2,000 of countable resources. Resources not countable include the principal residence of the SSI recipient, household goods, and cash or cash equivalents not exceeding $2,000 (20 *C.F.R.* § 416.1216(a)-1216(b)), an automobile of any value if it is used for the transportation of a disabled person or a member of his or her household (20 *C.F.R*. § 416.1218(b)(1)). A special needs trust for a tort victim should be structured to limit the income to the recipient so that SSI benefits are not reduced or lost, and so that trust assets in excess of $2,000 remain "unavailable" to the recipient.

2. Medicaid. A federal and state program which covers a very broad spectrum of medical services including hospital stays, physician services, community-based health care and nursing services. There are no deductibles, co-payments or coverage limits. The federal statute governing Medicaid is 42 U.S.C. § 1396 *et seq*.

3. SSD. A federal cash benefit program administered by the Social Security Administration. Unlike SSI, it is not a means-tested program. SSD is an insurance program based on the Social Security earning records of the SSD recipient. However, if a child becomes disabled prior to attaining the age of 22, his eligibility can be based upon the earnings record of a retired or deceased parent. The amount of the recipient's monthly check is dependent on the amount paid into the system.

4. Medicare. The Medicare law is found at Title XVIII of the Social Security Act and is found at 42 *U.S.C.* § 1395. Medicare is a federal medical insurance

program available to persons over 65 and disabled persons. The test for disability is found at 42 *U.S.C.* § 1382c(a)3A. The program is not means-tested.

5. Federally-Assisted Housing. Programs providing for subsidized housing are found under 42 *U.S.C.* §§ 1437-1440, including Section 8 rental assistance for low income families. Governing regulations are found at 42 *C.F.R.* §§ 813.101-813.110.

D. Structured Settlements and Special Needs Trusts

1. In some instances, the settlement may consist of a structured settlement as well as a special needs trust. A structured settlement commonly involves the purchase, by the defendant's insurance carrier, of an annuity calculated to pay certain sums at regularly scheduled intervals in the future. Insurance carriers representing defendants in a personal injury case often favor a structured settlement because they can settle the case for less money up front than the actual value of the case. In addition, the structured settlement is sometimes favored by plaintiff's counsel, who may be concerned about the availability of large sums of money to the guardian or trustee of a special needs trust.

2. Structured settlement payments made directly to the injured party may render the beneficiary ineligible to receive government benefits. A judgment involving both a structured settlement and a special needs trust should direct the periodic payments from a structured settlement to "pour over" into the special needs trust.

CHECKLIST FOR SPECIAL NEEDS TRUSTS
(SUCH AS WITH THE PROCEEDS FROM THE SETTLEMENT OF LITIGATION)

1. Check for compliance with the federal law.

   A. Is the beneficiary under age 65?

   B. Is the beneficiary "disabled?"

   C. Is the trust created by a competent adult beneficiary or by the beneficiary's parent, grandparent, guardian or by the court?

   D. Does the trust contain a provision requiring repayment of the state Medicaid program upon termination of the trust?

2. Check for compliance with state requirements.

3. Verify that the statutory liens have been paid prior to the funding of the trust.

V. ABLE ACCOUNT

A. Created for an eligible individual under a program established and maintained by a State that allows funds to grow tax free, like a 529 college savings account, but can be used to pay qualified disability benefits for the beneficiary.

1. Eligibility

(a) Individual must be blind or disabled, according to the Social Security Administration definition, or the individual must file a disability certification with the Secretary of Health and Human Services satisfying the Secretary that the individual has a medical impairment resulting in marked and severe functional limitations that will either result in death or will last for a continuous period of at least 12 months.

(b) The beneficiary must be disabled at the time the account is established and when contributions and distributions are made.

(c) The disability must be determined to have begun before the beneficiary reaches age 26.

(d) ABLE accounts will be disregarded when determining the beneficiary's eligibility for means-tested federal benefits available to individuals with disabilities. See SSA POMS-SI 01110.6003.4.

(e) Qualified disability expenses (QDEs) include, *inter alia*, education, housing, transportation, employment training, assistive technology, and personal support service that are related to the beneficiary's disability or blindness. Further, the proposed IRS regulations discussed below, provide that the term qualified disability expenses should be broadly construed to permit the inclusion of basic living expenses and should not be limited to expenses for items for which there is a medical necessity or which provide no benefits to others in addition to the benefit to the disabled individual.

(f) Many states may allow for income tax deductions for contributions made to the ABLE account.

2. <u>Restrictions</u>

(a) Unlike 529 accounts, ABLE account beneficiaries are restricted to only one ABLE account.

(b) Funds in a 529 account can be moved into an ABLE account without incurring tax or penalties if both accounts have the same beneficiary or a qualifying member of the beneficiary's family. The rollover amount must be within the annual ABLE contribution limit ($18,000 in 2024) and must occur by December 31, 2025. There are direct rollovers where the two programs transfer assets directly from one to the other. And there are indirect rollovers in which the account owner of the 529 plan would take possession of funds before they are transferred. The transfer must occur within 60 days of withdrawal.

(c) If the eligible individual (whether a minor or adult) is unable to establish their own ABLE account, the account may be established on behalf of them by the following, and in the order listed:

2) The power of attorney of the eligible individual with a disability, or
3) a conservator or legal guardian, or
4) spouse, parent, sibling, grandparent, or
5) a representative payee appointed for the eligible individual by the Social Security Administration (SSA)

(d) Aggregate annual contributions from all contributors to an ABLE account cannot exceed the annual exclusion amount, currently $18,000 in 2024. If the beneficiary is employed and does not participate in their employer's defined contribution plan (such as a 401(k)), profit-sharing plan, 403(b), or 457(b) plan, they may make an additional annual contribution up to the lesser of the beneficiaries' compensation from their employer for the tax year or the United States 2024 poverty limit amount from the previous calendar year's amounts - $14,580 in U.S. states, except $16,770 in Hawaii and $18,210 in Alaska.

