



**Strategies to help make the Future of Your  
Dependent with  
Special Needs More Secure**

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## What's Important To You As A Caregiver?

As the caretaker of a dependent with special needs, you're the one who is looking out for their best interests.



## What happens when you're not around?



## Step 1: Plan For The Future

- Medical treatments
- Education
- Housing





## Step 2: Review Beneficiaries

- Review beneficiary designations with family and close friends

- Assets (cash, art, jewelry, etc.)  
worth more than \$2,000

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- Inheritance



- Insurance benefits



The use of trusts involves complex tax rules and regulations. Consider enlisting the counsel of an estate planning professional and your legal and tax advisors prior to implementing such sophisticated strategies.

## Step 3: Family Meeting

- Have a family meeting to discuss future needs
- Discuss concerns and future care options



## Step 4: Create A Team

- Variety of Guidance Options
  - Financial Professional
  - Special Needs Attorney
  - Health Professional
  - Guidance Counselor







## Step 5: Get Additional Resource Support



- Local non-profits
- Government agencies





## Step 6: Government Benefits

- Medicaid
- SSI

*Government benefits may help provide medical treatments, supplies, equipment, financial assistance, etc.*

For more information regarding benefits provided Medicaid (Medi-CAL in California) visit [www.medicaid.gov](http://www.medicaid.gov). Medicaid guidelines vary by state. Contact your local Medicaid office for details. For more information on SSI visit [www.ssa.gov](http://www.ssa.gov).



## Step 7: Last Will and Testament

- Review it
- Update periodically
- Special Needs Attorney



The use of trusts involves complex tax rules and regulations. Consider enlisting the counsel of an estate planning professional and your legal and tax advisors prior to implementing such sophisticated strategies.

## Step 8: Special Needs Trust

- How does it protect my dependent's government benefit eligibility?
- What can it provide?
- Are there restrictions?





## Step 9: Guardianship / Conservatorship

- Financial
- Healthcare
- If my dependent is under 18
- If my dependent is over 18

## YES, I Have Identified A Care Provider

- How do I assure the kind of care I would personally give my dependent?



## Step 10: The Letter of Intent

- What is it?
- Why does my dependent need one?
- How do I create one?







## How Do I Start The Planning Process?

- With Special Needs Professionals:



- Legal Estate & Special Needs Attorneys



- Financial Professional with a focus on Special Needs



## How Special Needs Funding Coach Can Help

- Special Care Planners
- Introduce you to non-profit partnerships
- Introduce you to a Special Needs Attorney
- Wide variety of Special Needs Trust funding options

## In Summary

- Find quality professionals to assist you
- Remember that *YOU* are the expert about your dependent
- Think *“lifetime care”* and *“quality of life”*





**INTEGRATED**  
FINANCIAL CONCEPTS

**Make Your Dependent's Future More Secure**

[www.specialneedsfundingcoach.com](http://www.specialneedsfundingcoach.com)

[www.donaldtbrown.com](http://www.donaldtbrown.com)

**Thank you!**



Questions?



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THE GUIDE TO

## *Special Needs Planning*





# The Guide to Special Needs Planning

*Planning for Your Child  
with Special Needs*

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## **10 Failure to Properly “Fund” and Maintain the Plan**

A special needs plan must have assets to make the plan work. This is an excellent time to bring together your financial planner and special needs planning attorney to assist in creating a lifetime plan. The financial advisor can create sample future scenarios that show how much is needed to fund a plan and then present different ways to accomplish this goal. Sometimes, it is adding a life insurance policy and naming the trust as beneficiary, or it may use existing assets. The attorney can then make sure the plan created will meet the needs of the loved one throughout her life. Finally, the plan should be reviewed every three to five years to make sure it continues to meet the loved one's needs. By doing so, you have created an effective special needs plan that will last a lifetime.

## **1 Doing Nothing**

The most popular estate plan in the United States is doing nothing. While not a good idea for anyone, it is particularly troubling when there is a loved one with special needs. If someone does nothing and then dies or becomes incapacitated, his or her estate is managed under the rules set forth in his state's probate code. The state probate code does NOT consider whether a loved one has special needs. This could cause the wrong person being named to manage your loved one's care or could even cost your loved one access to essential public benefits. Doing nothing is not an option.

