



## OLD NORTH STATE TRUST, LLC

### **Trusts Are Invaluable for People with Special Needs**

Trusts for people with special needs, related to illness or disability, are not major parts of our business, but can be absolutely essential for the families involved. Because of their complexity, special-needs trusts are something big banks prefer not to handle.

These are set up for clients who get some sort of government benefits, such as Medicaid or Supplemental Security Income, which don't allow them to receive direct benefits from a trust or other investments. The laws governing these programs require that their clients can't have significant assets or income.

To meet those legal requirements, a trust must include special language that makes all distributions discretionary. In other words, the trustee has complete discretion over how benefits are used. Different types of special-needs trusts have different provisions, but the important point is how we are able to take care of the clients. These accounts are usually very time-consuming and require special handling, which is what differentiates our approach from the big banks.

A typical special-needs trust originates with a court or insurance settlement that provides the funding. As trustees, we might use that money to buy a house for the beneficiary to live in and accommodate their needs. The trust might pay medical expenses that aren't covered by Medicare, pays for caregivers, buys special equipment or acquires transportation such as a handicap-accessible van. These trusts can also pay for client's recreational expenses, such as vacations.

One of our clients had a baby who suffered a brain injury during the birthing process. The child has cerebral palsy, requires a wheelchair for mobility, and is mentally handicapped. The child has a normal life expectancy and will require care for many years to come. The mother had limited resources. She was living in subsidized housing, didn't own a car, and, in fact, had never learned to drive. When the trust was established for the child, we sent the mother to driving school and bought a van and a handicapped-accessible house for them. We have been attending to the child's needs ever since. Through the trust, we continue to maintain the house and the van. We pay for her caregiver and for special expenses that go beyond what her government benefits cover. During this time, the child has visited Disney World, graduated from high school and gone to the prom. As a thriving adult, she is still attending special classes. She loves to sing and dance. We have watched her grow into a beautiful young woman.

Another client was injured as an adult in a workplace accident. A settlement produced funds that we hold in trust for his benefit. The client lives with his mother, who is his caregiver. We pay her to take care of him and have bought a vehicle for his use. The trust pays for his

entertainment needs, including cable television and a phone. A few medical expenses that Medicare does not pay for, such as his wheelchair, the trust will pay for the cost.

What these situations have in common is that both clients received settlements as a result of their disabilities having been caused by someone's fault or negligence. The purpose of the trust is to preserve the settlement so the client, or the client's family, doesn't have to liquidate those funds as Medicare or Social Security would otherwise require.

For instance, one family had set up investment accounts for each of their children at birth, with the idea of funding their college educations. But when one of the children turned out to have significant disabilities and qualified for a special Medicaid program, they had to spend all the assets from the child's investment fund before he was eligible for public benefits. This is why a trust has to be structured so carefully, to comply with these legal requirements.

Certain provisions in the law do stipulate that anything left in the trust at the beneficiary's death must be turned over to Medicaid. The purpose is to partly reimburse whatever public funds had gone to the client. These rules get quite complex, which is one of the reasons that experienced trust specialists are needed to ensure compliance and protect the client's interests.

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