(e) There is a $100,000 limit on the amount disregarded for SSI benefit eligibility. SSI payments will be suspended until the account value is below $100,000.

(f) Upon the death of the account beneficiary or if he or she is no longer disabled, the balance of the account must be used to "payback" any state Medicaid plan up to the value of the Medicaid services provided. Currently 13 states do not require a Medicaid payback. If a "successor account owner" was assigned by the beneficiary on the ABLE account, upon the beneficiary's death, the successor account owner would take ownership of the original account after the beneficiary passes away. The successor account owner must meet certain criteria of the ABLE plan as noted in the plan disclosure booklet. The successor account owner must qualify as an ABLE-eligible individual as of the date of the designation, as well as at the death of the beneficiary. The successor must be a sibling, a stepsibling, or a half-sibling of the beneficiary, whether related by blood or by adoption. Only one successor account owner per account may be designated; and the successor account owner must be a United States citizen or resident alien.

3. Beneficiaries

(a) An ABLE account is deemed owned by the beneficiary, not the contributor.

(b) Only one ABLE account may be established for a beneficiary.

4. Tax Penalty: There is a 10% penalty on amounts distributed that are not for qualified disability expenses. Additionally, under the proposed IRS regulations discussed below, there is a 6% excise tax on the amount of any excess annual contribution that is not returned within a yet to be determined safe harbor period.

VI. Financial Planning for Families with Special Needs

A. It is important to find a financial professional who has received advanced training and information in estate and tax planning concepts, special needs trusts, government programs (SSI, SSDI, Medicare, Medicaid, etc.), planning for the current and future needs of both caregivers and individuals with disabilities. A top designation for financial professionals who do special needs planning is the Chartered Special Needs Consultant® (ChSNC®) designation from The American College or MassMutual planners known as Special Care Planners[3]. To receive the ChSNC® designation, you must:

1. Successfully complete the three required courses, i.e. HS 375 Introduction to Disability and Lifetime Planning, HS 376 Legal and Financial Issues for Special Needs Families, and HS 377 Financial Planning for Families Caring for Those with Special Needs
2. Agree to comply with The American College Code of Ethics and Procedures
3. Have at least five years of professional experience in financial services or the practice of law (with a focus on income tax and/or estate planning), OR
4. Have four years of relevant professional financial services experience and an undergraduate\degree from a regionally accredited institution

Participation in the annual Professional Recertification Program is required to maintain the designation. For more information, visit

[3] The Special Care Planner title is used by financial professionals with Massachusetts Mutual Life Insurance Company (MassMutual) who have received advanced training and information in estate and tax planning concepts, special needs trusts, government programs, and the emotional dynamics of working with people with disabilities and other special needs.

https://www.theamericancollege.edu/learn/professional-designations-certifications/chsnc

B. A financial professional can help to understand, identify and quantify the financial needs of an individual with special needs and how the social, medical, and legal needs impact their future life care plan. They can also assist in coordinating financial strategies with the special needs attorney and other professionals. There are four focus areas:

1. Family Assets and Planning: Balancing needs of all family members, Coordinating Resources, Care-giving planning (residential, social, etc.)
2. Employer Benefits: Life, health and welfare, Retirement plans, Deferred compensation/stock
3. Government Benefits: Means-tested benefits (Supplemental Security Income, Medicaid), Entitlements (Social Security Disability Insurance, Medicare)
4. Legal Planning: Wills, Advanced Medical Directives, Special Needs Trusts and types, Titling – ownership and beneficiaries

C. A financial professional can complete a financial needs analysis and offer financial strategies and options that make the most sense based on individual circumstances. Financial strategies and solutions should be integrated with legal planning to make sure titling, beneficiaries, TOD (transfer on death) and POD (payable on death) are all appropriately handled. Considerations include Life Insurance, Long Term Care, Investments, Retirement Planning and Employee Benefits.

D. Review Entitlement Benefits:

1. Social Security Retirement Income
2. Social Security Disability Insurance (SSDI)
3. Family Benefits
4. Spouse and Survivor Benefits
5. Children's Disability Benefit
6. Medicare

E. Review Public Assistance:

1. Supplemental Security Income (SSI)
2. Medicaid
3. Public Supports:
4. Supplemental Nutrition Assistance Program (SNAP)
5. Temporary Assistance for Needy Families (TANF)
6. Children's Health Insurance Program (CHIP)

F. Planning Steps / Considerations for Special Needs Planning:

1. Address Primary Issues
2. Create Life Care Plan Vision
3. Guardianship / Alternatives to Guardianship
4. Identify Financial Resources

5. Prepare Life Care Plan Costs

6. Prepare Letter of Intent

7. Prepared Legal Instruments

8. Review need for Special Needs Trust/ABLE Account

9. Hold Family Meeting

10. Review Life Care Plan Annually

G. Ideally integrating the financial and legal should begin as soon as possible so that efforts are not duplicated. Intake Forms are a good way to capture the current legal and financial professionals or discern the need for one if not being utilized. A plan cannot be fully completed or integrated without the legal and financial components. Successful collaborating between an attorney and financial professional is very important.

MM202710-310485