SPECIAL NEEDS PLANNERS

Funding A Supplemental Needs Trust

When planning for your loved one with special needs, it is critical that there are sufficient assets available throughout his or her lifetime. It is also imperative that you revisit their plan frequently to ensure that it continues to meet their needs.

What types of assets can the trust own?
The trust can own various types of assets including bank accounts, certificates of deposits, stocks, bonds, real estate and personal property.

Who can contribute assets into a supplemental needs trust?
There are two different types of trusts now being used:

1. The first and more traditional type of supplemental needs trust (Minnesota Statute 501B.89 sub. 2) is one which is *funded by assets which belong to someone other than the person with a disability* (typically the parents, grandparents or siblings). These family members can name the supplemental needs trust as the beneficiary of their own assets, life insurance or retirement benefits.

2. The second type of supplemental needs trust, sometimes referred to as a **"special needs trust"** (Minnesota Statute 501B.89 sub. 3, and under 42 USC 1396p(d)(4)(A)) is one which is *funded by assets which are in the name of, and belong to, the person with a disability* who is the beneficiary of the trust. These funds may be from an inheritance, personal injury or medical malpractice settlement or award due to the beneficiary.

The key difference between these two types of supplemental needs trusts is what happens to the assets remaining in the trust after the death of the beneficiary.

How can you ensure that there are enough funds?
A common way to assure your loved one has enough funds is life insurance. Life insurance policies work in many ways. They can provide a death benefit for the beneficiaries or they offer living benefits to improve your quality of life now. If you wish to divide your estate equally among your children, you can use life insurance to fund the supplemental needs trust for your child with special needs.

Who should be the trustee?
The trustee's duty is to invest, manage and distribute the trust assets in a manner which is in the best interest of the person who is the beneficiary of the trust. The trustee could be parents, siblings, family members, friends or a professional trustee. It is crucial that the trustee is financially savvy, well-organized, and ethical.