

Stetson 2024 National Conference on Special Needs Planning and Special Needs Trusts

October 18, 2024- Main Conference Breakout Session #1

1:30pm-2:20pm

CLEARING THE AIR- TRUST PRACTICES AND GATHERING INFORMATION

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Outline of Topics:

- A. Intake and the Importance of Gathering Information /Understanding Circumstances
- B. Intake Forms/Public Benefits and Impact on Trust Administration
- C. Trustee Selection
- D. Budget and Sustainability of the Trust/ Allowable Distributions and Setting the Record Straight
- E. Roadmap for Success in Establishing and Funding of a Special Needs Trust

A. Intake and the Importance of Gathering Information

All too often a personal injury attorney, financial advisor, family member or potential client reaches out to a special needs practitioner, in a panic and in need of a consultation or for work to be performed “that day”, because they were advised that in order to maintain public benefits, that a special needs trust is required because the individual cannot have *ANY* assets or otherwise risk the loss of much needed benefits being received. Of course, after a customary moment to calm down the individual and be able to more poignantly direct the conversation, it is common to have a much more nerve settling communication regarding the circumstances and the corresponding timing of a review of the matter. While there are the occasions whereby there is a more emergent issue presented, i.e. a hearing is scheduled for the following day, in most instances, in order to ensure that a plan can be developed and explained, the importance of gathering information cannot be understated. Further, it is imperative to understand the scope of what information/direction has been provided to the individual or “client”, so as to be able to set expectations and reasonable outcomes for the options that might exist or be recommended.

However, to that end, in many of these instances, an individual may have been subject to misinformation or simply a lack of proper direction, which may complicate the circumstances by which an estate/trust practitioner enters the matter. As these matters often have lengthy and trying stories as background, it is imperative to be able to provide comprehensive services, to the extent possible, while being able to simplify the specific issues that need to be addressed and dealt with accordingly. Despite the communications that involve an individual being “disabled” and/or otherwise being the recipient of public benefits, consistently, the specific benefits being received are unknown. While an individual believes that income is received from Social Security and/or medical insurance is being received from some “governmental” program,

including Medicare or Medicaid, until the insurance cards can be reviewed and/or correspondence from Social Security can be secured, it is often speculative at best as to what programs or benefits the individual may receive. Compounding such issue is the direct request for information on other benefits which may be received, including housing assistance, other sources of income, food/utility assistance, etc.

Although the securing of a full understanding of income, insurance and other public benefits is paramount from the estate/trust practitioner standpoint, perhaps, as is the case with many of these preliminary communications/request for assistance, the most challenging aspect is the formal willingness of the individual who needs to be protected, in some manner, regardless of the benefits being received, to consent to engage in services which will “tie up” funds to be received or transferred to maintain benefits and/or the insertion of an individual/individuals who may have direct oversight over the manner in which funds are expended. In some instances, most specifically from a disability/care need perspective, the individual sought to be protected might lack the capacity to engage in these communications or fully understand the nature of what is being done to ensure that assets attributable thereto will not impact eligibility for benefits. But for those when the individual sought to be protected is actively involved, you can have an individual who fully understands the need and importance of planning and having certain difficult conversations versus the individual who simply believes that they do not need/want to hear about any restrictions and that their money should not be subject to anything other than a check written to them directly. Moreover, even for the individuals who might fall into the category that they understand the need for planning and the imposition of a Trust, so as to protect valuable public benefits they receive, they simply are unrealistic in the assets which are held in the Trust and the accessibility or availability thereof.

The individual often is under a misconception or perhaps miscalculation in their mind that a settlement, transfer of funds to the Trust or other action taken with respect to the assets, will enable the Trust to purchase assets, including but not limited to a house, car, personal items, entertainment, etc., which far exceeds the value of any and all assets placed into the Trust. Despite explanation of the goal and the need to maintain a level of assets for the beneficiary of a Trust for a period of time, the individual has often, in their own mind, earmarked all of the assets for purposes other than what the scope of the Trust could or should be utilized. Of course, all of these communications must be within reason and are not to say that the individual would be precluded from such disbursements, but it is imperative to set straight the formal logistics and circumstances surrounding these matters.

