Special Needs Planning

Individualized Special Needs Planning

The New Jersey estate planning attorneys at Einhorn Barbarito appreciate that families and individuals with special needs face unique and demanding challenges on an everyday basis. In many situations, children with special needs will continue to require specialized care and financial support throughout their adult lives. Thinking about the future and determining how you will be able to provide the services that your child needs can be overwhelming. By taking the time to plan ahead, you can help ensure that your child will receive what he or she needs to live a full and happy life.

At Einhorn Barbarito, we work with individuals who have special needs and their families to develop customized plans for the future. While there are many benefits and tools available to help provide for the needs of disabled individuals under federal and state laws, navigating these on your own can be a very difficult process. If you don't know how the laws work, you can end up making mistakes that could jeopardize your child's eligibility to qualify for certain government programs such as Supplemental Security Income (SSI) and Medicaid. Our New Jersey special needs attorneys can review your situation and help you develop plans and strategies that protect your child from possible disqualification for critical government benefits. We regularly assist clients with the establishment of special needs trusts or supplemental needs trusts, and our attorneys also represent clients in guardianship matters for adult incapacitated individuals.

Special Needs Trusts/Supplemental Needs Trusts

A Special Needs Trust (SNT), also called a Supplemental Needs Trust, is a specially-designed trust that allows you to appoint a trustee to hold a property for the benefit of your disabled child. These types of trusts are generally used to provide for the needs of a disabled person without disqualifying him or her from benefits received from government programs, including Social Security and Medicaid. There are also certain programs available to residents of New Jersey that a disabled individual would

not be eligible to participate in if the assets held in an SNT were owned by the individual free of the trust.

Beyond being used to maintain a child's eligibility for government program benefits, a SNT can also help prevent additional problems that might otherwise arise when a parent, grandparent or another person directly bequeaths money to a sibling or other close relative of a disabled child, with the understanding that the money will be spent on the disabled child. Unfortunately, in New Jersey, the relative cannot legally be forced to use that money for the benefit of the disabled person. Additionally, the bequeathed funds could fall prey to judgments or divorce settlements against the relative or could be lost in bankruptcy, leaving the special needs individual with no source of funds to supplement governmental benefits.

While often overlooked, problems can also surface if the relative holding the money outside of a trust dies before the disabled child. In this situation, the relative may have bequeathed the money to another individual who may choose not to use it for the benefit of the disabled child. An SNT can often avoid these types of issues without putting an emotional strain on family relations.

Utilizing a Collaborative Approach

Planning for the needs of loved ones who are incapacitated or otherwise unable to care for themselves often requires a team of attorneys working across multiple legal disciplines. Because we use a collaborative approach in our practice, our firm is uniquely equipped to deal with the planning aspects as well as the appeal or litigation of any denial of benefits for individuals with special needs. We involve attorneys from various departments as may be necessary to accomplish the objectives of protecting the special needs individual. This may include attorneys from our Trusts & Estates Department along with practitioners in our Family Law and Litigation Departments.

Our New Jersey Special Estate Planning Attorneys Can Help You Create the Right Plan for Your Special Needs Child

It is important to understand that Special Needs Trusts and other tools intended to help provide for the needs of a special needs child are subject to strict legal requirements. When you work with our firm, our attorneys will explain what the law demands and outline the various options that may be available to you and your family. We understand that the process can be very confusing, and our goal is to help you develop a plan that bests meets the needs of your child now and into the future. We encourage you to begin the process today by calling our New Jersey law offices at 973-627-7300 to schedule a consultation with a special needs attorney in of our Trusts & Estates Practice.