

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

	<u># As of October, 2019</u>	<u>Average Cost</u>
• Level I	15,502	\$ 11,166
• Self	1,835	\$ 8,383
• Individual Options (IO)	23,582	\$ 64,423
	TOTAL:	
	<u>39,360</u>	

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