



Special Needs Planning *Information Guide 2010*

Our mission is to help families plan for the future care, supervision, security and quality of life of a person with special needs

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Providing Services Nationwide Since 1993

The Need to Plan for Today and Tomorrow

Special Needs Planning is a greater necessity today than ever before. Planning plays an important role in the daily living of the person with special needs, as well as planning for when the primary care providers are no longer able to care for them.

You wouldn't go out for an evening and not make sure that whoever is caring for your loved one with special needs knows what to do, how to do it, and how to reach you in an emergency. What would happen today if you were unable to provide care for an extended period of time or permanently. To do less would be risking the peace of mind of everyone involved.

Proper planning speaks for those who cannot speak for themselves. If there is no information for the care of the person with special needs or the proper documents are not prepared those who take over the care of your son, daughter or other loved one are going to have a difficult time trying to figure things out.

Advances in medical and social treatment for people with developmental disabilities have increased their life expectancy. Greater longevity for the person with special needs creates a greater need for parents or caregivers to do proper planning. Planning that incorporates daily routines and needs as well as future financial needs.

The future guardianship of your child with special needs is a planning issue to discuss now. The law provides for all people who reach age 18 to be considered an adult. This means parents no longer have legal authority on behalf of their child, even though they may have special needs. This can be remedied with the proper planning. Parents need to know their legal options for continuing to provide the appropriate care and supervision for their child. However, if family members do not make provisions for the supervision, care and security of the person with special needs the courts will make important decisions regarding guardianship, trustees and distribution of assets.

What Will Happen If You Don't Plan

No Wills – No Special Needs Trust – No Letter of Intent

No Government Benefit Planning – No Budgeting

The Good News – The government has a plan for you.

The Bad News – The government has a plan for you.

- Your children will have Guardians, Trustees and Conservators appointed by the State in which they live.
- Your estate will be distributed according to the wishes of the State, not yours.
- If assets received in the name of the person with special needs exceeds \$2000, they will be ineligible for SSI (Social Security Insurance) cash benefits and Medicaid.
- Assets received in the name of the person with special needs are subject to immediate repayment to Medicaid for healthcare benefits previously received.
- Medicare may be the only healthcare benefit the person with special needs receives which does not offer the same benefits as Medicaid. For example, there is no prescription benefit.
- Assets left to others to care for the person with special needs could be lost to creditors, litigation, divorce or their death. There is no guaranteed security or protection.
- Support provided by others for the person with special needs could be considered income and/or assets reducing or terminating SSI and Medicaid.
- Not all assets pass through a Will. If you fail to make the necessary beneficiary changes and designations, your life insurance, retirement plans and annuities could pass directly to your person with special needs in his or her name resulting in termination and payback for government benefits.
- Without written information explaining the day-to-day care needs of the person with special needs and what your goals and wishes for their future care are, providers will only be able to do what they *think* you want not necessarily *what* should be done.

"Thanks to the Special Needs Trust set up by Bart Stevens for my niece, her Special Needs Trust is NOT counted as part of her assets, so she is able to receive full Social Security benefits in addition to the trust indirectly supporting her needs Many thanks!!! - Jim Adams, ASU Professor & Past President of the Greater Phoenix Autism Society

"Don't be afraid of planning...be afraid if you don't!"

Key Points of Special Needs Planning

- Special Needs Planning - start as soon as possible to avoid important decisions being made for the individual with disabilities by government agencies, the state and the courts.
- Lifestyle preferences, legal issues, financial security and access to government benefits should all be considered during the planning process.
- A Special Needs Trust, prepared by a professional with experience in estate and future needs planning for persons with disabilities, can preserve government benefits and avoid the loss of assets intended for the person with disabilities.
- A Letter of Intent creates a record of critical information about the day-to-day care needs, abilities, diet, activities, rights, and medical care for the person with a disability.
- Upon attaining age 18, individuals with disabilities are emancipated adults under the law. Leaving the parents or primary caregivers without any authority to act on the person's behalf. Understanding your legal options pertaining to guardianship and conservatorship are an important part of planning.
- A Guardian is a legally appointed person responsible for the care and decisions made on behalf of a person deemed unable to manage certain necessary functions for themselves. A Conservator manages the person's financial affairs. A Trustee manages the trust established for the individual. The same person can serve in one or all capacities.
- Starting Special Needs Planning early enables the family to build the Special Needs Trust fund and make plans that will serve the individual with disabilities well for years to come.

Where are you today in the planning process?