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## **2 Disinheriting the Loved One**

Many families who have a loved one with special needs rely on SSI, Medicaid or other government benefits to provide food and shelter. To protect these benefits, you may have been advised to disinherit your loved one with special needs. This is never a good idea; this is the person who needs your help most! If there are no assets set aside for the loved one, he or she will depend on public benefits. Public benefits rarely provide more than welfare-level care. However, a well drafted third-party special needs trust provides legal protection for your loved one's inheritance that can then

be used to supplement the loved one's public benefits.

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### 3 Assuming Others Will Care for Your Loved One

Some people decide the best option is to not leave any assets to the loved one, but to leave them instead to someone else (usually a sibling) with the promise to care for the loved one. This plan is fraught with landmines. Even well-intentioned siblings have their own

lives and financial concerns and may focus on their concerns rather than the loved one's.

Other issues also arise, such as when a person left the money divorces and the funds go to a spouse who has no interest in protecting the loved one. The sibling with

the "extra share" may predecease the their sibling with disabilities or become incapacitated. His or her heirs may not care for your loved one as thoughtfully and completely as hoped. If the sibling loses a lawsuit, faces financial difficulties or has significant creditor problems, that child may resort to using funds intended for their loved one, or a court may require that sibling to turn that money over to the creditor.



a professional serve as trustee, while family members serve as part of a trust advisory committee or trust protector. This way, the trustee is responsible for keeping apprised of the public benefit rules, managing the day-to-day finances, providing disbursements, maintaining records, and preparing accountings, while the family makes sure the trustee is doing what it is supposed to do. If the wrong person is put in charge (or the right person dies and there is no plan for succession), the entire special needs plan will fall apart.



### 9 Failing to Protect the Loved One From Predators

All too often, loved ones with special needs fall victim to predators. This can be a financial scam where they take over their assets or a trick that deprives them of much-needed care. Predators are particularly attracted to vulnerable beneficiaries, such as the young and those with limited self-protective capacities. With a trust, you limit access to the information about your loved one's money. It further protects them because the loved one cannot direct where assets go.

## **7 Failing to Include Others in The Planning**

A key benefit of creating a special needs trust that is effective immediately is that your extended family and friends can also make gifts or leave inheritances to the trust you create. This will reduce the cost to the family in trying to set up different plans for different situations. Often family members wish to leave funds to a loved one with disabilities. A letter explaining that you have created a trust that will protect your loved one's benefits, enhance their life, and preserve assets may be warmly received. The letter should also provide instructions on how to properly name the trust as a beneficiary.

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## **8 Choosing the Wrong Management Team**

The choice of who is responsible to manage your loved one's assets is one of the most challenging aspects of creating a sustainable plan. During your life, you can manage the special needs trust. When you and your spouse can no longer serve as trustees, you must choose who will serve according to the instructions in the trust. It is generally recommended that you create a team to help. One of the most effective teams is having

However, if you create a third-party special needs trust, you protect everyone. The trust will provide a way to leave clear and legally binding instructions to care for your loved one. It protects the assets you've set aside for your loved one's care. When you provide clear instructions and a helpful structure, you lessen the burden on all and you support a loving relationship among them, which also protects your loved one with special needs.

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## **4 Using a One-Size-Fits-All Special Needs Trust**

While a special needs trust will provide legal protection for your loved one, some special needs trusts are unnecessarily inflexible and generic. Many trusts are off-the-shelf and not customized to the loved one's needs. The trust may preserve government benefits, but does so by preventing the trustee from making distributions that could otherwise enhance the quality of life of the loved one. Many of these bare bones trusts have a distribution standard that prevents the trustee from making distributions that may reduce or eliminate public benefits. This prevents distributions that may be in the best interests of the beneficiary. Other attorneys make special needs trusts "irrevocable" upon signing. While this is sometimes appropriate,

most people prefer a revocable trust to retain their right to improve and change the trust as the years pass. Over time, their loved one's evolving needs can dictate the trust's provisions, and -- just as important -- changes in the law can be reflected in the trust. The special needs trust must be flexible and personalized to your loved one's needs.

