



rhoades
mckee

attorneys



Understanding a Special Needs Trust

Trusts are often of long-term benefit to a family and proper administration of a trust over time helps prevent problems. When a special needs trust is needed, careful consideration should be given so beneficiaries who also are receiving government benefits are not impacted by an inheritance. A special needs trust provides for the beneficiary's discretionary needs in a manner that is intended to avoid disqualification from government benefit programs.

To assist you with this process, we have prepared a list of amenities that can be paid for from the trust without impacting the beneficiary's government benefits. We hope that this resource will provide you with an understanding of administering a special needs trust.

List of Amenities

- Acupuncture/acupressure
- Advocacy
- Attorney fees
- Appliances (TV, VCR, stereo, microwave, stove, refrigerator, washer/dryer)
- Athletic club membership
- Babysitting for beneficiary
- Books and magazines
- Bottled water
- Bus pass/public transportation fees
- Care management services
- Clothing
- Clubs and club dues (record clubs, book clubs, health clubs, service clubs)
- Computer (hardware, software, programs, Internet service)
- Curtains, blinds, drapes
- Day care for minor or disabled trust beneficiary (generally not for beneficiary's children)
- Dry cleaning and laundry services
- Education: courses or classes (academic or recreational)
- Elective surgery
- Fitness equipment
- Furniture, home furnishings
- Gasoline for automobile
- Haircuts/salon services
- Hearing aids and batteries
- House cleaning/maid services/cleaning supplies
- Insurance (automobile, home, and/or possessions)
- Linens and towels
- Massage
- Musical instruments (including lessons)
- Nonfood grocery items (laundry soap, bleach, fabric softener, deodorant, dish soap, hand and body soap, personal hygiene products, paper towels, napkins, Kleenex, toilet paper, any household cleaning products)
- Over-the-counter medications (including vitamins or herbs)
- Personal assistance
- Personal supplies (shampoo, toilet paper, deodorant, toothbrush/paste, etc.)
- Pet, pet supplies
- Physician specialists
- Private counseling
- Recreation (movies, sporting events - but not meals)
- Repair services (appliance, automobile, bicycle, household)
- Retail store charge accounts (gift, craft, hardware and pet stores)
- Respite care
- Sporting goods/equipment
- Swimming pool
- Taxicab scrip
- Tickets to concerts or events (for beneficiary and an accompanying companion)
- Transportation (automobile, motorcycle, bicycle, moped)
- Travel
- Utility bills - telephone, telephone answering machine, cable, television
- Vacation

Key Considerations

- As the trustee of the special needs trust, you have a fiduciary responsibility to administer the trust according to its terms for the “sole benefit” of the disabled individual.
- As the trustee, you have the discretion to determine if the distribution is for the sole benefit of the disabled individual and in the disabled person’s best interest.
- The trustee cannot be required to make any distribution.
- Distributions should be paid directly to the provider of goods and services. Cash distributions made to the disabled individual could interfere with governmental benefit eligibility.
- Trusts are audited and reviewed by several agencies including the Social Security Administration, the Department of Health and Human Services, and the court in some instances.

Please keep in mind that every situation is different and that changes in state and federal law and regulations may affect the administration of a special needs trust and the impact distributions have on beneficiaries who qualify for government benefits. To understand how these factors may apply to your unique situation, please connect with Pam Cross or a member of the Rhoades McKee Estate Planning and Trust Administration Team.

Pam Cross

pjcross@rhoadesmckee.com

616.233.5181



As Chair of the Firm’s Estate Planning Team, Pam helps individuals, families, and business owners preserve their legacy through proper estate planning and by working with them to resolve family strife during times of a disability or death. This includes listening and understanding the client’s concerns so that she can recommend and prepare proper estate plans, establish guardianships and conservatorships when appropriate, work through various potential tax issues, attend hearings and other matters at the probate court when necessary, and navigate through litigation during times of family disputes.

A former adjunct professor at Cooley Law School as well as a frequent speaker at the State Bar of Michigan and the Michigan Association of Certified Public Accountants, she frequently lectures on estate planning and probate issues.