- Do you have a written plan to let others know what you want in the future?
- Have you asked anyone to serve as a Guardian, Conservator or Trustee?
- Do you understand all the available government benefit programs for basic care and supervision?
- Have you identified resources to fund the future needs of the person with special needs?
- Do you have a properly drafted Special Needs Trust that will protect and manage assets provided for the person's lifetime?
- There are several types of Special Needs Trusts, is your trust the correct type for your intended purpose?
- Do you have current Wills? Does the Will name the person with special needs as a direct beneficiary?
- Is the person with special needs named as a direct beneficiary in your life insurance, annuities, 401(k) or IRA?
- Have monies been paid directly to the person with special needs from a structured settlement because of an accident or malpractice suit?
- Is your Special Needs Trust approved for compliance with Social Security and Medicaid?
- Have you made final arrangements for the person with special needs?
- Have you met with relatives and friends to let them know about your plan?
- Have you reviewed your plan in the last year?
- Do you feel you have done everything possible for your person with special needs to ensure their supervision, security, care and quality of life?

The Impact of Government Benefits

When people talk about disability benefits, there is often confusion about Social Security and Supplemental Security Income (SSI). This is understandable because the Social Security Administration (SSA) administers both programs. However, the programs are different.

SSI disability benefits are paid to people who have a disability and who do not have assets valued over \$2,000 and/or have a limited income. SSI and Medicaid are very important for people with disabilities in need, as they provide cash benefits as well as important medical coverage and long-term supports and services.

Cash benefits are paid by Social Security to a person with special needs through SSI (Supplemental Security Income), SSA (Social Security Survivor/Retirement Benefits) and/or SSDI (Social Security Disability Income).

**Lifetime Cash Benefits
between ages 18 and 80 will exceed**

\$1,000,000!

**Without proper planning
these funds and healthcare benefits
may be reduced or lost!**

About Bart Stevens

- In 1993, established Bart Stevens Special Needs Planning, LLC, the first company in Arizona dedicated exclusively to providing Special Needs Planning Services
- Special Needs Planning and Consulting services offered nationwide
- Senior Certified Special Needs Planner (SrChLAP) and Arizona Certified Legal Document Preparer (AzCLDP)
- Associate Member Arizona Bar Association and Maricopa County Bar Association
- Seminar and Conference Speaker for the Autism Society of America National Conference, Greater Phoenix Autism Society, National Down Syndrome Society and Congress, National Spina Bifida Association, The Arc, the Epilepsy Foundation, World Congress on Disabilities; SARRC (Southwest Autism Research & Resource Center), Crecer Con Amor AZ State Conference; YMCA Law Day; Learning Disabilities Association; and the AZ State University Special Ed Teachers Program
- Speaker to Professional Organizations including: the Arizona College of Estate Planning Attorneys, Arizona Association of Independent Paralegals, the Arizona and Oklahoma Departments of Developmental Disabilities, Certified Financial Planners Association, The Society of Financial Service Professionals of Phoenix, The National Association of Insurance and Financial Advisors (NAIFA), and AZ Partners in Policymaking Conference
- Author of the book, "*The ABC's of Special Needs Planning Made Easy*®" and the Special Needs Estate Planning brochure for the National Down Syndrome Society.
- Published Articles include *The Advocate* (The Autism Society of America's newsletter), *Exceptional Parent* magazine and *Paraplegia News*.
- Interviewed by *The New York Sunday Times*; *Mature Outlook Magazine*; *Kiplinger Reports*; *The Washington Times*; *The Chicago Tribune* and the *Arizona Republic*
- Special Needs Planning Consultant: iCAN-online and Autism Today disability websites
- Services: Special Needs Trusts and related Legal Documents, Guardianship, Letter of Intent (Information/Care Directive), Government Benefits, Funding Budgetary needs

Credentials

Past Fellow of the National Institute on Life Planning for Persons with Disabilities
Past Arizona State Director – Estate Planning for Persons with Disabilities
Past Member Board of Directors and Advisory Board – STARS
Past Committee Member – AZ Dept. of Economic Security Guardianship Work Group

Conference/Seminar Speaker

"Dynamic and heartfelt, Bart Stevens brings personal anecdotes and technical expertise, with an engaging sense of compassion to the sensitive topic of Special Needs Planning. He is available for local, state, regional, national and international speaking events for families and professionals. Please call for information and availability."

Testimonials

I owe such a debt of gratitude to Bart Stevens. I cannot begin to tell you how much he helped me and my son, Adam, navigate through this most complex process of estate planning, special needs trusts, and the law. When I first arrived at his office for our initial meeting, I felt for the first time in a very long time that my son was going to be ok after my passing. I believe most parents of special needs children worry about what will happen to their daughter or son after they are gone. Because of Bart and his expertise in special needs planning, I no longer worry about Adam. He was knowledgeable, prepared, and answered all of our questions with patience and understanding. I would recommend anyone who has a special needs child to make an appointment with Bart Stevens a priority. I am so thankful that we found him and that he was there to navigate us through the process. Due to his specialization in this field, it was a seamless process. Thank you Bart!

