



Family Support

At the St. Louis Arc, parents, siblings, significant others – all family members are welcome. We are committed to helping you connect to resources and become effective advocates for your loved ones. Whether you are looking to interact with people going through the same challenges, or in search of an activity for the entire family, the St. Louis Arc provides a lifetime of support.

The St. Louis Arc Family Workshop Series provides in-depth information on supporting a family member with an intellectual or developmental disability. Most of our workshops are free, open to everyone, and take place at the St. Louis Arc Centene Family Center or Childgarden Early Childhood Center.

Special Needs Trust

Presented Thursday, March 22

Find out how to plan for the financial security of an individual with intellectual and developmental disabilities, while preserving benefits such as Medicaid and Social Security Income.

Presenters: Michael E. Chiodini, Financial Advisor, Investment Advisor Representative of SII, Chiodini Financial Group, LLC Bhavik R. Patel, Attorney, Sandberg Phoenix & Von Gontard P.C. Casie Stephens, Trust Specialist III, Midwest Special Needs Trust

St. Louis Arc

1177 N. Warson Road, St. Louis, MO 63132

314-569-2211 • www.slarc.org

Special Needs Estate Planning Seminar

Presented By:

Bhavik R. Patel
Sandberg Phoenix & von Gontard P.C.
120 S Central, Suite 1600
Clayton, MO 63105
bpatel@sandbergphoenix.com
314.446.4328

Reasons for an Estate Plan

- Planning for Incapacity
- Avoidance of Probate
- Planning for Proper Disposition of Estate and for the Particular Beneficiary
- Estate Tax Planning
- Creditor Protection

Planning for Incapacity

- No Planning
 - Conservatorship
 - Guardianship
- Planning
 - Durable Powers of Attorney
 - Financial
 - Health Care
 - Revocable Trust
 - Living Will
 - Long Term Care and Disability Insurance

Avoidance of Probate

- No Planning
 - Time Delay in Distribution of Assets
 - Costs and Expenses of Probate Administration
 - Public Disclosure of Estate
 - Court Involvement in Estate Decisions
- Planning
 - Jointly Held Property
 - Beneficiary Deed
 - Transfer on Death/Pay on Death/Beneficiary Designations
 - Revocable Trust
 - Consider use of SNT

Planning for Proper Disposition of Estate

- No Planning
 - Intestacy Statutes
 - Minors
 - Receipt of Property – Conservatorships
 - Responsible for the Person - Guardianships

Planning for Proper Disposition of Estate, Cont.

- Planning
 - Spousal Rights
 - Restrictions on Distributions to Spouse
 - Planning for Minor/Adult Children or Disabled Beneficiaries
 - Testamentary Trusts or Revocable Trust or Irrevocable Gift Trust
 - Family Trust
 - Separate Trusts
 - Legally may receive funds at 21
 - Delay until later ages or upon certain events
 - Incentive Trusts
 - Spendthrift Trusts
 - Special Needs Trust
 - Third Party Special Needs Trust
 - Self-Settled Special Needs Trust/Medicaid Payback Trust

Planning for Particular Assets

- Retirement Assets
 - Spousal Rights
 - Taxation
 - Designated Beneficiary
- Real Estate
 - Who will use it?
 - How will repair and maintenance costs be allocated?
 - Should it be sold?
 - Partnerships, LLCs, Trusts

Planning for Particular Assets, Cont.

- Businesses
 - Will the family need to cash out of the business?
 - Where will the funds come from?
 - How will the business be valued?
 - Who will run/own the business?
 - Buy Sell Agreements, Stock Purchase Agreements, Key Man Insurance, Business Succession Plan, ESOPs

Providing for Persons with Disabilities

The Basics of Common Public Benefits

Public Benefits Basics

- Benefits not based on financial need

- Social Security
- Medicare
- Special Education

Benefits based on financial need

- Supplemental Security Income (SSI)
- Medicaid
- Food Stamps, Legal Aid, and Utility Payment Assistance
- Housing Subsidies (H.U.D. or Section 8)

