



Creating a Special Needs Legal and Life Care Plan

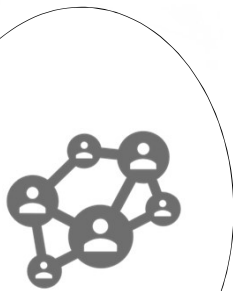
Brett Bauch MBA, ChSNC, CFP
608.828.4336 www.stableplan.com Circles of Life 2021 SC1128 720
CRN202307-266747

1

Important Disclosures

The information provided is not written or intended as specific tax or legal advice. MassMutual, its employees and representatives are not authorized to give tax or legal advice. Individuals are encouraged to seek advice from their own tax or legal counsel. Individuals involved in the estate planning process should work with an estate planning team, including their own personal legal or tax counsel.

2



The Importance of Integrated Planning

"Creating a life care plan that provides for both your own needs and those of your child's can feel overwhelming, making it all the more important to assemble a team of trusted advisors", such as...

- financial professionals with special needs training
- attorneys with special needs experience
- accountants
- bankers
- social workers and advocates
- and medical providers

Quote from: <https://www.massmutual.com/planning/articles/financial-strategy-special-needs>

3

Life Care Planning Timeline

Before Age 18	Age 18 and After
<ul style="list-style-type: none"> • Medicaid Waivers • Social Security Survivor Benefits • Early Intervention – Birth to age 3 • Individual Education Plans (IEPs) – Age 3 • Transition Planning – Age 14-16 • Build a Legal Structure 	<ul style="list-style-type: none"> • Supplemental Security Income (SSI) • Guardianship / Alternatives to Guardianship • Review Legal Structure • Medicaid / Medicare • Children's Disability Benefit (CDB) / Disabled Adult Child (DAC) • SSDI - Social Security Disability Income • College

4

10 Comprehensive Planning Steps

1. Address Primary Issues
2. Create Life Care Plan Vision
3. Guardianship / Alternatives to Guardianship
4. Identify Financial Resources
5. Prepare Life Care Plan Costs
6. Prepare Letter of Intent
7. Prepared Legal Instruments
8. Review need for Special Needs Trust/ABLE Account
9. Hold Family Meeting
10. Review Life Care Plan Annually

*You will need to work with your team of specialists and advisors – attorneys, medical specialists and financial professionals to help you create a life care plan that meets your needs.

5

Special Needs Planning – 4 Focus Areas Integrated Planning

①

②

③

④

Family Assets and Planning <ul style="list-style-type: none"> • Balancing needs of all family members • Coordinating Resources • Care-giving planning (residential, social, etc.) 	Employer Benefits <ul style="list-style-type: none"> • Life, health and welfare • Retirement plans • Deferred compensation/stock 	Government Benefits <ul style="list-style-type: none"> • Means-tested benefits (Supplemental Security Income, Medicaid) • Entitlements (Social Security Disability Insurance, Medicare) 	Legal Planning <ul style="list-style-type: none"> • Wills, Advanced Medical Directives • Special Needs Trusts and types • Titling – ownership and beneficiaries
---	--	--	---



6


Family Assets & Planning

- Host a meeting with family/friends
- Share information about the future vision
- Discuss any concerns and options for future care

7

Letter of Intent

- Not a legal document, but considered by court
- Current situation, as well as hopes and dreams
- Updated regularly
- WHY – to leave explicit and specific instructions that would familiarize anyone with the individual
- WHEN – this is a working document; it should be completed ASAP and updated regularly – at least once per year or as needed
- HOW – Templates are available, but don't be afraid to go beyond what is asked and provide more information
- WHO – Input from everyone, especially the caregivers, and the dependent, if applicable.



8

Employer Benefits

- Group Life
- Short and Long Term Disability
- Employer Retirement Plans
- Definitions of Access to Retirement
 - Language in plans relating to disability may allow for access to funds
- Supplemental Benefits
- Other Benefits

Typically, information on these benefits and enrollment will be through your Human Resources representative

9

Government Benefits


Entitlement Benefit vs. Public Assistance

Entitlement Benefit	Public Assistance
<ul style="list-style-type: none"> • Social Security Retirement Income • Social Security Disability Insurance (SSDI) • Family Benefits • Spouse and Survivor Benefits • Children's Disability Benefit • Medicare 	<ul style="list-style-type: none"> • Supplemental Security Income (SSI) • Medicaid • Public Supports: <ul style="list-style-type: none"> • Supplemental Nutrition Assistance Program (SNAP) • Temporary Assistance for Needy Families (TANF) • Children's Health Insurance Program (CHIP)


Note: Benefits may vary by state and jurisdiction.