Depending on who reaches out directly to the estate/trust practitioner, there also remains that fine line of ensuring why or how this individual has been advised to reach out to inquire about services. In some cases, if a member of the family of a “disabled” individual reached out, they may fully have the best interests of the individual in mind and are simply assisting because the individual beneficiary may be unable or in the crux of dealing with other matters, sometimes equally as important as the planning conversation. However, in these instances where a member of the family reaches out, it is often brought or raised during initial communications, the scope of the interest, possible enjoyment and/or potential distribution of funds for the benefit of others. There remains a recognition by certain individuals that a settlement or discussion of the transition of assets to ensure eligibility for benefits, should someone result in a benefit to other members of the family/friends. Rebuffing these beliefs is also more difficult when it has been advised by civil counsel and/or other professionals involved that assets may be used which, in theory, sound like benefits are being directed to more individuals than just the beneficiary of the

Trust, etc. While it is recognized that certain benefits, in themselves, i.e. a purchase of a home, vehicle, other items for entertainment purposes (television, computer, etc.), may have a benefit to other individuals, it is important to set those expectations quickly so as to avoid issues down the road, especially if assets are placed into a Trust and a Trustee is now dealing with individuals who have a unique perspective on the scope of the funds in the Trust and allowable distributions therefrom.

Intake can be directed from the individual who is seeking to be protected or retain services, members of the family, friends or professionals involved. As stated above, it can be frustrating for an estate/trust practitioner to be assuming a role in the matter and be advised, despite many years of the involvement, potentially, of family members and/or professionals, how little important information is known about income, benefits, assets, debts/obligations, medical condition, etc. In order to provide that guidance in the scope of information necessary, it is important to have intake forms which secure information regarding the individual, but which also, as is often the case, prompt individuals to think more comprehensively into their situation and the need to have information known or available. To the extent possible, as well, information that can be provided to the individual, family and/or professionals which explains the analysis that the estate/trust practitioner should undertake is important from the perspective of education, but also to limit the need to explain, often to many individuals, similar points of emphasis under the circumstances, especially when there IS often some timeline/need to act to ensure that benefits are not jeopardized, etc.

B. Intake Forms (See Attached)

For an estate/trust practitioner to be able to efficiently, accurately and correctly assess a situation, make recommendations and prepare required documents, in addition to providing direction regarding the logistics thereof, it is imperative that information/documentation is gathered. In dealing with a Special Needs Trust, as well as the corresponding issues that may arise regarding protective arrangements, public benefits and the needs of the individual, while different practitioners may have their own opinions on the scope of what they require or desire to complete a matter of this kind, the intake forms seek to understand the general background of the individual, establish an understanding of the family dynamic, level of capacity, corresponding medical conditions and public benefits being received. Moreover, the intake seeks to ensure that an understanding of assets, debts (particularly liens) and income attributable to the individual is provided so that same can be considered. Further, the intake seeks to develop an understanding of the scope of professionals involved, as well as potential recommendations which have been made, i.e. related to the financials (structure, investment, etc.), in addition to the possible Trustee who might serve.

Additionally, the intake forms seek to understand what family has been involved, the scope of estate planning and other legal documents which might exist or which may need to be created, while also attempting, at a preliminary level, to understand immediate needs for items/distributions that must or should be considered in the development of recommendations/action items. If there is any present legal relationships that should be known, Guardian, Power of Attorney, Conservator, Personal Representative of an Estate, etc., the intake should seek to secure such information, so any further communications can be had and/or correspondence directed, as may be necessary.

While general intake may request or secure information, generally on public benefits being received and/or which an individual may be eligible, it is important to establish a process of how to ensure the specific related to public benefits being received by the individual are known, in addition to ongoing steps to ensure that the individual and/or professionals involved are aware of the criteria for continuing eligibility or initial application for a benefit based upon circumstances known during the initial planning process and/or thereafter. Specific public benefits intake form, as attached, may assist an individual and/or their representative, as the case may be, to think through and be able to secure information on benefits being received. Providing information on state specific programs may also be important to determine possible eligibility for benefits which could be received.

Of course, for a Trustee, particularly one who has discretionary authority over the distribution of assets, it is often a point of emphasis, as directed by a Trust, that all assets, sources of income and public benefits which might be available to an individual beneficiary are considered when determining distribution/approval of budget items to be paid from the Trust. Notwithstanding the intention to understand and secure this information, the Trustee must also be mindful of changes which may impact the individual's eligibility and make a point, if not annually, to direct for confirmation of present public benefits being received, etc. This is also important if issues arise during the time in which the Trustee is involved and assistance which might be requested regarding communications to preserve, restore and/or challenge determinations which may impact the beneficiary accordingly.

C. Trustee Selection

As an estate/trust practitioner, particularly one who engages in Trust planning, particularly in the Special Needs arena, there are many factors to be considered when developing a workable and comprehensive plan that is acceptable to those involved but which will also have sustainability and success moving forward. Once all of the attorneys and certain necessary professionals involved in the planning process have “completed” (is it ever really done?) their involvement, often a Trustee, designated in the Trust document to serve, is the primary entity with whom the beneficiary, their family and/or professionals are communicating with. It used to be, given the intention, as stated by the client/family, that there was a desire to have a relative, friend, local banker, etc., serve as Trustee. With further education, more clients/representatives have consented to and understood the need to engage the services of a corporate Trustee. However, with recent news of issues with certain corporate Trustees, as well as many entities who have determined to exit the Special Needs Trust administration market, it is perhaps more prudent than ever to have information and documentation explaining the scope of the involvement of a Trustee and reasons for selection.