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## 5 Failing to Plan for More Than Public Benefits

The main issue with one-size-fits-all special needs trusts is that the only goal is preserving public benefits. While preserving public benefits is important, it should not be the only goal. The special needs trust should be designed to enhance your loved one's quality of life in all aspects. This can include financial planning for the life of a loved one, planning for where the loved one will live, planning for the persons who will provide advocacy, developing a lifetime management team, and developing a plan for proper caregiving. Special needs planning is not about the document; it is about making sure your loved one with special needs has the legal protections necessary to fully enhance his quality of life when you are no longer there to do so.

## 6 Not Using a Professional Who Focuses on Special Needs Planning

Too many plans fail because the professional who created the plan did not understand the unique needs of persons with disabilities. Sometimes it is a financial planning professional who treats special needs persons' unique financial needs the same as everyone else. Sometimes it is the estate planning attorney who doesn't understand the specific public benefit rules and creates a plan that fails the legal requirements. Sometimes, these lawyers inserts a government "payback" provision into the trust rather than allowing the remainder of the trust to go to other family members upon the death of the loved one. These government "payback" provisions are only necessary in certain types of special needs trusts. An attorney and financial advisor who understands how to plan for persons with special needs can save the family hundreds of thousands of dollars, or more.





# Special Care Education Program

## 10 Steps for Caregivers of a Special Care Dependent

In this one of a kind experience, Don will take his audience through a step-by-step journey how to protect and preserve government benefits, protect financial assets, and focus on a quality of life and lifetime of care for our special needs dependents.

**Donald T. Brown, ChSNC<sup>®</sup>, ChFC<sup>®</sup>, CASL<sup>®</sup>**, makes financial topics fun and interesting. He is highly credited and experienced in retirement, estate and special care planning.

He has the unparalleled ability to energize a crowd, make people laugh, and help solve complex financial problems using easy to understand ideas and stories. He finds simplicity is the key to getting people to take action.

As a financial services executive with 25 years of special care planning experience, Don is uniquely qualified to advise special care families and the businesses that serve them.

Don frequently speaks to employer groups, non-profit organizations, families and business owners. What makes his presentations extraordinary is the real world experience he draws on to connect with his audience. Don's talks, coupled with his resources and usable tools have been described as practical, easy to understand, and completely unique.

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- 1. Do you or your spouse/partner have a vision of how your dependent with a disability will live after you're gone?
- 2. Have you identified a guardian, conservator, or trustee for your dependent?
- 3. Do you have a complete understanding of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) government benefits?
- 4. Have you begun setting aside money for your dependent?
- 5. Do you have a written Letter of Intent?
- 6. Are any dependents, whether they have a disability or not, being excluded in your will?
- 7. Do you have a special needs or supplementary needs trust established to preserve government benefits?
- 8. Have provisions been made to fund these trusts with assets or insurance?
- 9. Have you coordinated your special needs planning with other relatives?
- 10. Have you done everything possible to protect your dependent's financial future?
- 11. Have you planned where your dependent will live if you are not around?
- 12. Will your dependent be able to earn enough to care for himself or herself?
- 13. Will your dependent have adequate health insurance?

If you are not satisfied with all of your answers, please feel free to contact Special Care Planner.

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For more information about this and other related topics, visit my website:

[www.DonaldTBrown.com](http://www.DonaldTBrown.com) OR [www.specialneedsfundingcoach.com](http://www.specialneedsfundingcoach.com)



# Tax Benefit Checklist for Families Caring for Children with Special Needs

2019 Tax Year

## ✓ **Deducting the cost of a Special School or Institution**

### **What is a special school?**

Schools with programs to “mainstream” children with neurological disabilities (i.e., autism spectrum disorders)

### **What is deductible?**

- Lodging
- Meals
- Transportation
- Incidental educational costs provided by the institution
- Costs of supervision, care, treatment, and training

### **When can regular schools be classified as a “special school” for an individual?**

Where School has special curriculum for neurologically disabled individuals

### **Private tutoring by a specially trained teacher**

Therapeutic and behavioral support services (see Revenue Rulings 70-285 and 78-340)

### **Special education for children with dyslexia**

Provided program enables children to deal with disability caused by medical condition (2005’s Letter Ruling 200521003)

## ✓ Deduction for Medical Conferences and Seminars

Both transportation and conference fees deductible (per Revenue Ruling 2000-24)

## ✓ Special Diet Foods

Generally, only the cost of special diet food over and above normal food (i.e., the premium; see Revenue Rulings 2002-19 and 55-261)

## ✓ Prescribed Vitamin Therapy; Hyperbaric Oxygen Therapy; Chelation Therapy; Equestrian Therapy; Individualized or Group Art, Dance, Music, and Play Therapies; Summer Camps, etc.

