

SPECIAL NEEDS TRUST
PLANNING QUESTIONNAIRE

Howard S. Berk
Executive Director, Illinois Disability Association
CIBC Bank USA
120 S. LaSalle Street, Suite 730
Chicago, IL 60603
312-332-4622
Fax 312-332-4623
howard.berk@ilpooledtrust.com

As often is the case, attorneys view creation of a special needs trust as a panacea. Placing all of a disabled individual's assets into an irrevocable trust, however, is much more complicated than filling in the blanks on the trust documents and turning over a funding check. Proper planning requires that the attorney look at the unique aspects of each disabled person's case to determine how and if the trust serves his/her current and future goals. A special needs trust is not, on its own, a care plan. It is one component, one tool, of a well-crafted care plan that is designed to maximize the benefits available to the disabled person, as well as maximize his or her independence.

Name of Prospective Trust Beneficiary: _____

Form Completed by: _____ Relationship: _____

The following is a list of information needed by the trustee to assist in assessing whether the Illinois Disability Association can be a value-added in serving as trustee:

GUARDIANSHIP STATUS (Check one):

Guardianship

No Guardianship

SOURCE OF TRUST FUNDS:

Who is settling the Trust?

The Beneficiary (i.e., the grantor/beneficiary is settling the trust with his/her own money or from a settlement or inheritance)

A Third Party (e.g., uncle on behalf of a nephew with disabilities)

BENEFICIARY PROFILE:

- Age: _____
- Diagnosis:

- Prognosis:

- Functional deficits (i.e., how independent is the person in his/her daily living skills)?

- Medications:

Compliant with medications? Yes _____ No _____

- Married? Yes _____ No _____
- Children? Yes _____ No _____

If YES, age(s) of minor or adult dependent children: _____

CURRENT CARE PLAN:

- Beneficiary's Current Placement

Residing in the **community**? _____ Yes _____ No

If YES, choose type of residence:

- ___ Property owned by beneficiary
- ___ Rental
- ___ Other: _____

Residing in an **institutional setting**? _____ Yes _____ No

If YES, choose type of residence:

- ___ Nursing home
- ___ Assisted living
- ___ Group home
- ___ Other: _____

- Beneficiary's Social Network
(What is the level of involvement? How are they assisting?)
Family: _____

Friends: _____

Volunteers: _____

Other: _____

- Custodial Care Services Currently in Place? ____ Yes ____ No

If YES, please describe:

Skill level of service provider: _____

Functions being performed: _____

Days and hours: _____

- What gaps exist as it relates needs/wants that are currently being unmet?

- Receiving any ancillary programming? (e.g., day programming)

- What does the person like to do? Are there any impediments to them doing it?

- How Stable is the Beneficiary's Care Plan (circle one):

Highly (very) Stable (likely not to change in the next 10 years)

Stable (likely not to change in the next two years)

Unstable/Not Stable (likely to change within the next two years)

Do not have enough information to assess stability of care plan (why? What information are you missing?)

PUBLIC BENEFITS/INSURANCE:

- Currently receiving Medicaid? ____ Yes ____ No
If NO, who will be applying for Medicaid on behalf of the beneficiary?

- Currently receiving Medicare? ____ Yes ____ No
- Currently receiving Medicare Supplemental insurance? ____ Yes ____ No
- Currently receiving SSI? ____ Yes ____ No
If YES, how much per month: _____
- Currently receiving SSDI? ____ Yes ____ No
If YES, how much per month: _____

FINANCIAL:

- Trust Funding

Approximate amount of trust funding? \$ _____

Source of funds (e.g., sale of home; inheritance; lawsuit; salary; etc.):

Stocks or bonds? ____ Yes ____ No

If YES, approximate value: _____

Cost basis (if available): _____

Annuity? Yes No

If YES, please indicate type:

Self-directed (e.g., variable annuity)

Right to payment/monthly or episodic disbursements (e.g., structured settlement)

(Note: Upon Trust creation, owner and beneficiary of the annuity will be irrevocably assigned to the Trust)

- Existing **debt** (e.g, credit cards, loans) Yes No

If YES, describe type and how much: _____

- Does the beneficiary own **real estate**? Yes No

If YES, please answer the following questions:

How is the real estate titled? _____

Are capital improvements/expenditures expected? Yes No

Describe: _____

(Note: the Trust may require that a lien be placed on house so as to allow the trust and/or the state to recoup its interest/payback)

- Does the beneficiary own an **automobile(s)**? Yes No

If YES, please answer the following questions:

Who is drives it? _____

Are the vehicle and all the drivers insured? Yes No

If NO, is a vehicle purchase contemplated? Yes No

(Note: trust will not own the vehicle but will place a lien on the title)

BUDGET:

- Current budget/total annual expenditures:

- Proposed budget:

- Will there be any Disbursements that negatively affect SSI? Yes No

If YES, please describe:

- Will the trust be paying for Private Health Insurance? Yes No

LEGAL ISSUES

- Is there an existing **Fiduciary**? Yes No

If YES, please indicate below:

Guardian of the Estate
Name/relationship: _____

Guardian of the Person
Name/relationship: _____

Power of Attorney for Property
Name/relationship: _____

Power of Attorney for Health Care
Name/relationship: _____

- Naming **Remainderman Beneficiaries**

Does beneficiary have testamentary capacity? ____ Yes ____ No

What is the pre-existing titling of assets? Is it for testamentary or convenience purposes? ____ Yes ____ No

Describe:

Is there a putative will? ____ Yes ____ No

- Does the beneficiary have **legal counsel**?

If YES, who? _____

OTHER CONSIDERATIONS:

- Understanding the **complexities of the trust**

Will the **beneficiary** understand the complexity of the limitations placed on disbursements by the trustee per federal and state law? ____ Yes ____ No

Will the **fiduciary** understand the complexity of the limitations of disbursements? ____ Yes ____ No

Can the **attorney** sufficiently manage the expectations of the beneficiary/fiduciary? ____ Yes ____ No

- Prepaid **funeral** arrangements

Does the Beneficiary already have prepaid funeral arrangements in place?

- Funeral? ____ Yes ____ No

If YES, is the funeral Medicaid compliant? ____ Yes ____ No

- Burial? ____ Yes ____ No

- Grave Marker/Inscription? ____ Yes ____ No

NOTE: federal law does NOT allow post-death disbursements for funeral and/or burial expenses until payback to the state is made in full (This law does NOT apply to third-party-funded SNTs).

- The Beneficiary is allowed to keep up to \$2,000 (one-time) outside the trust as his/her **Medicaid-allowed cash asset**

- **Income Taxes**

Has the Beneficiary been required to file individual tax returns for the past 2 years?
____ Yes ____ No

If YES, please provide copies to the trustee.

Tax treatment:

The trustees will prepare/file the 1041 tax return for the trust. The income generated by the trust will be reported on a Grantor Tax Information Letter.

It is the obligation of the beneficiary or his/her fiduciary to report the income from the Grantor Tax Information Letter on the beneficiary's individual 1040 tax return.

The beneficiary or his/her fiduciary must effectuate the preparation and filing of the individual 1040 tax return.

The Guardian or agent must have the authority to sign/file the 1040 returns on behalf of the Beneficiary.