

## Planning for Family Members With Special Needs

Hearing about families with children or other family members who have special needs is becoming more commonplace – not necessarily because there are more people with special needs, although that may be true, but because of greater awareness and understanding, and less embarrassment and social stigma. There is no typical profile for those with family members with special needs – they arise in wealthy families and in poor, rural and urban, with young children, siblings and/or parents, and at any age. All such families need to ensure they have conducted proper estate planning. The first concern of estate planning is to help ensure that family members are cared for.

The special needs of physically, mentally, and emotionally disabled persons, present unique planning problems. For example, for a family with modest assets and three children, one of whom is autistic, who is going to care for that child when mom and dad are gone? The child will probably need continued care for the rest of his/her life. Will the next care giver have the financial resources to take on this responsibility assuming the will and good intentions are there? The care givers have many concerns and responsibilities, including (a) finances; (b) daily physical care; (c) emotional support; (d) housing and transportation needs; (e) medical and educational needs; (f) legal needs; and (g) others.

Once the care givers are gone, there are three primary sources of support available to the person with special needs: family, charity and government. Estate planning goals would seek to maximize each source of support and include:

- Protect and provide for the physical, emotional and financial security of the person with the special need
- Do not take any action that might jeopardize his or her eligibility for government programs
- Assure continued availability of charitable programs
- Consider the needs of other family members
- Provide family members the financial ability to handle ongoing needs
- Organize the estate to maximize assets and minimize taxes and costs

Accordingly, leaving assets outright to the special needs person would eliminate eligibility for any governmental or charitable assistance. That would not be a good result for most families. Disinheriting the special needs person, leaving him or her completely dependent on government programs and charity to continue to meet his or her needs into the future is also not a solution since governmental programs and charity would probably be insufficient. So, what do you do?

