Optimizing the Use of Special Needs Trusts and ABLE Accounts

National Down Syndrome Society

1

Mike Walther

50+ years as a sibling of a loved one with Autism

Founded Oak Wealth Advisors in 2008 to provide families with independent and objective financial and special needs planning advice

First financial advisor in Illinois admitted into Academy of Special Needs Planners

Served as Treasurer for The National Association for Down Syndrome

2023 NAPFA Excellence in DEI Award winner

Named to Investment News Hot 100 list for 2023

Oak Wealth Advisors was selected by Newsweek as one of the Top Financial Advisory Firms in the United States in 2024

2

Randi Gillespie

Three children including a young adult daughter with Down Syndrome

Held leadership positions with three special needs organizations before joining Oak Wealth Advisors

Served as the Family Support Coordinator for The National Association For Down Syndrome

Delivers special needs education and disability awareness presentations in local hospitals, universities, and schools

Published in the local media as a special needs planning expert and advocate

Serves as Commissioner for the Village of Northbrook Disability Inclusion Commission

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3

Person-First vs. Identity-First Language

Oak Wealth Advisors respects every individual’s right to express who they are. In one-on-one discussions, we will use person-first or identity-first language based on the person’s preference. In group settings, we will use a mix of the two in the hopes of having everyone feel like they are being included and respected.

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4

Essential Elements of a Successful Special Needs Plan

Role of a Special Needs Planner

- Assist with accessing and preserving public benefits and resources
- Plan for financial support and care management
- Create structure and options to sustain independence
- Provide additional resources
- Protect individuals from creditors and predators
- Advise on structures for transitioning wealth to the individual

5

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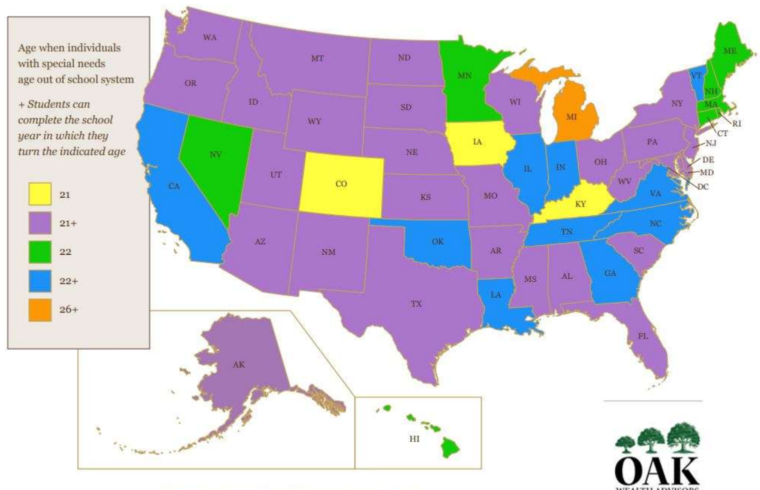
Public Benefits

- Benefits and programs are available to all children through the school year in which they turn 21/22
- Transitioning from school to government provided services requires significant planning
- Qualifying for government health insurance and income benefits is not easy
- Ongoing maintenance of benefits requires record keeping and diligence

6

MAXIMUM AGE OF SCHOOL SUPPORTS BY STATE



These ages are accurate to the best of our knowledge.
You should consult with a special needs planner before making any decisions based on this information.

