

Providing the best quality of life requires informed decisions.

The best way to provide your special needs child with compassionate care and a comfortable life is to support your legal and financial decisions with reliable information and proven expertise. That's why America's finest disability attorneys have combined their talents to create the Special Needs Alliance®.

As attorneys in the field of Disability and Public Benefits Law, we help to enhance your child's quality of life. Every member of the alliance has the resources and legal expertise to help you maintain public benefits for your child and develop effective estate plans that protect your assets.

This brochure is provided as a service of Special Needs Alliance and is informational only. It is not intended to serve as legal advice or replace the advice of a legal professional.



Special needs require special attorneys.

Special Needs Alliance® members
are available nationwide.

To contact a member in your area, call

877-572-8472

or visit us online at

www.specialneedsalliance.org

Buying A Home

*For a Person With
Disabilities*



Special needs require special attorneys.



David is 12 years of age and suffered a closed-head injury resulting in severe brain damage as a result of an automobile accident.

He recovered a significant amount of money, but even that will not be sufficient to pay for the medical care that he requires for the rest of his life. To retain his eligibility for public benefits, including Medicaid, a special needs trust for David's benefits can be designed and implemented by an attorney member of the Special Needs Alliance®.

David and his family have been living with his aunt during the pendency of the lawsuit, and his family is anxious to purchase a home. Here are several options for using David's personal injury settlement to buy their home.

Trust Purchases Home.

In this option, the trust has sufficient liquid assets to pay for the home; however upon David's death, the home will have to be sold to repay Medicaid for medical assistance rendered to David if the Medicaid benefits exceed the cash remaining in the trust. In addition, family members must pay their pro rata share of the operating expenses or some rental because the trust must be "for the sole benefit of" the disabled beneficiary.

Trust Purchases Home With Parents/Spouse/Life Estate.

Here the trust pays a large share of the purchase price of the home as the value of the beneficiary's life estate will be significant based on his relatively young age. At age 18, that value is .97590. Each state law must be consulted as in some states there is no estate recovery against a life estate. The disadvantage to this option is the parents/spouse must pay for the remainder interest and their share of any home improvements or expansions.

Trust Purchases Home With Parents/Spouse as Co-Tenants.

In this scenario, co-tenants have a right to use the property, so there is no issue concerning payment of rent. The disadvantage is the Medicaid pay-back provisions apply to the percentage of the home owned by the trust.

Beneficiary Owns Home.

An advantage to this option is the home will not be subject to the pay-back provisions of the trust; however, it may still be subject to Medicaid estate recovery on the death of the beneficiary. Again, individual state law must be consulted. The disadvantage to this option is if the beneficiary is a spendthrift, he may mortgage the home, fail to maintain homeowner's insurance, or fail to pay real estate taxes or other expenses. An incompetent or minor person should not own a home.

NOTE: You may consider having the beneficiary purchase the home out of the proceeds of settlement directly rather than through an advance from the trust.

Parents Purchase Home.

By having the parents purchase the home, there is no Medicaid pay back or estate recovery; however, the parents must pay for the home.

NOTE: This should be taken into consideration and an attempt made to allocate sufficient funds to the parent to pay for the home.

As with any issues pertaining the use of the special needs trusts, these five strategies to purchase a home for an individual with special needs requires an attorney with specialized knowledge of state-specific public benefits law, such as a member of the Special Needs Alliance, to protect the home.

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