

From Gary R. Waitzman  
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# Let's Talk About...



## How can we help?

Is there a way we can help you or your family?

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## Your Special Needs

Did you ever consider that you might want to do “special needs” planning even if you don’t have any special needs children or grandchildren? Can you imagine how one of your children could come to have special needs after you’re gone?

One of our colleagues relates this story.

Sid and Elaine had three children, and their estate planning attorney prepared a living trust that passed their estate in equal shares to these children. At Sid and Elaine’s death, the estate was estimated to be \$2,400,000, and after taxes and expenses, the children will be left with \$1,800,000 (\$600,000 each) that will be kept in trust for them.

All three of Sid and Elaine’s children had children of their own.

A short time later, Sid and Elaine’s son Dave was involved in a terrible accident. Dave was injured so badly that he was unable to care for himself. The person named as guardian immediately sought help for Dave’s medical expenses from Medicaid and other means-based government programs. They were shocked to learn that the entire \$600,000 set aside for Dave must be spent on medical expenses before Medicaid would assist him.

The guardian learned that the assets could be placed in a special kind of trust to be used for Dave’s benefit. But at Dave’s death, the trust must reimburse Medicaid for what was spent for care during his life.

This result could have been avoided by creating a special needs trust. A special needs trust is specially designed to hold the inheritance of a beneficiary, and to be used for needs above and beyond those covered by government programs. These trusts contain instructions that allow the Trustee to meet the needs of the beneficiary, but prohibit the Trustee from providing for those needs if already covered by Medicaid or other programs. The trust can also prohibit the Trustee from using the assets to reimburse any government program after the beneficiary’s death. This is just another form of asset protection.

As a result, the inheritance can be used at the discretion of the Trustee, and could also be used to benefit Dave’s children, who likely will need substantial help as a result of Dave’s injuries.

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