A Trustee, serving generally in such a role, but specifically in furtherance of the administration of a Special Needs Trust, must be mindful of the following:

1. Mistakes in Administration
 - a. Improper distribution
 - b. Action/Inaction which results in payment of taxes/failure to properly invest the assets
 - c. Action/Inaction which result in a loss of public benefits

- d. Failure to comply with intentions of the Grantor and/or administrative terms
that are included in the Trust document

2. Knowledge of Legal Matters

- a. Tax filings- 1041/1040 Income Returns
- b. Protective Arrangements that may be required
- c. Accounting
- d. Tracking of expenditures
- e. Communications with Client
- f. Process for requests for distribution
- g. Fee approval for Trustee

3. Knowledge of Public Benefits

- a. Programs
- b. Eligibility
- c. Changes to the programs or requirements

4. Other Factors to Consider

- a. Access to Investment Advice and Direction
- b. Competent Counsel
- c. Issues arising with beneficiary (work, addiction, etc.)
- d. Family relationships/Influence
- e. Termination of or closing of Administration of the Trust upon passing of
Beneficiary
- f. Retention of Care Consultant

D. Budget and Sustainability of the Trust/ Allowable Distributions and Setting the Record Straight

Despite the efforts of many in defining the scope of the distributions from a Special Needs Trust, it is recognized that there remain hurdles to a full understanding of the availability and accessibility of the assets held therein. Of course, particularly depending on the beneficiary and the specific intentions of how they believe the money can be used, it is important to engage in the exercise of an initial budget and address same annually, at the very least, if not sooner based upon stated or required need from the Trust.

In the context of the involvement in this process by the estate/trust practitioner, so as to ensure the knowledge of what, generally can be spent/used from the Special Needs Trust, the engaging of budget meeting, wherein it is identified what are immediate needs, as well as ongoing/continued expenses or what may become expenses, is extremely prudent, so as to be able to address the scope of any concerns or questions regarding allowable disbursements. While the numbers nearly always change, the underlying premise for such an exercise is to establish a baseline of the expenses of an individual beneficiary, have a more comprehensive understanding of expenses they have, which might not have been thought of by them in prior communications, as so as to provide a further resource to the Trustee who will assume responsibility for the disbursements from the Trust moving forward. It is recognized that a Trustee values the information provided so as to allow the relationship to progress and have another tool that helps the beneficiary understand the knowledge of their personal circumstances is already known by the Trustee. An example of a budget intake form/assignment form is attached with the materials.

To the extent possible, professionals involved with Special Needs Trusts, as well as the administration thereof, to avoid confusion, but to also have something formal to provide to a beneficiary, representatives and/or other professionals involved with the matter, a document, form, article, etc., which details what can and what cannot be spent from the Trust. To that end, an explanation, if a distribution cannot be effectuated, can be included to avoid and/or limit the need to have similar communications and provide identical explanation to multiple parties involved, to the extent possible or reasonable. In building the relationship with a beneficiary, their representative or others involved, it is crucial that animosity does not develop and that they understand all parties are working towards a common goal/purpose, subject to logistical requirements which are designed to protect the individual and benefits presently being received or which could/will be received in the future.

Distributions from the Special Needs Trust

Allowable but In-Kind Support/Maintenance (ISM) Impact for SSI

Mortgage Payment	Rent
Property Insurance (Lender required)	Gas
Property Taxes	Electricity
Water	Sewer
Heating Fuel	Garbage Collection

**** Food as of 9/30/24 no longer considered for ISM calculation purposes****

Other Allowable Distributions from a Special Needs Trust

Purchase of Home	Clothing
Phone/Cable/Internet	Vehicle (Insurance, Gas, Maintenance)
Pre-paid Funeral (With some limits/requirements)	

Tuition/Books/Tutor

Furniture/Tools/Household Supplies

Entertainment

Property Insurance (not lender required)

Television/Computer/Electronics (be mindful of scope and amount)

Medical Equipment

Travel (beneficiary and caregiver- be careful)

Care management/Support (be mindful of state specific limitations and scope of parental support obligation)

Medical Insurance Premiums/Co-Pays and Deductibles/Non-Covered Medicals

Commuting/Transport Expenses

Prescription Drugs (be careful of coverage by other sources)

Personal Needs- hair, cigarettes, alcohol, toiletries, non-prescription drugs

Reading Materials

Legal Fees (depending on scope, may want to get approval)

Distributions Not Allowed

Cash (too hard to track)

