

6 Planning Tips for Special Needs Families



Jerry D. Bell, JD
Attorney
Creative Planning Legal, P.A.

Families with special needs include parents, or other family members (either children or adults) with special needs, and individuals with special needs.

These families face unique planning challenges and serious consequences if planning is inadequate or improper. If you, or someone you know, fits in this category, it is critical for you to remain proactive in your planning.

It is also vitally important to stay up to date with the constantly evolving options and rule changes that can impact special needs planning. As a society, we have come a long way from the old ways of planning for families with special needs, but this area will continue to be a unique challenge as governments reduce funding in areas that provide support to special needs families.

Unfortunately, all of these realities place an additional burden on these overloaded families. Because of this, you must have an effective plan in place if you have a loved one with special needs. Your loved one truly cannot afford to be without a plan.

Here are 6 practical tips for families with special needs to remember when planning:

1. Don't disinherit the person with special needs.

In the past, family members with special needs were often disinherited based on professional advice. We now have much more effective ways to provide for loved ones with special needs — ways that will enhance their quality of life and perhaps lift them to higher levels of achievement. Government benefits, such as Supplemental Security Income (SSI) or Medicaid, have been developed to provide only the basic needs of an individual. In essence, this means just above the poverty line. If you want your loved one with special needs to have certain advantages and resources, then you need to make other plans to provide for them.

2. Don't rely on siblings to use their assets for the benefit of a beneficiary with special needs.

Again, an old way of planning was to leave assets to another family member with the hope that they would take care of their sibling with special needs. Sometimes this would work, but too many times there are problems that keep this from working. There are many ways in which a sibling can lose inherited assets meant for a special needs family member. Divorces, sudden death, lawsuits, bankruptcy or downright greed are just a few examples of what can go wrong with this old approach to special needs planning. Who would want to burden a sibling with this responsibility when there are better alternatives available that can protect all the siblings involved?

3. Don't procrastinate.

Many beneficiaries with special needs rely on other people for their care, so putting off planning can be especially costly to them. None of us knows when our time will be up on this earth, so there is no perfect timeframe for planning except right now. When it comes to planning, procrastination is costly for everyone, but it is particularly costly for those who rely on others to protect and provide for them. If effective planning is not in place when the primary caregiver passes away, the beneficiary with special needs will never be able to compensate for the potential losses. The assets needed to care for them will be gone forever. We cannot overstate how critical it is to plan ahead for loved ones with special needs.

4. Create a special needs trust (SNT) and carefully choose a trustee.

Families with special needs must educate themselves about special needs trusts and how those trusts can benefit their child (or beneficiary) with special needs. One great resource for this is the Academy of Special Needs Planners' website — a website exclusively designed for families with special needs.

It is also imperative for special needs families to choose wisely and invest time with their Special Needs Trustee. Taking time to learn about the topic and choosing a trustee will enhance the life of your special needs child (or beneficiary) long after you're gone.

Part of what Creative Planning does for special needs families is to help talk them through who may be a good trustee. Our experience helps us know what type of person, or company, will be a good choice, and what to watch out for when choosing a trustee. We also work closely with the other advisors to make sure all are working together for the benefit of the beneficiary with special needs.

5. Learn about ABLÉ accounts.

In late 2014, Congress passed the Achieving a Better Life Experience Act (ABLE Act of 2014). Since then, states have passed similar legislation. ABLÉ (savings) accounts can be a wonderful tool for families with special needs. These savings accounts for beneficiaries with special needs have limitations in use (i.e.

6 Planning Tips for Special Needs Families | by Jerry D. Bell, JD

currently only \$15,000 per year can be added to an account), but they make a wonderful companion for the Special Needs Trust. As important, ABLE accounts are designed so families can manage these on their own and efficiently plan for their beneficiary with special needs. Most states have their own websites for their state-specific plans, but a good, content-rich source of information is the ABLE National Resource Center (www.ablenrc.org).

6. Stay updated on this changing area of law.

Unlike other areas of law, special needs planning evolves rapidly. New alternatives become available and changes in the law occur often, which means there is room for confusion, and plans need to be updated regularly. Creative Planning can be your partner as a resource for this ever-changing field, helping save you time, energy and stress so that you can spend your time focusing on what's most important—your loved ones.

This is provided for general information purposes only and should not be construed as investment, tax or legal advice, and does not constitute an attorney/client relationship. The information contained herein has been obtained from sources deemed reliable but is not guaranteed.