WHAT IS A SUPPLEMENTAL NEEDS TRUST?

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Larry Parman

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Each situation is different, and each family is unique. You have options with regard to the way that you provide for each person on your inheritance list. The best way to provide for one person may not be appropriate for the next.

With this in mind, let's look at the legal device called the supplemental needs trust.

People With Disabilities

When you are planning your estate, you may want to provide for a family member with special needs. Many people with disabilities rely on need-based government benefits. These would typically include Medicaid and Supplemental Security Income.

Medicaid is a government health insurance program for people with very limited financial resources. The upper asset limit for an individual in most states is just $2,000.

The Supplemental Security Income program provides a minimal source of income for people who have little to no earning power.

Clearly, many people with disabilities require costly medical care and treatment. Expenses can enter the millions of dollars over the course of a lifetime. As a result, Medicaid coverage is absolutely essential for these individuals.

When an individual is deemed eligible for need-based benefits, this eligibility is not necessarily permanent. If you were to leave a significant direct inheritance to someone who was receiving government benefits, you would be dramatically increasing this person's financial status. The inheritance could ultimately render the inheritor ineligible for need-based government benefits.

Supplemental Needs Trusts

There is an estate planning solution if you would like to provide for a loved one with special needs in the form of a supplemental needs trust. These trusts are alternately referred to as special needs trusts.

When you create a supplemental needs trust, you name a trustee. This is the trust administrator. The trustee can be a private individual, but it could also be a professional fiduciary entity like a trust company or the trust section of a bank. The person that you want to provide for would be the beneficiary of the trust.

The beneficiary cannot handle the funds that have been conveyed into the trust directly, and he or she cannot manage investments. However, the trustee can use the trust's assets to satisfy the supplemental needs of the beneficiary without jeopardizing government benefit eligibility.

What are supplemental needs? These would be needs that are not being paid for by government benefits.

When you have a supplemental needs trust in place, you are significantly improving the quality of life of the beneficiary. At the same time, you are preserving government benefit eligibility, so you are accomplishing dual objectives.

Conclusion

It is important to act in an informed manner when you are planning your estate. If you make assumptions and act without all of the necessary information, you may make mistakes that yield unintended negative consequences.

This could come into play if you were to leave a direct bequest to a person with a disability who is receiving need-based government benefits. The benefits can be worth millions of dollars over the course of a lifetime, but they could be lost if a recipient was to experience a significant change in financial status.

If you create a supplemental needs trust to provide for a loved one who is enrolled in need-based government benefit programs, you get the best of both worlds. You make things easier for the beneficiary, but you do not jeopardize ongoing eligibility for Medicaid and Supplemental Security Income.

In this paper we have provided some basic information about supplemental needs trusts. To learn more, schedule a consultation with a licensed estate planning attorney.

Your attorney will become apprised of your situation, answer all of your questions, and help you put a plan in place. Ultimately, you can create a comprehensive estate plan that provides for all of your loved ones in the optimal manner.

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About the Author

Larry Parman

After helping his own family deal with a lengthy probate and a battle with the IRS following his father's death in a farm accident, Larry made a decision to help families create effective estate plans designed to reduce taxes, and minimize legal interference with the transfer of assets to one's heirs, and protect his clients' assets from predators and creditors. Following a dozen years in the investment banking and financial services business, in the mid-1980s Mr. Parman formed a law firm that gives families the peace of mind that comes from having created a premier estate and financial plan.

After forming his law firm in 1984, he offered a series of public and private seminars to inform the public about using a Living Trust as the foundation of a family's estate plan. Today, Parman & Easterday is one of the leading business and estate planning law firms in the Midwest. The firm's primary focus is on business and estate planning, elder law, asset protection, and providing effective estate planning solutions for clients. Today, the firm's premier estate plan design is referred to as a Legacy Wealth Plan.

Mr. Parman is a frequent guest on the radio and can be seen on television talk shows explaining the importance of proper estate planning. Prosperity Productions selected Mr. Parman as a featured speaker in a nationally-recognized educational video on Living Trusts. He is the author of numerous published articles on financial and estate planning matters and the co-author of two books, Estate Planning Basics: A Crash Course in Safeguarding Your Legacy and Guiding Those Left Behind in Oklahoma: Settling the Affairs of Your Loved Ones.

Mr. Parman is a member and Fellow of the American Academy of Estate Planning Attorneys. He is also a member of the Oklahoma and Missouri Bar Associations, the American Bar Association, and the Oklahoma City Estate Planning Council.

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