Family Travel

Gifts for others

Excessive amounts for allowable distributions

E. Roadmap for Success in Establishing and Funding of a Special Needs Trust

In consideration the successful establishment and funding of a Special Needs Trust, create a roadmap, specifically to ensure that all steps are covered, and information is secured, to ensure that a comprehensive plan has been established. A general roadmap, although the estate/trust practitioner will want to cater it to their own practice/process, might look like the following:

1. Intake and Fact Gathering- what is the client's disability, what are the financial circumstances- i.e. inheritance, civil settlement, assets attributable thereto. What is the family dynamic? Does the client have capacity?
2. Estate Planning Documents- Will, Powers of Attorney, Healthcare Directive/Living Will
3. Trust Document- type of Trust- Special Needs Trust, Settlement Trust
4. Public benefits Confirmation (What is the client receiving? Other benefits which could be received?)
5. Liens/Debts
6. Is an MSA required?
7. Who will serve as Trustee?
 - a. Process for Requests for Distribution
 - b. Access to funds- Card?
8. Budget and allowable distribution confirmation- Life Care Plan?
9. Court Order for Funding and Establishment of Trust
10. What Agencies are required to be noticed of the establishment and funding of the Trust
11. Do they have professionals in place to assist moving forward...
 - a. Trust Attorney
 - b. Disability Attorney

- c. Financial Advisor
- d. Trustee
- e. Therapist
- f. Physicians
- g. Care Consultant
- h. Lien Resolution Expert
- i. MSA Professional
- j. Others

PERSONAL INJURY & ESTATE PLANNING QUESTIONNAIRE

Date _____ File Number _____

This form is extremely important. The accuracy and completeness in responding will help our firm provide the best representation.

A. INJURED PERSON

Full Name: _____

Nickname: _____ Gender: ☐ Male ☐ Female

Street Address _____

City _____ State _____ Zip _____

Home Phone No. _____ Fax No. _____

E-mail address _____ Cell No. _____

Birth Date _____ Social Security No. _____

Medicaid No. _____

Injured Person is: ☐ Married ☐ Single

Injured Person: ☐ Has Capacity ☐ Is A Minor Expected to Have Capacity
☐ Is Incapacitated ☐ Is A Minor Expected to be Incapacitated

Injured Person is: ☐ A U.S. Citizen ☐ A Qualified Alien ☐ Don't Know

Is Injured Person a Veteran? ☐ Yes ☐ No

If there is a disability, did the disability begin prior to age 22? ☐ Yes ☐ No

If there is a disability, did the disability begin prior to age 26? ☐ Yes ☐ No

Has the Social Security Administration made a Determination of Disability? ☐ Yes ☐ No

Injured Person Suffers from:

- | | |
|--|--|
| <input type="checkbox"/> Anoxic Brain Injury | <input type="checkbox"/> Down Syndrome |
| <input type="checkbox"/> Asperger Syndrome | <input type="checkbox"/> Epilepsy |
| <input type="checkbox"/> Attention Deficit Disorder (ADD) | <input type="checkbox"/> Fragile X Syndrome |
| <input type="checkbox"/> Attention Deficit Hyperactivity Disorder (ADHD) | <input type="checkbox"/> Mental Illness |
| <input type="checkbox"/> Autism | <input type="checkbox"/> Mental Retardation |
| <input type="checkbox"/> Bi-Polar Disorder | <input type="checkbox"/> Obsessive Compulsive Disorder |
| <input type="checkbox"/> Blindness | <input type="checkbox"/> Paraplegia |
| <input type="checkbox"/> Borderline Personality Disorder | <input type="checkbox"/> Quadriplegia |
| <input type="checkbox"/> Brain Injury | <input type="checkbox"/> Rett Syndrome |
| <input type="checkbox"/> Cerebral Palsy | <input type="checkbox"/> Schizoaffective Disorder |
| <input type="checkbox"/> Childhood Disintegrative Disorder | <input type="checkbox"/> Schizophrenia |
| <input type="checkbox"/> Deafness | <input type="checkbox"/> Spina BiFida |
| <input type="checkbox"/> Depression | <input type="checkbox"/> Tourettes Syndrome |
| <input type="checkbox"/> Developmentally Delayed | <input type="checkbox"/> Traumatic Brain Injury |
| <input type="checkbox"/> Dissociative Disorder | <input type="checkbox"/> Other: _____ |

B. SETTLEMENT AMOUNT

\$ _____ Gross
\$ _____ Costs
\$ _____ Fees
\$ _____ Liens
\$ _____ Net
\$ _____ Allocation to Injured Person
\$ _____ Anticipated Structure
\$ _____ Anticipated Lump Sum
\$ _____ Allocation to Injured Person's Spouse
\$ _____ Allocation to Others

C. INJURY/PROGNOSIS

Date of Accident/Injury _____
Brief Description of Injury _____
How did Injury Occur? _____

D. PUBLIC BENEFITS/PRIVATE INSURANCE

1. **Public Benefits.** Is Injured Person receiving or will Injured Person apply for any of the following benefits?

