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ON THE MONEY

Death benefits can override Social Security benefits

Parents routinely name children with disabilities as beneficiaries of life insurance and annuity contracts and distribute money in wills to surviving "issues" without understanding how the death claim payments will affect government benefit eligibility. Inheritances and death benefits distributed to someone with a disability may or may not cause the loss of government benefits, depending on the nature of the benefit program.

Supplemental Security Income (SSI) is a needs-based program available to people with disabilities. When a recipient of SSI receives a death benefit distribution, the surviving parent is often shocked when the Social Security Administration audits their financial situation and terminates their SSI monthly payments and valuable corresponding Medicaid insurance benefits to his or her child. SSI has very strict asset limitations and only allows their recipients to keep up to $2,000 in assets. A death claim payment can cause the immediate loss of these benefits, until the payment is spent down below the $2,000 SSI limit.

Social Security Disability Insurance (SSDI) payments are made to adults with disabilities who have a previous qualifying employment record and have paid taxes into the system in recent years. It is considered an entitlement program, and Medicare benefits will follow after receiving 24 months of these payments. If the SSDI recipient is the parent of an adult dependent with a disability that occurred prior to the age of 22, they can receive SSDI benefits, as well. Payments made under the SSDI program do not have asset restrictions and may not cause the loss of SSDI payments or Medicare. However, payments may be reduced if too many family members receive benefit payments and exceed the family maximum.

What steps can a parent take to preserve SSI and Medicaid if their child with a disability receives a death benefit distribution, without spending down all the money? The solution is discussed below.

The 1993 Omnibus Budget and Reconciliation Act (OBRA '93) led Congress to provide special treatment for transfers to or for the benefit of people with disabilities. Asset transfers could be made to special needs trusts by the person seeking SSI and Medicaid with no disqualification period, provided that the government agency is reimbursed for the cost of benefits provided after the death of the person for whom the trust was established. Changes in the SSI law (effective January 1, 2000) seem to be tightening these transfer and payback provisions.

Errors in planning for individuals with disabilities can be remedied under OBRA '93 provisions. Yes, the trust may have payback provisions. However, money in the trust can be used on behalf of the person during his or her lifetime. This trust can certainly provide a safety net and help safeguard the immediate loss of government benefits.

Due to the complexity of federal and state laws, you may require a specially trained professional to work with you and your other advisors to help you plan for the future of your child(ren) with special planning needs.

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