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7

UNDERSTANDING PUBLIC BENEFITS

	Eligibility	Monthly Income	Health Insurance
Benefits for All Individuals with Disabilities	**Based on federal FICA payments with a 10-year (40 quarters) minimum*** **Non-working child with a disability is eligible once parent has reached full retirement age for SSDI and 24 months after parent begins receiving Medicare for their own Medicare coverage**	**SSDI** **Amount:** Based on individual's earnings prior to disability or up to 50% of a parent's Social Security income payment (subject to the family maximum) **Purpose:** Pays monthly income that is intended to cover housing and other living expenses	**Medicare** **Access:** Earlier of age 65 or 24 months after disability finding or 24 months after parent begins receiving Medicare benefits **Purpose:** Part A pays hospital bills and limited nursing home coverage Part B pays doctors Part D provides prescriptions **Note:** Will not pay for extended nursing home stays
Means Tested Benefits for Individuals with Disabilities	**Medically disabled and poor** **Must meet income and asset ownership rules to obtain and retain the benefits**	**SSI** **Amount:** Up to $967 per month but reduced based on individual's earnings and in-kind support from family such as housing (free housing reduces amount by ~$322 to $645) **Purpose:** Pays monthly income that is intended to cover housing and other living expenses	**Medicaid** **Access:** Typically age 18 or date on which application is accepted based on finding of disability and proof of other eligibility requirements **Purpose:** Pays hospitals and medical providers directly Also covers many prescription drugs **Note:** No co-payments or deductibles

NOTE: **An individual with a disability is eligible to receive BOTH sets of benefits assuming they qualify for both.**
If benefits are combined, the individual will have two forms of health insurance and the greater of the two income amounts.
The individual is not able to receive income greater than the larger of SSI and SSDI.
***Eligibility can be met with fewer quarters of qualifying work if achieved during a person's twenties.**

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8

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Exempt Assets for retaining Means Tested Public Benefits

- $2,000
- Home
- Personal effects and household goods
- Motor Vehicle
- Life insurance (with restrictions)
- Burial funds (with restrictions) and burial space
- Property used in a trade or business

9

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Special Needs Trusts

- Should be drafted by attorney experienced with special needs planning and social security regulations
- No limit on the amount of money the trusts can hold
- Distributions at the sole discretion of the trustee, not the beneficiary
- Proper beneficiary for assets with beneficiary designations

10

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Third-Party Funded Trusts

- Can be funded by anyone other than the beneficiary
- Individual with special needs has no discretion over distributions
- Trust assets exempt
- Distributions are made for the benefit of the individual with special needs, but not to the individual
- No government reimbursements at death

11

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Self-funded Trusts The Payback Trust

- Funded with the assets of the individual with special needs
- Individual with special needs must be the only beneficiary
- Created by parent, grandparent, legal guardian, court or the individual
- Trust assets exempt
- Government reimbursement at death

12

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Self-funded Trusts
The Pooled Trust

- Funded with the assets of the individual with special needs
- Funds pooled for management purposes
- In some states, must be funded before 65
- Created by parent, legal guardian, court or the individual
- Trust assets exempt
- Government reimbursement at death
- Appropriate for smaller amounts of assets

13

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Trustee Responsibilities

- Communicate with beneficiary or guardian
- Invest and manage the trust assets
- Make appropriate distributions for the benefit of the beneficiary
- File statements and forms
- Stay current regarding special needs trust laws

14

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Permissible Distributions from Supplemental Needs Trusts

- Dental care
- Optical care
- Supplemenal nursing care
- Expenditures for travel, recreacton, or educational or cultural experiences
- Expenditures for travel of family members to visit the person with a disability
- Technology devices

15

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Other Distributions

- Groceries: basic food needs can be paid for using a SNAP Card
- Basic medical care, hospital expenses, and medicines should be paid by Medicaid
- Basic housing expenses such as rent, mortgage payments, and utilities should be paid with SSI funds. As long as the beneficiary is paying rent of at least $335, the SNT can pay the rest of the housing costs

16

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Special Needs Trusts

- The legal documents are cornerstones of the planning
- The documents alone will not deliver the results the clients need
- The laws are constantly changing and ongoing collaboration with an advisor can ensure planning stays current

17

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Coordination with Other Planning Documents

- Wills of parents, grandparents, etc
- Insurance and retirement plan beneficiary designations
- No assets should pass directly to disabled child
- All assets for child receiving means tested benefits should be allocated to SNT
- Usefulness of stand-alone SNTs

18

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Stand Alone SNTs are preferable to Testamentary SNTs

- Provides fund into which other family members may leave assets for individual with special needs
- Avoids risk that unrelated trust provisions might jeopardize nature of trust
- Privacy

19

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Funding the Special Needs Trust

- Each family's resources are different
- Life insurance is frequently a great tool for financing the long-term needs of an individual with special needs
- Adding life insurance to the mix for a family with a loved one with special needs needs to be done with care

