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The Need for a Special Needs Trust *by Geoff Bernhardt*

People with disabilities sometimes rely on government benefits to pay for basic needs such as health insurance, housing, and long-term care. The value of these benefits can be substantial. Many public benefit programs are means-tested, meaning the beneficiary's assets and income must be below certain levels. Very often, these programs require the person's assets to be less than \$2,000.

For many people, the receipt of an inheritance is an opportunity to improve their lives. But for a disabled person receiving public benefits, the inheritance can actually worsen their life by terminating eligibility for benefits. The disabled person now has to pay health insurance, housing, the cost of personal attendants, and other basic needs from the inherited funds. Within a short time, the inheritance can be exhausted. The disabled person can now reapply for public benefits assistance, but will not have any funds to pay for supplemental needs that could improve her quality of life.

Fortunately, there is a way to leave assets to a disabled person while preserving her eligibility for public benefits. Assets left to a dis-

abled person in the form of a special needs trust do not have to be spent down to \$2,000 in order to maintain public benefits eligibility. The funds in the special needs trust can pay for "extras," or "special needs," that would improve the disabled person's quality of life, such as travel expenses, cell phone, cable television, tickets to the symphony or sporting events, and many other things not provided by public benefit programs. The disabled person retains her government benefits to pay for the basic necessities of life.



Geoff Bernhardt

A special needs trust is created in a will or trust, usually by the parent of the disabled person as part of their estate plan. The parent specifies that any bequest for the disabled child be held in a special needs trust. The parent selects a trustee, who has the responsibility to use the funds for the benefit of the disabled person.

It is also possible to create a special needs trust with assets presently owned by a dis-

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abled person, or with proceeds from the settlement of a personal injury case. However, there are additional restrictions when the disabled person uses his or her own money to set up the trust.

An inheritance left directly to a disabled person can actually worsen his or her quality of life by terminating public benefits. An inheritance left to a special needs trust for the benefit of the disabled person allows public benefits eligibility to be maintained, and establishes a fund to improve his or her quality of life. Contact an experienced elder law or estate planning attorney for more information about setting up a special needs trust. Don't miss this tremendous opportunity to improve quality of life, for a lifetime.

Geoff Bernhardt, J.D. is a graduate of the University of Oregon School of Law, 1992. He has been helping individuals and families address the legal and financial consequences of aging for over 13 years.

Geoff is a shareholder in his firm, the Law Offices of Geoff Bernhardt, specializing in elder law, estate planning, probate, guardianships and conservatorships. He is on the Board of Directors of the Oregon Gerontological Association and on the Community Advisory Committee of Oregon Chapter, NMSS. He is also on the Executive Committee of the Elder Law Section of the Oregon State Bar.

Geoff's firm is in the Johns Landing area of Portland, and he can be reached at 503-548-4000.

Come Join us for the Fall Forum!

When: Saturday October 14, 2006 10am - 3pm

Where: The Holiday Inn, Portland Convention Center
1441 NE 2nd Avenue, Portland, Oregon 97232

Dr. Vijayshree Yadav will give an update on current research

Dr. Michael Lemmers will address urological symptoms

Dr. Marie Valleroy will discuss physical rehabilitation

Registration is required and the fee is \$20.

A continental breakfast and lunch are provided.

The Annual Meeting of the Oregon Chapter will take place before the forum from 9-10am and is open to all members free of charge.

Please call Kim at 503-223-9511 or register online at defeatms.com