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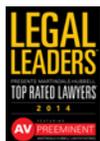
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# How to Leave an Inheritance for Your Special Needs Child

## INTRODUCTION

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We all want to make sure our children are financially secure after we're gone. Accomplishing this means more than just deciding what portion of your estate each child will inherit. It also means determining how and when each child will receive their inheritance. When you have a child with special needs – particularly when that child depends on government benefits like Medicaid or Supplemental Security Income (SSI) – how you pass on an inheritance is absolutely critical.

## NEED-BASED ASSISTANCE

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Your child's eligibility for these programs is based on their income and resources. This means that if you leave even a modest inheritance directly to your child, they could be pushed over the strict eligibility limits for their government benefits. As a result, your child could lose Medicaid or SSI benefits - at least until their inheritance is depleted and they once again meet the eligibility requirements.

During your lifetime, your child's government benefits pay for much-needed basic care and services, while you help pay for the extra comforts that enrich and improve your child's quality of life. Thus, if you were gone, and your child depleted their inheritance, they could be left with no more than the bare minimum provided by government assistance.

## SPECIAL NEEDS TRUST

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One way to leave your child a full inheritance while ensuring that their benefits continue uninterrupted is to establish a Special Needs Trust. If you already have a Revocable Living Trust, you can accomplish this by doing two things: 1) including the appropriate special needs language in your existing Trust, and 2) making sure your child's Trustee understands the very specific rules that apply to Special Needs Trusts.

Since the government counts mandatory Trust distributions as income to your child, your Special Needs Trust must be structured so that the Trustee has full discretion over when to make distributions for the benefit of your child. And since government rules provide that funds from Special Needs Trusts can only be used to supplement your child's benefits, rather than to provide necessities, the Trust document needs to limit distributions to supplemental purposes only.

Generally, this means the Trustee can't use the Trust to pay for things like food, housing, or routine medical bills for your special needs child. Otherwise, the assets of the Trust will be considered when it comes to Medicaid or SSI eligibility.

Keep in mind that permissible expenditures vary by state. Therefore, it is important to consult a qualified estate planning attorney, experienced in special needs planning, to determine state specific permissible expenditures. In Arizona, a Special Needs Trust can be used to cover a range of supplemental expenses for your child's benefit, such as, but not limited to:

- Eligible medical expenses
- Fitness Equipment
- Transportation costs
- Food and shelter expenses
- Clothing
- Education
- Insurance
- Over the counter medications
- Vacations

No one can replace the nurturing, love, and support you provide to your child on a daily basis. However, the idea behind a Special Needs Trust is to help fill the financial gap after you're gone, allowing your child to keep his or her government benefits while enjoying a quality of life similar to the one they have always had.

It's important to understand that benefits planning is a highly specialized area of law that involves a complex interplay of state and federal rules. The requirements vary from state to state. If you are not aware of your state's specific rules, your child's chances of eligibility for government assistance can be severely diminished. It is essential that you consult with a qualified estate planning attorney who is experienced in special needs planning.





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