Supplemental Security Income (SSI)

☐ Receives ☐ Applied For ☐ N/A

Amount of SSI: \$ _____

If receiving, please provide a copy of the
Determination of Disability Letter.

Social Security Disability Income (SSDI)

☐ Receives ☐ Applied For ☐ N/A

Amount of SSDI: \$ _____

If receiving, please provide a copy of the
Determination of Disability Letter.

Childhood Disability Benefits (CDB or DAC)

☐ Receives ☐ Applied For ☐ N/A

If receiving, please provide a copy of the
Determination of Disability Letter.

Medicaid

☐ Receives ☐ Applied For ☐ N/A

If receiving, please provide copy of
Medicaid card.

New Jersey Family Care If receiving, please provide copy of NJ Family Care card.	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Medicaid Waiver <i>Waiver Name:</i> _____ If receiving, please provide copy of Medicaid card.	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Katie Beckett Waiver	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Children's Health Insurance Program (CHIP)	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Medicare If receiving, please provide copy of Medicare card.	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Medicare Buy In Does the State pay Medicare Part B Premiums/Deductible? <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Federally-Assisted Housing Section 8 Section 202 Multi-Family <i>Monthly Rent:</i> \$ _____	<input type="checkbox"/> Receives <input type="checkbox"/> Receives <input type="checkbox"/> Receives	<input type="checkbox"/> Applied For <input type="checkbox"/> Applied For <input type="checkbox"/> Applied For	<input type="checkbox"/> N/A <input type="checkbox"/> N/A <input type="checkbox"/> N/A
SNAP (Food Stamps) <i>Monthly Amount:</i> \$ _____	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Prescription Drug Assistance	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Low Income Heating & Energy Assistance (LIHEAP) <i>Monthly Amount:</i> \$ _____	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Temporary Assistance for Needy Families (TANF)	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Division of Developmental Disabilities (DDD)	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Group Home	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A
Psychiatric Institutionalization	<input type="checkbox"/> Receives	<input type="checkbox"/> Applied For	<input type="checkbox"/> N/A

Veterans Disability Benefits

Pension

☐ Receives ☐ Applied For ☐ N/A

Housebound

☐ Receives ☐ Applied For ☐ N/A

Aid & Attendance

☐ Receives ☐ Applied For ☐ N/A

Other Public Benefits

Name: _____

☐ Receives ☐ Applied For ☐ N/A

2. **Private Insurance.** If injured person is covered by private medical insurance:

Name of Insurance Company: _____

Insurance Obtained Through: ☐ Injured Person ☐ Father ☐ Mother ☐ Other - _____

E. PERSONAL INJURY ATTORNEY

1. **Name of Attorney** _____
Name of Law Firm _____
Street Address of Law Firm _____
City _____ State _____ Zip _____
Telephone No. _____ Fax No. _____
E-Mail Address _____ Cell No. _____
2. **Name of Paralegal** _____
Telephone No. _____ Fax No. _____
E-Mail Address _____ Cell No. _____

F. TRUST INFORMATION

Who will establish the Trust?

- ☐ **Injured Person/Beneficiary**
- ☐ **Father - Name:** _____ **SSN** _____
Street Address _____
(if different from injured person)
City _____ State _____ Zip _____
Telephone No. _____ Fax No. _____
E-mail Address _____ Cell No. _____
U.S. Citizen? ☐ Yes ☐ No

☐ **Mother - Name:** _____ **SSN** _____
Street Address _____
(if different from injured person)
City _____ **State** _____ **Zip** _____
Telephone No. _____ **Fax No.** _____
E-mail Address _____ **Cell No.** _____
U.S. Citizen? ☐ Yes ☐ No
Parents are: ☐ Married ☐ Divorced ☐ Separated
If parents are not living together, Injured Person lives with: ☐ Mother ☐ Father

☐ **Court:** **State:** ☐ New Jersey: ☐ Law Division
☐ Chancery Division: ☐ Probate ☐ Equity
☐ Pennsylvania: ☐ Court of Common Pleas ☐ Orphans' Court
County: _____

If trust is going to be established by the court, please attach a copy of the Complaint.