## ✓ Medical Travel and Transportation

- For 2020 tax returns: 17 cents per mile (20 cents per mile for 2019)
- Lodging costs (but not meals) up to \$50 per day per person are deductible for the Taxpayer (TP) and one additional person if an overnight stay is necessary

**Note:** Un-reimbursed Medical Expenses are deductible only to the extent the TP itemizes their deductions (Schedule A) and they exceed 7.5% of adjusted gross income (AGI) as of 2020 (7.5% of AGI for 2019 was restored retroactively under the Taxpayer Certainty and Disaster Tax Relief Act of 2019)).

## ✓ Consider a FSA (Flexible Spending Account) Health Care Plan if ineligible for medical expense deduction!

The maximum pre-tax contribution is \$2,750 for 2020 (\$2,700 for 2019)

## ✓ Impairment Related Work Expenses

- Business deduction in lieu of a medical deduction for attendant care services at place of employment (ordinary and necessary expense to help in performing job)
- Avoids AGI limitation imposed on un-reimbursed medical expenses

### ✓ Expanded definition of a “qualifying child”

- An individual with special needs can be older than 19 or 24 and qualify as a “dependent” for 2020 and 2019
- No gross income limitation for a “qualifying child” (The “gross income” limitation applies to a “qualifying relative” and is \$4,300 for 2020 and \$4,200 for 2019....review ALL requirements!)

**Note:** Personal and Dependency Exemptions have been suspended (reducing the exemption amounts to zero) under 2017’s Tax Cuts and Jobs Act for 2018 through 2025. However, the definition of a dependent is still key for other deductions and credits such as the expanded child (\$2,000) and dependent credits (\$500).

The Tax Cuts and Jobs Act increased the child tax credit from \$1,000 to \$2,000 per child and increased the refundable portion of the credit to \$1,400. The Act provides a \$500 nonrefundable credit for a qualifying dependent other than a qualifying child (i.e., a 17 year old child or a parent).

### ✓ Credit for Special Needs Adoption Expenses

- \$14,300 for a child with special needs in 2020 (\$14,080 for 2019)...regardless of adoption expenses
- An eligible child is an individual who is under the age of 18, or is physically or mentally incapable of self-care
- Must be a U.S. citizen or resident and requiring adoption assistance as determined by state authorities
- Qualifying expenses include: legal fees, court costs, and other related adoption costs

- The limit is per child, not per year (The credit is non-refundable with a carryover of 5 years)
- Credit is phased-out for taxpayers with adjusted gross income exceeding \$214,520 for 2020 (\$211,160 in 2019)
- The credit is completely phased-out at \$40,000 above the threshold
- The credit is claimed in the year the adoption becomes finalized regardless of actual expenses paid or incurred in the year the adoption becomes final for a "special needs" adoption.

### ✓ 10% Penalty Exception for Retirement Plan and Individual Retirement Account (IRA) Distributions

- 10% penalty does not apply to a distribution that is less than or equal to the allowable medical expense deduction on Schedule A (regardless of whether the individual actually itemizes deductions) if the distributions are used to pay for the medical care during the year.
- Penalty waiver only applies to taxable amount of the distribution. The income tax still applies to the taxable component of the distribution.

## Where to Get More Information

Contact a Certified Public Accountant (CPA) or an attorney specializing in special needs planning, or a financial planner with a practice focusing on families with dependents with special needs.



This handy checklist was created by:  
Thomas M. Brinker, Jr., LL.M., CPA  
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Call Special Care Planner \_\_\_\_\_ at \_\_\_\_\_ for a confidential consultation.

SpecialCare is a program created by MassMutual that provides access to information, specialists and financial solutions to people with disabilities and their families. For more information about Massachusetts Mutual Life Insurance Company (MassMutual) and its SpecialCare program, please visit [www.massmutual.com/specialcare](http://www.massmutual.com/specialcare).

The Special Care Planner title is used by MassMutual financial professionals who have received advanced training and information in estate and tax planning concepts, special needs trusts, government programs, and the emotional dynamics of working with people with disabilities and other special needs and their families.

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