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*A Legal Safe Haven for Parents of Children with Disabilities.*

## Your Child's Life Without Fringe Benefits

**Without the Frills that Make Life More Enjoyable, Can Food and Basic Shelter, Plus Essential Medical Care, Be Enough for a Fulfilling Life?**

By Gregory P. Hawkins, JD

Think about a life without the occasional comfort item or pleasurable diversion. Consider a life without new socks when needed, a life without a decent pair of work boots, no makeup, no hobbies, with only a second-hand TV but without basic cable, no DVD player and little or no money for a night out at the movies or dining at Denny's with friends.

Your special needs child is heading unerringly for this lifestyle. Such is the legal reality of leaving your child at the mercy of government agencies.

Over 95% of Americans have done nothing to legally prepare for death. As a parent of a child or adult with disabilities, being unprepared will prove devastating.

As living parents of a child with a disability you do everything within your power and financial means to provide your child with a rewarding life experience. **Then, one day, you are gone and life changes for your child.**

If you provide a direct inheritance your child will lose most, in not all, of their government benefits until the inheritance is exhausted. This could prove disastrous during a health crises. Even financial help from siblings and other family members or friends will negatively impact your child's benefits. In the past, financial experts even counseled parents to disinherit sons and daughters with disabilities. How else could such a child qualify for SSI and Medicaid? (See our article titled: *Inheritance*, on the website.)

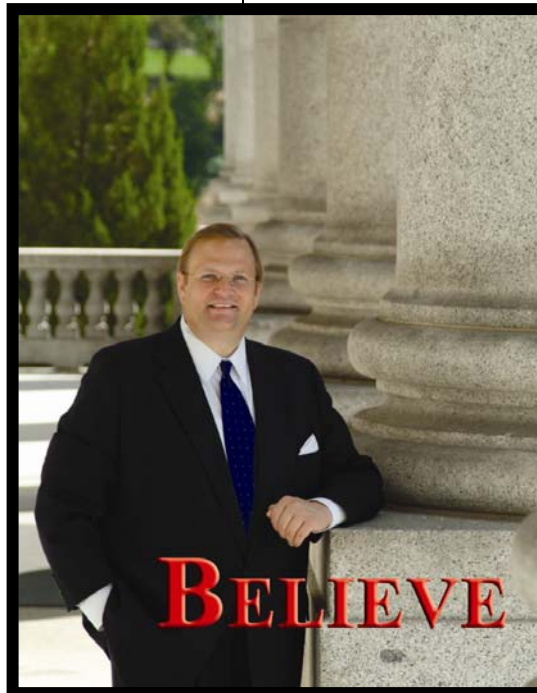
Medicaid and SSI (Supplemental Security Income) are the two most common government programs designed to provide safety nets for your child with a disability. Together, they guarantee that Americans with disabilities are assured access to medical treatment and minimal financial assistance. While SSI and Medicaid are wonderful programs in many respects, no one can deny that SSI in particular offers only bare-bones financial assistance. (Neither can anyone deny that today medical coverage is a basic and vital requirement; your child's access to medical care must be protected.)

In Utah, for example, a single (non-blind) person with qualifying disabilities can receive a maximum monthly SSI stipend of \$623.00. Envision your child's remaining decades without your financial assistance.

**Consider Another Option.** Occasionally there are times when life provides effective and straightforward solutions. Over the years federal and state lawmakers recognized

the need for parents to continue to provide financial assistance for their children with disabilities, even after the parents have died.

A Special Needs Trust (SNT), also called a Supplemental Needs Trust, provides the simple solution. Today, it is universally recognized and accepted by financial planners nationwide, as well as federal and state law.





Since an SNT is established and funded by a third party (by parents or another concerned party) the child with a disability has no direct control over the money. In other words, the Special Needs Trust owns the money not the child. Therefore the law and, more important, SSI and Medicaid do not consider the trust money as an asset of the child. The trust, even if funded with millions of dollars, has no effect on your child's government benefits until money is disbursed for the child's benefit.

(Note — a child in this context means your child of any age. He could be 80 years old. The trust could continue to benefit him decades after your death.)

The Trustee of the Trust (generally a family member, trusted friend or financial professional) controls the Trust and how the assets are spent for the benefit of your child. You choose the Trustee. The language you put into the original trust controls the actions of the Trustee. Your child never has control of the trust.

### **This, in a nutshell, is a Special Needs Trust.**

Obviously, a Special Needs Trust is a more complex legal instrument. It must be carefully worded. You want to give the Trustee the freedom to adapt to changing circumstances. At the same time, you want the Trustee to carry out your exact wishes for your child's benefit. Additionally, since your SNT could span decades you will want to make provisions for subsequent Successor Trustees.

Several large categories of items and services paid for by the SNT have no damaging effect on your child's benefits whatsoever. The Trust, for example, could purchase a vehicle (of any price) for your child and even a home of any value.

Most household furnishings are exempt. In practice, this category is very broad and almost without a limits. A large screen TV, for example is an exempt home furnishing, as is a computer. Almost anything that normally would fit in your loved one's home or apartment is permitted and will not adversely effect SSI & Medicaid benefits.

Here are just a few items (of a large list) that the Trust can pay for: cosmetics, exercise equipment, entertainment, trips, cameras, professional services, telephones, additional medical needs (beyond Medicaid), educational training...etcetera.

### **The guiding principle is that the Special Needs Trust supplements but does not replace government benefits, especially SSI.**

Other items disbursed by the Trust, obviously, will impact your child's benefits. However, when spaced judiciously over time they will have a lessened influence over SSI benefits and Medicaid.

One example, a birthday check, would be considered 'unearned' income and will reduce the SSI payment. Also, the value of some gifts are considered 'in-kind' income and will reduce the SSI payment. [For more complete information of earned, unearned and in-kind income, go to [www.UtahSpecialNeedsCenter.com](http://www.UtahSpecialNeedsCenter.com).]

### **In short, as intelligent, living parents you can make sure that the government help programs, to which your child is entitled, remain in force while you provide other essential elements to make life more fulfilling and enjoyable for your child.**

Both SSI and Medicaid provide necessary security for many Americans with disabilities. But we all understand that life includes more than mere security, especially for your child with a disability.

**Important Post Script.** For many parents, a Special Needs Trust requires outside-the-box thinking. For some, even the word "Trust" conjures images of wealthy families with large estates and vacation homes in exotic locations.

In reality, any family that owns a car or a house, or has any assets, should seriously research the Special Needs Trust. Literally, for the spare change in your pocket each day, most families could fund a Special Needs Trust that would provide many years of comfortable living for their child with a disability

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