☐ **Grandparent - Name:** _____ **SSN** _____
Street Address _____
(if different from injured person)
City _____ **State** _____ **Zip** _____
Telephone No. _____ **Fax No.** _____
E-mail Address _____ **Cell No.** _____

☐ **Guardian - Name:** _____ **SSN** _____
Street Address _____
(if different from injured person)
City _____ **State** _____ **Zip** _____
Telephone No. _____ **Fax No.** _____
E-mail Address _____ **Cell No.** _____

Co-Guardian (if applicable) - Name: _____
Street Address _____ **SSN** _____
(if different from injured person)
City _____ **State** _____ **Zip** _____
Telephone No. _____ **Fax No.** _____
E-mail Address _____ **Cell No.** _____

G. LIENS

Does this case involve any of the following liens that need to be address?

Medicaid	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Medicare	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Medicare Advantage	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Medicare Part D	<input type="checkbox"/> Yes	<input type="checkbox"/> No
ERISA	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Federal Employees Health Benefits Act (FEHBA)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Federal Medical Care Recovery Act (FMCRA)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Veterans Administration Claims	<input type="checkbox"/> Yes	<input type="checkbox"/> No
TRICARE Claims	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Welfare Liens	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Violent Crimes Compensation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
State Worker's Compensation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Federal Employee Compensation Act (FECA)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Hospital Liens	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Child Support	<input type="checkbox"/> Yes	<input type="checkbox"/> No
State Division of Mental Health	<input type="checkbox"/> Yes	<input type="checkbox"/> No
NJ Division of Developmental Disabilities (DDD)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Other _____		

H. BANKRUPTCY

Has Injured Person ever filed for bankruptcy? ☐ Yes ☐ No

If yes: What was the filing date? _____

What was the discharge date? _____

The undersigned hereby represent to Begley Law Group and each of its attorneys that the information contained in this Questionnaire is accurate and complete, and that the undersigned understand that the law firm and its individual lawyers will rely on this information. The undersigned understand that if the information contained herein is inaccurate or incomplete, the recommendations made by the law firm may not be appropriate.

Signature

PERSONAL INJURY SUPPLEMENTAL QUESTIONNAIRE

Date _____ File Number _____

Name of Injured Person _____

Name(s) of Client _____

This form is extremely important. The accuracy and completeness in responding will help our firm provide the best representation.

A. INJURED PERSON

Injured Person is (*select one*): ☐ Under age 18 ☐ Under age 65

B. REFERRAL SOURCE (IF OTHER THAN PERSONAL INJURY ATTORNEY)

Name of Individual or Company _____

Contact Person (*if applicable*) _____

Street Address _____

City _____ State _____ Zip _____

Preferred Telephone No. _____ E-mail Address _____

C. STRUCTURED SETTLEMENT BROKER

1. Name of Company _____

Street Address _____

City _____ State _____ Zip _____

2. Name of Contact _____

Telephone No. _____ Fax No. _____

E-Mail Address _____ Cell No. _____

3. Name of Assistant _____

Telephone No. _____ E-Mail Address _____

D. FINANCIAL ADVISOR

1. Name of Company _____

Street Address _____

City _____ State _____ Zip _____

2. Name of Contact _____

Telephone No. _____ Fax No. _____

E-Mail Address _____ Cell No. _____

3. Name of Assistant _____

Telephone No. _____ E-Mail Address _____

E. **TRUST INFORMATION**

1. **Trustee.** Who will serve as Trustee?

Name of Initial Trustee _____

Street Address _____

City _____ State _____ Zip _____

Telephone No. _____ Fax No. _____

E-mail Address _____ Cell No. _____

Contact Person (if corporate trustee) _____

If the trustee is an individual, is he/she bondable? ☐ Yes ☐ No ☐ N/A

F. **INCOME**

Is the Injured Person employed? ☐ Yes ☐ No

If yes: Name of Employer: _____

Amount of Monthly Income: \$ _____

Does Injured Person receive unearned income? ☐ Yes ☐ No

G. **ESTATE PLANNING DOCUMENTS**

1. **Client**

Document	Has	Needs	Completed
Will			
Living Trust			
Living Will			
Power of Attorney			
Tax Planning			
Other: _____			

2. **Parent(s)**

Document	Has	Needs	Completed
Will			
Living Trust			
Living Will			
Power of Attorney			
Third Party Special Needs Trust			
Tax Planning			
Other: _____			

H. SPECIAL NEEDS TRUST (SNT)

Is an SNT required? ☐ Yes ☐ No
If yes, Trust established by Court Order? ☐ Yes ☐ No
If yes, BLG to file for Court Order? ☐ Yes ☐ No
Identified appropriate Trustee? ☐ Yes ☐ No
If yes, Name of Trustee: _____

I. SETTLEMENT PROTECTION TRUST (SPT)

Is an SPT required? ☐ Yes ☐ No
If yes, Trust established by Court Order? ☐ Yes ☐ No
If yes, BLG to file for Court Order? ☐ Yes ☐ No
Identified appropriate Trustee? ☐ Yes ☐ No
If yes, Name of Trustee: _____

