

Navigating Life's Twists and Turns

I recently met with two brothers whose sister had died suddenly. Still dealing with their grief, the brothers were further confused by the probate process and how their sister's estate would ultimately be distributed to them. We discussed the twists and turns that estate administration can entail, but I stopped when one of the brothers mentioned that he receives disability benefits.

Knowing that a person on benefits can be disqualified by an inheritance, I took some time to educate the brothers on what could – and could not – pass directly to a person with a disability. Aside from an interest in the house where the brother with a disability lived, he could not receive any financial assets from his sister's estate without jeopardizing the disability benefits he needed.

This led to a discussion of first-party supplemental needs trusts, which are also called “(d)(4)(a) trusts” after the code section which allows them. A first-party supplemental needs trust is created by a person with a disability to hold assets on his/her behalf that would otherwise disqualify a person with a disability from needs-based benefits. The person with a disability creates this trust and names another individual, not themselves, to serve as trustee. Once assets are added to this trust, the person can receive those trust funds to supplement what his or her benefits provide, but the trust assets cannot be used to pay for those same services.

As we discussed this option, the brother felt a sense of relief. He would be able to inherit from his sister while retaining the disability benefits he needed. He would name his brother as trustee and was confident that he would manage those funds for his benefit, so they would be a blessing as their sister had intended.

While the prospect of putting his inheritance in a trust may have been daunting at first, my client was comforted that he would be able to enjoy his inheritance to supplement a variety of his needs and wants that are not covered by his disability benefits. For a list of the types of expenses that may be paid using assets in a supplemental needs trust, please see below.

While it is difficult to anticipate every twist and turn that life may bring, as experienced estate administration and estate planning attorneys, we do our best to spot and address potential problems before they result in negative consequences for our clients. In this recent example, we were able to identify a serious planning issue for one of our clients in the midst of a meeting about his sister's estate administration. With a little planning for this client with a disability, he can now enjoy his inheritance without any disruption of his benefits.

Our [Estate Planning](#) team at Chambliss is ready to assist you with your estate planning goals. Perhaps you need to revise an existing plan or update financial or medical powers of attorney. Maybe you need an Advance Directive for Health Care so your quality of life wishes are known. These are small steps that can have a large impact. Please contact me or a member of our team to learn more.

The following is a list of some of the types of expenses that may be paid from assets in a supplemental needs trust:

- Medical care, dental care, eye care (including contacts, eyeglasses, other corrective vision devices, or surgery), hearing aids, mental health services, private counseling services, cosmetic surgery or other nonessential medical procedures, and diagnostic work, treatment, and supplies for which there are no private or public funds otherwise available, including but not limited to experimental treatment;
- Medical procedures that are desirable (in the trustee's discretion) even though they may not be necessary or lifesaving;

- Emergency services for the beneficiary for which there are no private or public funds otherwise available;
- Differentials in cost between housing and shelter for share and private rooms in institutional settings;
- Care appropriate for the beneficiary that assistance programs may not or do not otherwise provide;
- All types of therapy for which there are no private or public funds otherwise available, including physical, occupational, speech, acupuncture/acupressure, and massage therapy;
- Supplemental nursing care, sitters, caregivers, and rehabilitative services;
- Educational courses (academic or recreational) and professional development programs to develop and advance the beneficiary's skills and knowledge to enable the beneficiary to become a productive member of the workforce to the extent practical, including tuition and related costs, books, and supplies;
- Personal and other services not available under public programs, including but not limited to, bottled water or water service, salon and spa services (including hair, nail, and other cosmetic services and treatments), storage services (including monthly cost of storage unit), accounting services, and legal and advocacy services;
- Transportation and other travel expenses, including but not limited to expenses for airline, bus, train, automobile, or other forms of transportation, payment for lodging and meals during temporary absences from his residence;
- Supplemental dietary and nutritional needs, including over-the-counter medication, vitamins, and herbs;
- Fitness equipment, sporting goods, equipment, uniforms, team pictures;
- Clubs and club dues, such as record clubs, book clubs, health clubs, service clubs, advocacy groups, zoos, and museums, including costs to attend related meetings and conferences;
- Reading materials, including, but not limited to, books, newspaper, and magazine subscriptions;
- Tickets for movies, athletic contests, cultural events, or other entertainment events;
- Up-to-date computer equipment and any monthly charges for internet connection services or any successor computer communicative connection;
- A stereo system, including, but not limited to, speakers, receiver, tape deck, CD player, etc. and audio content, such as CDs, iTunes, MP3, or other digital audio content;
- Musical instruments, including lessons and music;
- Satellite or cable TV service, TVs, DVRs, VCRs, DVD players, audio and video recording, and playback devices, cameras, film for cameras, cost of development of film, video tapes, DVDs, or other electronic or digital media for entertainment purposes;
- Telephone service and equipment, including cell phones;
- Hobby supplies, holiday decorations, party supplies, stationary, stamps, and greeting cards;
- Pet costs and expenses including pet food, supplies, and veterinary services;
- Personal, household, and other services not available under public programs, including but not limited to, housekeeping, appliance and other household repair, chore services, vehicle maintenance, repair and travel costs, and landscaping services;
- Purchase of items, other than food and shelter, that are excluded from the determination of available resources for purposes of SSI, including household furnishings and equipment, clothing, personal care items (toothpaste, shampoo, laundry, cleaning supplies, etc.), cosmetics, home alarm and/or monitoring/response system, a van or car used for transportation to medical or related services, insurance on such items, and a prepaid funeral and/or burial plan, burial space, container, vault, and marker; and
- Other expenditures that the trustee, in the trustee's sole discretion, deems to be advisable to enhance the beneficiary's quality of life.