

PLANNING FOR GRANDCHILDREN WITH SPECIAL NEEDS

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This is one of a series of Research Briefs created by Brinton Eaton to keep our clients informed about key developments — in financial planning, tax strategy, and investment management — that we research and implement as appropriate on your behalf.

When considering how you want to help your grandchild with special needs, what you don't do is as important as what you do. The term "special needs" is very broad and includes the gamut of disabilities from mild to very severe. Here we focus on children with more severe disabilities who are, or expected to be, eligible for government programs for their living expenses or medical needs for the rest of their lives.

Providing financial help for your grandchild needs to be a team effort with the child's parents, the child's other grandparents and relatives, a financial advisor, and a lawyer who specializes in special needs planning. It is crucial that everyone involved is aware of the relevant laws and works together.

Your first instinct may be to help in the same way you might help your other grandchildren – put money away for them in a Uniform Transfer to Minors Act (UTMA) account, make them beneficiaries of your estate, or buy Savings Bonds for them. This could be disastrous for the special needs child.

While a child is under the age of 18, the government looks at his parents' income and assets to determine eligibility for programs; however, once a child turns 18, the government looks only at the child's assets.

Two of the most important government programs for people with disabilities are Social Security Income (SSI) and Medicaid. SSI provides a modest monthly payment, but its most valuable benefit is automatic enrollment in Medicaid. Medicaid provides generous medical benefits including some not typically covered by insurance such as transportation to and from medical appointments. Since parents can't include their adult children on their insurance policies, Medicaid will likely be the only insurance the adult child will be eligible for until they qualify for Medicare. Both SSI and Medicaid require that the person have less than \$2,000 in his name.

Therefore, the last thing you want to do is make your grandchild ineligible by making him the beneficiary of more than \$2,000. If the grandchild has more than that in any month, he becomes ineligible for SSI and Medicaid until his resources are depleted to under \$2,000. Then the grandchild's parents must go through the hassle of re-applying for SSI and Medicaid.

One way to help provide for the child is to establish a Special Needs Trust. A Special Needs Trust is drafted so that the child does not own the assets in the trust but can still benefit from them. In order not to disqualify the child from entitlement programs, the trust is designed to only pay for items that are not covered by them. Examples of eligible expenses include vacations and recreational equipment such as an adapted bicycle.

There are many ways to fund this type of trust. The trust can accept assets not just from you but also any other relatives or friends who want to help. It can accept gifts, bequests from a will, proceeds from life insurance, or lawsuit settlements.

You can also help with medical expenses including frequent co-payments, unconventional therapies not covered by insurance, adaptive equipment, and home modification. Before you pay for large medical expenditures, talk to a social worker who is familiar with the programs available to pay for products and services not covered by insurance. These programs typically apply locally and vary widely so make sure the social worker is from your grandchild's state.

If these expenses are paid for directly to the medical provider then they don't count towards the annual gift tax exclusion. However, you also don't get the tax deduction unless the grandchild is your dependent. If you give the money to the parents and they pay for the medical expenses then this does count as a gift. However, the parents may be eligible to deduct the medical expenses on their tax return. A qualified tax advisor knowledgeable about both your and the parent's situations can help you determine the best course of action. If the child is currently receiving SSI and Medicaid then you also need to make sure that the method by which you are paying for these expenses does not disqualify him from these programs.

Often, having a special needs child results in higher financial obligations and a lower income as one parent typically decreases her participation in the workforce. This will result in the parents being more financially vulnerable. You can help by paying for their financial and estate planning needs. This may include paying for additional life and disability insurance, and helping them save for their own retirement.

If you have a child or grandchild with special needs, an integrated team approach with a financial planner, a tax advisor and an attorney who concentrates in exceptional needs planning is the best way to prepare for your special grandchild.

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