J. MEDICARE SET-ASIDE ARRANGEMENT (MSA)

Is an MSA required? ☐ Yes ☐ No
If yes, type of MSA: ☐ Self-Administered ☐ Custodial ☐ SNT ☐ Pooled Trust
Arrange for MSA calculation? ☐ Yes ☐ No
Arrange for submission of MSA calculation to CMS? ☐ Yes ☐ No

K. GUARDIANSHIP

Has a Guardianship been obtained? ☐ Yes ☐ No
If yes, obtain copy of Court Order.
If no, is BLG to file for Guardianship? ☐ Yes ☐ No

L. PROBATE

Is BLG to represent the Personal Representative in the administration of the estate? ☐ Yes ☐ No
If yes, is there a Will? ☐ Yes ☐ No
If yes, obtain a copy of the Will.
If no, who is the Administrator? _____
Has allocation between WD & SC been determined? ☐ Yes ☐ No
Has Department of Revenue letter been obtained? ☐ Yes ☐ No
Is the proposed Executor/Administrator bondable? ☐ Yes ☐ No
Has Court Order been obtained appointing Executor/Administrator? ☐ Yes ☐ No
Have Letters of Administration/Testamentary been obtained? ☐ Yes ☐ No
If yes, please provide a copy.

- Has EIN been obtained? ☐ Yes ☐ No
 If yes, EIN # _____
- Has previous counsel been involved in the probate? ☐ Yes ☐ No
 If yes, Name of Counsel: _____
- Has inventory been filed? ☐ Yes ☐ No
- Have probate fees been paid? ☐ Yes ☐ No
 If yes, amount: \$ _____
- Have Short Certificates been obtained? ☐ Yes ☐ No
 If yes, please attach a copy.
- Are Death Certificates correct? ☐ Yes ☐ No
 If yes, please attach original.
- Has an estate account been opened? ☐ Yes ☐ No
 If yes, please name bank and give account number:
 Bank: _____
 Account Number: _____
- Have publications been placed in appropriate newspapers? ☐ Yes ☐ No
 If yes, please provide name of newspaper _____
- Have death taxes been paid? ☐ Yes ☐ No

M. LITIGATION SUPPORT

- Check all that apply:
- | | |
|--|--|
| <input type="checkbox"/> Testify at Friendly Hearing | <input type="checkbox"/> Qualified Settlement Fund (QSF) |
| <input type="checkbox"/> Mediation | <input type="checkbox"/> Medicaid Lien Reduction |
| <input type="checkbox"/> Arbitration | <input type="checkbox"/> Medicaid Lien Resolution |

N. CLIENT

Who is the Client? (*select all that apply*):

- | | |
|---|--|
| <input type="checkbox"/> Injured Person | <input type="checkbox"/> Grandmother of Injured Person |
| <input type="checkbox"/> Spouse of Injured Person | <input type="checkbox"/> Grandfather of Injured Person |
| <input type="checkbox"/> Father of Injured Person | <input type="checkbox"/> Guardian(s) of Injured Person |
| <input type="checkbox"/> Mother of Injured Person | <input type="checkbox"/> PI or Family Law Attorney |
| | <input type="checkbox"/> Trustee |

O. EXCEPTIONS FROM CONFIDENTIALITY

- Select all that apply:
- | | |
|---|--|
| <input type="checkbox"/> Attorney | <input type="checkbox"/> Other Family Members: _____ |
| <input type="checkbox"/> Trustee/Co-Trustees | _____ |
| <input type="checkbox"/> Structured Settlement Broker | _____ |
| <input type="checkbox"/> Financial Advisor | |

P. ADDITIONAL INFORMATION

Please attach copies of the following, if available:

1. Complaint
2. Pre-Trial Memo
3. Settlement Agreement/Release
4. Life Care Plan
5. Guardianship Order
6. Letter from Social Security Administration Determining Disability
7. Copies of Medical Insurance Cards, including:
 - Private
 - Medicaid
 - Medicare
 - Other _____
8. List of Disabled Person's Assets

Q. PETITION INFORMATION

1. Please attach copies of the following, if available:

- Order Approving Settlement
- Valuation of Proposed Home
- Valuation of Proposed Vehicle
- Proposed Budget Form

2. Narrative to Justify Trust Distribution

- *Residence.* A residence is needed because: _____

- *Vehicle.* A vehicle is needed because: _____

- *Vacation.* A vacation is needed because: _____

Trust Beneficiary is unable to go unaccompanied because:

4. Narrative for Caregiver

A caregiver from an agency is needed because: _____

A caregiver parent is needed because: _____

The undersigned hereby represent to Begley Law Group and each of its attorneys that the information contained in this Questionnaire is accurate and complete, and that the undersigned understand that the law firm and its individual lawyers will rely on this information. The undersigned understand that if the information contained herein is inaccurate or incomplete, the recommendations made by the law firm may not be appropriate.

