

ESTATE PLANNING AND STABLE ACCOUNTS

Presented By Derek L. Graham

ESTATE PLANNING

Why Plan?

IF YOU FAIL TO PLAN, YOU ARE PLANNING TO FAIL



MEDICAID / SSI

- Medicaid
 - Funds approximately 60% of state/county programs
 - Standard asset limit of \$2,000
 - Eligibility now tied to SSI eligibility
- Supplemental Security Income (SSI)
 - Supports for Aged, Blind and Disabled

ELIGIBILITY FOR DD WAIVERS

- What is a Waiver?
 - History Matters
- DD SYSTEM Waivers
 - Level One Waiver
 - SELF Waiver
 - IO (Individual Options Waiver)

OHIO DD WAIVERS

	<u># as of December, 2020</u>	<u>Average Cost</u>
• Level I	15,317	\$ 11,365
• Self	2,086	\$ 12,859
• Individual Options (IO)	24,090	\$ 63,660
 TOTAL:	 <u>41,493</u>	

GOVERNMENT BENEFITS

SSDI/Medicare

- Not Means Tested

SSI/Medicaid

- Means Tested

ESTATE PLAN

- Everyone has an Estate Plan!
 - Ohio's plan for you - DOES NOT WORK
- Planning prevents disruption of benefits for loved ones
- Planning allows you to exert and exercise control

PLANNING OPTIONS FOR A LOVED ONE WITH A DISABILITY

- Disinherit (Risky)
- Last Will & Testament (Will disqualify loved one from benefits)
- Beneficiary Designation (Will disqualify loved one from benefits)
- Trust (Wholly Discretionary Trust) – Best Estate Planning Option for Parents

TRUST

- WHAT IS A TRUST?



REVOCABLE LIVING TRUST

- Provides for control and disposition of assets
- Designates a Trustee (and successor Trustee)
- Creator (Grantor or Trustmaker) has control and ability to plan
- DOES NOT WORK FOR PRESERVING MOST BENEFITS

FIRST PARTY MONEY VERSUS THIRD PART MONEY

- First Party—Person with a Disability who Needs Benefits (Medicaid/SSI)
 - **First Party Funds Require Payback to the State of Ohio**
- Third Party—Anyone else!

THIRD PARTY DISCRETIONARY TRUST

Third Party Discretionary Trust

- Best mechanism for Inheritance
- Protects Medicaid/SSI Eligibility
- Trustee:
 - Designates a Trustee (and successor Trustee)
 - Provides for a remainder beneficiary to inherit upon beneficiary's death
- Should be disclosed upon funding

ROADMAP

- Roadmap
 - Include Details
 - Specific to Child(ren)
- Roadmap for financial affairs/details
- Suggestions for how to use the money



PAYBACK TRUST (“SPECIAL NEEDS TRUST”) FIRST PARTY MONEY

- Can be created by an Individual, Parent, Grandparent, Legal Guardian or Court
- First Party Trust—meaning it only holds assets belonging to individual with disability
- Limitations on how the funds can be used
- Assets in this trust are not countable resources for Medicaid or SSI
- Medicaid Payback Provision Required

POOLED TRUST

- Can be created by the Individual/Parent/ Guardian
- Must be managed by a non-profit association
- Accounts are pooled for management and investment purposes
- CFMF or Dayton Foundation

ABLE ACT STABLE ACCOUNTS

- Eligibility
 - SSI / SSDI / Certification of Disability
- Contributions
 - Not Ideal for Estate Planning
 - \$15,000.00 annually (anything more will be returned)
 - Lifetime limit of appx \$400,000.00 / SSI limit of \$100,000.00
- Subject to Medicaid Payback
- Create online at www.stableaccount.com



USE OF STABLE ACT ACCOUNTS

- Qualified Disability Expenses
 - Basic Living Expenses
 - Housing
 - Transportation
 - Education
 - Assistive Technology
 - Employment Training
 - Personal Support Services
 - Legal Fees
 - Health & Wellness
 - Financial Management

SUMMARY--WHAT DO I ACTUALLY NEED?

- Third Party Discretionary Trust
 - Possibly also a Revocable Living Trust (depends on circumstances)
 - ROADMAP
- Last Will & Testament
- Decision-Making
 - Health Care Power of Attorney (and possibly a Living Will)
 - Financial Power of Attorney
- Special Needs Trust/Pooled Trust (maybe)
- FUNDING / ROADMAP / INSTRUCTIONS / DETAILS

RED-FLAGS AND SPECIAL ISSUES WITH ESTATE PLANS

- Person with disability has been disinherited
- Annuities (only appropriate in very limited circumstances)
- Retirement accounts need consideration
- Unexpected inheritances
- SSI/SSDI—make sure right benefit



CONSULTATION

Would you like someone from Derek's office to contact you to schedule a personal consultation?

- Visit rrpg-law.com/consultation OR
- Open the camera on your smart phone and hover over the QR code.

Complete the contact request form on our site. We will be in touch with you soon.



QUESTIONS?

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