10


Entitlement Benefits



Retirement



Disability



Family Benefits

11

Family Benefits

- When you start receiving Social Security retirement benefits, some members of your family may also qualify to receive benefits on your record
- If they qualify, your spouse or child may receive a monthly payment of up to one-half of your full retirement benefit amount

Spouse / Survivor Benefit
Children's Disability Benefit

Source: <https://www.ssa.gov/planners/retire/applying7.html>


12

Survivor Benefit Based on parent's earning record

How the benefit works

Three life events

- Parent prematurely dies before retirement
- Parent becomes disabled
- Parent reaches full retirement



Example

- Bob has three children under the age of 18
- He is eligible for a \$2,400 monthly retirement benefit
- A life event happens, his children under the age of 18 are eligible for approximately 50% of the eligible parent benefit
- Each child is eligible to receive these benefits until he/she turns 18 years old or \$400 a piece. As each child reaches the age of 18 and ages out of the benefit the benefit is equally split among the remaining children under the age of 18.

13


Children's Disability Benefit

If you qualify with a life event, your child with a disability may also receive a benefit after their age 18 based on their parent's earning record provided the child's disability was before age 22.

How the benefit works

Three life events

- Parent prematurely dies before retirement
- Parent becomes disabled
- Parent becomes eligible for retirement benefit



Example

- John is an adult who became disabled before the age of 22 and is eligible to receive monthly income based on his parent's Social Security earnings record.
- He may receive up to 50% of his parent's benefit (amounts vary). It is a separate benefit and does not decrease the amount paid to his parent.

14

Medicare

- Not everyone who is eligible for Medicare is 65 years and older, younger individuals with disabilities may also qualify
- Medicare coverage is the same for people who qualify based on disability as for those who qualify based on age
- For those who are eligible, the full range of Medicare benefits are available
- Coverage includes certain hospital, nursing home, home health, physician, and community-based services, and the health care services do not have to be related to the individual's disability in order to be covered

Eligibility for Medicare includes anyone who has a disability due to:

- An SSDI (Social Security Disability Insurance) approved disability; and have been receiving benefits for at least 24 months
- Amyotrophic Lateral Sclerosis (ALS), aka Lou Gehrig's disease
- End-stage renal disease (ESRD)

Contact the Social Security Administration at Medicare enrollment and eligibility at 800-772-1213 or www.medicare.gov.

15

Public Assistance

Supplemental Security Income (SSI)

- Non-medical Federal income supplement program funded by general tax revenues (not Social Security taxes)
- Designed to help the aged (65+), blind, and people with disabilities who have little or no income
- Disability is expected to last more than 12 months or result in death
- Provides cash to meet basic needs for food and shelter
- At the age of majority, eligibility is based on child's income, not the parents

Medicaid

- Is a needs-based program
- Implemented by each state individually with reimbursement by federal government
- Government health insurance for children (typically) with certain disabilities
- Covers the cost of certain medical care for low-income people
- Children may qualify if parent is receiving Social Security or Social Security Disability

16

Public Assistance Continued...

- State Waivers
- Supplemental Nutrition Assistance Program (SNAP)
- Temporary Assistance for Needy Families (TANF)
- State Children's Health Insurance Program (SCHIP)
- Children with Special Health Care Needs (CSHCN)

17

Legal Structure & Considerations

- | | |
|---|---|
| <ul style="list-style-type: none"> • Prepare Letter of Intent • Guardianship and Alternatives • Choose Successor Caregivers, Guardian(s) & Trustee(s) • Wills • Advanced Medical Directives • Durable General Powers of Attorney • Estate Planning | <ul style="list-style-type: none"> • Trusts • Titling – Ownership, Beneficiaries, TOD and POD • Special Needs Trusts (SNTs) <ul style="list-style-type: none"> • Third Party SNTs • First Party SNTs • Pooled SNTs or (d)(4)(C) SNTs • Special Needs Trust Fairness Act |
|---|---|



National Special Needs Attorney Groups:
 The Academy of Special Needs Planners
 The Special Needs Alliance

18

ABLE Accounts

- The Achieving a Better Life Experience (ABLE Act) was signed into law on December 19, 2014.
- This law allows eligible individuals with disabilities to have a tax-free savings account; modeled after 529-accounts. Funds can be used on qualified disability-related expenses.
- Must be blind or disabled prior to the age of 26. Can be >26 when opening account, as long as the disability occurred prior to turning 26.
- If age criteria is met AND individual is already receiving SSI and/or SSDI benefits = automatically eligible.
- If age criteria is met AND individual is NOT receiving SSI and/or SSDI benefits:
 - must meet Social Security's definition and criteria of significant functional limitations, and
 - receive a letter of certification from a licensed physician
- Maximum annual contribution is \$15,000 (as of 2020)
- The total limit over time that could be made to an ABLE account is subject to the individual state and their limit for education-related 529 savings accounts (many states have set this limit at more than \$300,000 per plan).
- Working account owners who do not participate in an employer-sponsored retirement plan may be eligible to contribute above the annual ABLE contribution limit (\$12,490 as of 2020)
- If SSI recipient's ABLE account goes over \$100k, SSI benefit is suspended until the account falls back below \$100k. Does not affect Medicaid.

19



Questions?

Brett Bauch MBA, ChSNC, CFP
608.828.4336 www.stableplan.com

Circles of Life 2021

20