Signature

Signature

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

PUBLIC BENEFITS INTAKE

Name _____

SSN _____

DOB _____

1. **SOCIAL SECURITY** - Does the client receive SSI or SSDI? ☐ Yes ☐ No
If so, please provide monthly amount: Dollar Amount: \$ _____
If so, please provide our office with the Social Security Determination Letter.
2. **MEDICAID/MEDICARE** - Does the client receive Medicaid or Medicare? ☐ Yes ☐ No
If so, please provide our office with a copy of their card(s).
3. **MEDICARE SUPPLEMENT** - Does the client receive any Medicare Supplement Insurance? ☐ Yes ☐ No
If so, are they paying a premium? Dollar Amount: \$ _____
Please provide our office with a copy of their card.
4. **MEDICARE ADVANTAGE** - Does the client receive Medicare Advantage? ☐ Yes ☐ No
If so, are they paying a premium? Dollar Amount: \$ _____
Please provide our office with a copy of their card.
5. **SNAP/FOOD STAMPS** - Does the client receive SNAP? ☐ Yes ☐ No
If so, please provide our office with a copy of their Snap card.
6. **FEDERAL ASSISTED HOUSING** - Does the client receive Section 8? ☐ Yes ☐ No
If so, please provide our office with the Housing Authority Letter.
7. **PRIVATE MEDICAL INSURANCE** - Does the client have any private insurance? ☐ Yes ☐ No
If so, please provide our office with a copy of their card.
8. **AFFORDABLE CARE INFORMATION** - Does the client receive insurance under the Affordable Care Act? ☐ Yes ☐ No
If so, please provide our office with a copy of their card.
9. **DISABILITY** - Is the client disabled? ☐ Yes ☐ No
If yes, what is the disability? _____
10. **FUTURE MEDICAL TREATMENT** - Will ongoing medical treatment be required? ☐ Yes ☐ No
If yes, please attach a copy of the Life Care plan.

If there is no Life Care plan available, please describe in detail future treatment:

Budget

For: _____

File No. _____

1. **Shelter** - Number of people living in household: _____

<u>Item</u>	<u>Monthly</u> <u>(pro-rata share)</u>	<u>Paid By*</u>
ISM – Should be paid for by SSI to ensure no ISM reduction in SSI.		
Rent		
Mortgage		
Other Mortgage (specify)		
Real Estate Taxes (unless included in mortgage payment)		
Heat		
Electric and Gas		
Water and Sewer		
Homeowner's Insurance Required by Lender		
NON-ISM – Pro-rata share can be paid for by Trust.		
Telephone (landline)		
Cable TV		
Internet		
Cell phone		
Streaming Services (Netflix, Hulu)		
Repairs and Maintenance		
Renter's Insurance		
Homeowner's Insurance Not Required by Lender		
Trash and/or Garbage Removal		
Condominium or Co-op Fees		
Other: _____		
Other: _____		
Other: _____		
Shelter Total		

* T = Trustee, B = Beneficiary, CC = Credit Card, M = Medicaid, P = Private Insurance, O = Other

2. Transportation

<u>Item</u>	<u>Monthly</u> <u>(pro-rata share)</u>	<u>Paid By*</u>
Auto Insurance		
License and Registration		
Gas		
Oil and Maintenance		
Other: _____		
Other: _____		
Other: _____		
Transportation Total		

* T = Trustee, B = Beneficiary, CC = Credit Card, M = Medicaid, P = Private Insurance, O = Other

3. Personal

<u>Item</u>	<u>Monthly</u> <u>(pro-rata share)</u>	<u>Paid By*</u>
ISM – Should be paid for by SSI to ensure no ISM reduction in SSI.		
NON-ISM – Pro-rata share can be paid for by Trust.		
Household Supplies		
Clothing and Shoes		
Hair Care		
Vacations		
Entertainment – Specify: _____		
Non-prescription Drugs, Cosmetics, Toiletries and Sundries		
Prescription Drugs not covered by Medicaid		
Unreimbursed Medical		
Unreimbursed Psychiatric/Psychological/Counseling		
Unreimbursed Dental		
Unreimbursed Orthodontic		
Unreimbursed Medical Insurance		
Unreimbursed Caregiver		
Estimated Trustee's Fees		
Other: _____		
Personal Total		

* T = Trustee, B = Beneficiary, CC = Credit Card, M = Medicaid, P = Private Insurance, O = Other

4. **Summary of Monthly Expenses & Income** (computed at 4.3 weeks)

Shelter Total	
Transportation Total	
Personal Total	
Grand Total – Expenses	
Subtract Social Security	
Subtract Other Income	
Grand Total/Net	