Supplemental Security Income

- SSI is a federal program, administered by the states, and is based on sufficient evidence of disability and financial need
- SSI is intended to pay for the beneficiary's food and shelter and nothing more
- Two tests determine eligibility for SSI
 - Income test determines how much is received
 - Resource test determines eligibility

Types of SSI Income

Unearned Income	Earned Income	In-Kind Support & Maintenance
Includes gifts, payments from annuities and pensions, alimony & support payments, dividends, interest, rents, awards and payment from other benefit programs.	Consists of wages, royalties, net earnings from self-employment, and any honoraria received for services rendered.	Actual receipt of food, clothing, or shelter, or something that can be used to get one of these.

Basics Of SSI Eligibility Resources

- Anything that can be converted to cash for support is a resource
- If resources exceed \$2,000 (\$1,000 for Medicaid) on the first day of a calendar month, the beneficiary's public benefits will be lost until resources are reduced
- Assets that the beneficiary does not have the legal right to demand are not counted for SSI purposes
- If qualify for SSI, then will qualify for Medicaid

Basics of SSI Eligibility

Exempt Resources

- A home, if the beneficiary has an ownership interest and it serves as his/her principal residence
- Household goods all together worth no more than \$2,000 market value
- One automobile is totally excluded regardless of value if, necessary for employment, medical treatment, modified for operation by or transportation of a handicapped person; or is necessary to perform essential daily activities. If no exclusion applies automobile is excluded to the extent current market value does not exceed \$4,500

Basics of SSI Eligibility

Exempt Resources, Cont.

- Life insurance policies with cash surrender value, if their total face values amount to less than \$1,500, and all term life insurance
- A burial plot, or other burial space, worth any amount
- ABLE Account
- ASSETS IN A PROPERLY DRAFTED SPECIAL NEEDS TRUST!!!!!!

Social Security Benefit (SSDI)

Basics

- A disabled child may be eligible for Social Security if a parent is eligible and the child's disability began before age 22
- Benefits do not become payable until the eligible parent dies, retires or becomes disabled
- Social Security is not affected by the child's assets, but the child's income may result in an ineligibility determination

Social Security Eligibility

- Upon the disability or retirement of the parent, an eligible disabled child will receive an amount equal to 1/2 of the parent's benefit
- Upon the death of the parent, an eligible disabled child will receive an amount equal to 3/4 what the parent's SSDI benefit
- Example
 - Helen has been disabled from birth, and is receiving \$720 in SSI monthly.
 - Helen's father, Earl, retires and receives \$1,000 a month. Helen begins to receive \$500 per month.
 - Receipt of the SSDI is unearned income which reduces Helen's SSI by \$480. Helen now receives \$240 SSI and \$500 SSDI.

Medicare Benefit Basics

- Medicare is a federal health insurance program for people over 65 and people under 65 who have been receiving Social Security based on disability for two or more years
- Persons can be eligible for both Medicare and Medicaid
- Medicaid is payor of last resort and covers long term care costs

Providing for Persons with Disabilities

Pitfalls to Commonly Used Strategies

Common Pitfalls

- Gift to Minor Act Accounts
- Unstructured Beneficiary Designations
 - Beneficiary of insurance
 - Beneficiary of retirement plan
- Disinheritance
- No planning at all
- Gifts from non-parents (other friends or family members)

Providing for Persons with Disabilities

Special Needs Trust Basics

Elements of a Special Needs Trust

- A trust is a contract to control property for the benefit of a beneficiary to meet some objective
- A special needs trust is drafted specifically so trust assets are considered not to be "available resources" in calculating the disabled person's resources

Elements of a Special Needs Trust

- The Social Security Administration describes a discretionary trust as “a trust in which the trustee has full discretion as to the time, purpose and amount of all distributions”
- If the beneficiary has no discretion over the distributions, the trust is not counted for SSI eligibility
- The funds in the trust may be used to supplement the beneficiary’s needs not covered by public benefits without a reduction or elimination of SSI or Medicaid