Susan Vance, Scottsdale, AZ

We were advised to seek the services of a Special Needs Planner for our disabled son, Jeremy. After hearing about Bart Stevens, my wife and I set-up an appointment with Bart to find out what was required to create a Special Needs Trust to ensure the future quality of life for our son. Our first impression of Bart was that he was very knowledgeable and experienced in this special field. He explained in great detail the process of Special Needs Planning. After spending a considerable amount of time with Bart, we decided to proceed with his private planning services. Bart drafted all the paperwork for us and kept us informed by explaining every step of the process. The most comforting aspect of planning with Bart, is that we knew that when we completed our son's Trust, that we could rest easy knowing that it was drafted correctly and we were on the right track. It has been several years since the Special Needs Trust was established, and we continue to refer to Bart for updated information and guidance. He has been a blessing to our family, and thank him for his expertise and kind demeanor through this delicate planning process.

Judy & Jerry Powell, Mesa, AZ

A few years ago, our son Brian, who has special needs, received a cash gift. Because of his special need, we had been warned that his money might be in jeopardy, depending on future life events. We decided that due to his circumstances, we would draft a Trust on his behalf. We assumed it was done correctly and went about our business. We later heard about Bart Stevens and went to talk to him for further advice. In our discussion with Bart, we discovered that the Special Needs Trust we had an attorney prepare was drafted incorrectly, and in fact it was missing many of the important information such as guardianship in the event of our death. Our advice to anyone who has a loved one with special needs is to contact Bart Stevens immediately so he can educate you on how money, care, and guardianship affects the entire family, not just the person with special needs. It is imperative that you have someone with the knowledge and expertise to outline the possibilities of things that can go wrong if certain issues are not addressed properly. With the correct planning, you too can have "peace of mind" knowing that your loved one's future is secure.

Ken & Jenny Hicks, Gilbert, AZ

We met Bart Stevens five years after we relocated from New York City. Millicent, who is our Princess with Down syndrome, was getting all the services she needed and was in a good school. We even had a Family Trust in place. We felt very comfortable with the direction our lives were heading. We heard Bart speak at a F.A.C.T (Families Actively Communicating Together) support group meeting. The topic was "The care of your child when you are no longer there for them." The more Bart spoke, the more my wife and I were thinking that we have to do something about our daughter's future. We had waited long enough, and decided to get started immediately. We made an appointment with Bart, and were very relaxed in his presence. He was very honest with us, and took the time to answer all of our questions. If he didn't have the answer, he quickly found the answer for us. There just was no pressure on his part. We learned at his presentation that Millicent's welfare was threatened by us having her directly named in our Family Trust. With Bart's careful guidance we were able to effectively get Millicent's Special Needs Plan in place. We are grateful to our F.A.C.T. group and the appearance of Bart Stevens at our meeting. Thanks to Bart and the Special Needs Plan and Trust we have for Millicent, we can truly say that we can rest easy at night, knowing that the future of our princess Millicent is protected.

The Jack Gomez, Jr. Family (Jack, Vinnie & Millicent), Glendale, Arizona

BSSNP Planning Services Available Nationwide

- Initial Consultation - Prior to the meeting a written analysis of your current Wills and Trusts are prepared and reviewed with you and any advisors
 - ~ Discuss abilities and needs of your loved one with special needs
 - ~ Identify your primary concerns and objectives
 - ~ Answer questions
 - ~ Define roles of Guardians, Conservators, Trustees, etc
 - ~ Address existing and potential problems with current situation
 - ~ Present documents analysis
 - ~ Provide Course of Action

- Planning Process
 - ~ You will receive:
 - Planning Agreement
 - Invoice for Services
 - Initial Life Planning Data forms
 - Letter of Intent forms
 - List of Needed Items and Information
 - ~ Schedule Meeting with you, family and any advisors
 - The purpose of this meeting is to review the provided information, ask, and answer additional questions
 - ~ Contact other involved family members and/or friends: Grandparents, Siblings, Aunts and Uncles, etc to explain process and obtain their legal documents for review
 - ~ Prepare plan including drafts of legal documents (includes codicils and amendments for all family members involved)
 - ~ Present your plan
 - ~ Upon your plan approval, schedule meeting for signing legal documents
 - ~ Steps after signing legal documents:
 - Obtain Tax ID# for the Special Needs Trust
 - Change Beneficiaries: Life Insurance, Pensions, Annuities, etc
 - Confirm other family members have signed codicils/amendments
 - Review plan and administration of Special Needs Trust

- Additional Services
 - ~ Government Benefits
 - Assistance regarding eligibility and other issues related to Social Security, AHCCCS, DES/DDD
 - ~ Divorced or Separated Parents
 - If agreed to by clients working together, an additional Special Needs Trust is included
 - ~ Special Treatment Trusts (Medicaid Payback) if person with special needs under age 65 has assets in their name (gifts, inheritance, structured settlements)
 - ~ Miller Trust (Medicaid Income Trust) if person with special needs income causes ineligibility for ALTCS

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