

What Personal Injury Attorneys Need to Know About Special Needs Trusts

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As an attorney for a disabled person you do a great job to obtain a settlement or a verdict for your client. You should be congratulated, shouldn't you?

However, most disabled persons depend upon a variety of governmental programs such as SSI, Medicaid and subsidized housing for their basic needs. What happens to them if the settlement you work so hard to achieve results in a disqualification from their benefits?

Regardless of how great the settlement is, the client may not be pleased in the long run if it causes them to lose their monthly Social Security check, their health insurance, access to medical care, and housing. While the settlement funds will cover these items in the short run, when faced with the prospect of how much these basic needs will cost, clients often realize the money will run out, sometimes very quickly. A client's satisfaction with the settlement received can rapidly shift when faced with the prospects of going through the process of qualifying for those same benefits again.

Special needs trusts can be the solution to this unexpected and sometimes almost incomprehensible result. If you aren't familiar with the term, you're not alone. Nevertheless, there are a few things a lawyer who deals with disabled persons as a part of her/his practice needs to understand about special needs trusts.

First and foremost is what this kind of trust is designed to do. A special needs trust is a trust for a disabled person, designed to preserve the disabled person's eligibility for public benefits. Any disabled person who receives means tested public benefits and who inherits money or receives a settlement or gift is appropriate for such a trust. Essentially, establishing a special needs trust, when done properly, preserves the gift, settlement or inheritance without disqualification from their means tested public benefits.

Second is that this kind of protection does not come without a cost, and for that reason there are limitations on the purposes for which funds can be spent.

Third, there is also need to strategically plan the expenditure of funds as well as their proper management. These functions are important not only for the preservation of the funds themselves, but to insure that they benefit disabled person as much as possible over an extended period of time.

The last point for attorneys who have clients for whom a special needs trust may be important is to proceed with caution regarding the selection of a trustee. Not only must the fiduciary be familiar with public benefits laws, but familiarity with the needs of the disabled beneficiaries is important.

If you have clients for whom you think a special needs trust may be appropriate, a good first step is to call an attorney familiar with special needs trusts and the unique issues your clients face preserving their public benefits.

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