ESTATE PLANNING
ESTATE PLANNING

Why Plan?

IF YOU FAIL TO PLAN, YOU ARE PLANNING TO FAIL
MEDICAID / SSI

• Medicaid
  • *Payer of last resort*
  • Funds approximately 60% of state/county programs
  • Standard asset limit of $2,000
  • Exception is Medicaid buy-in program
  • Eligibility now tied to SSI eligibility

• Supplemental Security Income (SSI)
  • Financial Payments for Aged, Blind and Disabled
ELIGIBILITY FOR DD WAIVERS

• What is a Waiver?
• Why bother?
• Understand Service Availability!
• Financial Eligibility
  • Income
  • Assets
# OHIO DD WAIVERS

<table>
<thead>
<tr>
<th></th>
<th># As of October, 2019</th>
<th>Average Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level I</td>
<td>15,502</td>
<td>$11,166</td>
</tr>
<tr>
<td>Self</td>
<td>1,835</td>
<td>$8,383</td>
</tr>
<tr>
<td>Individual Options (IO)</td>
<td>23,582</td>
<td>$64,423</td>
</tr>
</tbody>
</table>

**TOTAL:** 39,360
GOVERNMENT BENEFITS

- SSDI/Medicare
  - Not Means Tested

- SSI/Medicaid
  - Means Tested
ESTATE PLAN

• Everyone has an Estate Plan!
  • The statutory estate plan (intestacy) will disqualify loved ones from government benefits such as Medicaid/SSI (assuming they inherit more than the asset limit)
  • The statutory estate plan (intestacy) costs more in the long-run
• Planning prevents disruption of benefits for loved ones
• Planning allows you to exert and exercise control
PLANNING OPTIONS FOR LOVED ONE WITH DS

• Disinherit (Risky)
• Last Will & Testament (Will disqualify loved one from benefits)
• Beneficiary Designation (Will disqualify loved one from benefits)
• Trust (Third Party Discretionary Trust) – Best Estate Planning Option for Parents
TRUST

• WHAT IS A TRUST?
TRUST

• Countless different types / varieties
  • Revocable / Irrevocable
    • Irrevocable does not mean it cannot be amended
  • First Party / Third Party
  • Asset trust / Income trust
  • Creditor Protection Trusts
• Most families have a Revocable Living Trust for planning purposes
THIRD PARTY DISCRETIONARY TRUST
THIRD PARTY MONEY

- Third Party Discretionary Trust
  - Designates a Trustee (and successor Trustee)
  - Provides for a remainder beneficiary to inherit upon beneficiary’s death
- Poison Pill
- **Protects Medicaid/SSI Eligibility**
- Should be disclosed upon funding
PAYBACK TRUST ("SPECIAL NEEDS TRUST")
FIRST PARTY MONEY

• Can be created by an Individual, Parent, Grandparent, Legal Guardian or Court

• First Party Trust—meaning it only holds assets belonging to individual with disability

• Limitations on how the funds can be used

• Assets in this trust are not countable resources for Medicaid or SSI

• Medicaid Payback Provision Required
POOLED TRUST

• Can be created by the individual
• Must be managed by a non-profit association
• Accounts are pooled for management and investment purposes
• Ohio Pooled Trust, CFMF or Dayton Foundation
ABLE ACT
STABLE ACCOUNTS

• Eligibility
  • SSI / SSDI / Certification of Disability

• Contributions
  • Not ideal for estate planning
  • $15,000.00 annually (anything more will be returned)
  • Lifetime limit of appx $400,000.00 / SSI limit of $100,000.00

• Subject to Medicaid Payback

• Create online at www.stableaccount.com
USE OF STABLE ACT ACCOUNTS

• Qualified Disability Expenses
  • Basic Living Expenses
  • Housing
  • Transportation
  • Education
  • Assistive Technology
  • Employment Training
  • Personal Support Services
  • Legal Fees
  • Health & Wellness
  • Financial Management
SUMMARY--WHAT DO I ACTUALLY NEED?

- Third Party Discretionary Trust
- Revocable Living Trust (maybe)
- Last Will & Testament
- Health Care Power of Attorney (and possibly a Living Will)
- Financial Power of Attorney
- Special Needs Trust/Pooled Trust (maybe)
- A good plan!
QUESTIONS?

Derek L. Graham

5115 Parkcenter Ave., Suite 275  |  Dublin, Ohio 43017
Direct line: 614/923-5770
Email: derek@rrpg-law.com