20

Optimizing the use of SN Trusts and ABLE Accounts

ABLE Account

- Easy to open and manage
- Tax-free
- Ideal solution for holding surprise gifts of cash and excess earnings
- Limited annual contributions and maximum account size
- Potential requirement to refund government for Medicaid services received

21

Q3 2025

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ABLE ACCOUNT COMPARISON MATRIX

		GA	HI	IA	IL	IN
ABLE Contact Information		georgiastable.com 800.439.1653	https://hawaiiablesavings.com 855.563.2253	ia.savewithable.com 888.609.3457	il.savewithable.com 888.609.8683	in.savewithable.com 888.609.3457
Available to Non-Residents?		NO	YES	YES	YES	YES
In-State Income Tax Deduction		NO	NO	YES	YES	NO
Annual Maintenance Fee		$39	$35	$33 to $58	$31 to $56	$0
Rollover Fee		NO	$50	NO	NO	NO
Distribution Options		Check Debit Card Direct Request	Check Debit Card Direct Request	Check Debit Card Direct Request	Check Debit Card Direct Request	Check Debit Card Direct Request
Investment Fees		0.19% to 0.34%	0.30% to 0.38%	0.28% to 0.31%	0.28%- 0.31%	0.28% to 0.31%
Number of Investment Choices		Five	Four	Seven	Seven	Six
Mutual Fund Families		Target-Risk Options (Vanguard)	Target-Risk Options (Marquette Associates)	Target-Risk Options (Multiple Fund Providers)	Target-Risk Options (Multiple Fund Providers)	Target-Risk Options (Multiple Fund Providers)
Max Account Balance		$235,000	$305,000	$420,000	$500,000	$450,000
Medicaid Clawback Risk		YES	YES	NO	YES*	YES

Alliance Group — Oregon and Partner States — Oregon and Partner States
STABLE Group — Solo States — Solo States

UTAH AND WISCONSIN PROVIDE STATE TAX DEDUCTION FOR CONTRIBUTIONS TO ANY STATE'S ABLE PLAN || N/A STATES HAVE NO INCOME TAXES

*2021 LEGISLATION MINIMIZES ILLINOIS ABILITY TO CLAWBACK ASSETS IN ACCOUNT

22

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ABLE Account Basics

- Annual contribution limit per account is $19,000 per year (plus earnings up to $15,650)
- Funding can come from individual, others, or rollover of 529 College Savings Plan (subject to annual contribution limits)
- Maximum account sizes differ by state, but most are tied to the state's 529 College Savings Plan limit

For more information, contact www.ABLEtoday.org

23

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ABLE Account Basics

- One account per individual
- Individual's disability must have been diagnosed prior to age 26*
- Can be opened by beneficiary or an authorized individual
- You do not have to be receiving SSI or SSDI to be eligible to open an account
- Individuals participating in an employer sponsored retirement plan are **NOT** eligible to add to earnings above the $19,000 limit to the ABLE account

24

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Benefits of ABLE Accounts

- Easy to establish - online
- Tax-free growth
- Ignored by Government for means testing (up to $100,000)
- Approved expenses are broadly defined
- Distributions with checks or debit card
- Increased independence for individuals with special needs

25

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Limitations of ABLE Accounts

- Annual contributions limited to $19,000 per beneficiary (plus earnings of up to $15,650)
- Amounts over $100,000 in account will jeopardize means tested benefits
- Disability must have existed before age 26*
- Investment options constrained by state offerings
- Medicaid payback requirement for balance in account at death of account holder

26

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ABLE Account Similarities to SN Trust

- Assets exempt in calculating available resources for government benefits
- Assets protected from creditors
- Assets can be distributed to support the individual with special needs
- Medicaid payback potential for assets remaining in account at death (similar to Self-Funded Payback and Pooled Trusts)

27

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ABLE Account Differences from SN Trust

- No limits on SNT contributions or account balances
- More customization available with SNT's
- No government payback required with Third-Party SNT's
- No legal expense to establish ABLE account
- More flexible distribution rules with ABLE accounts
- No tax return required for ABLE account

28

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ABLE Qualified Disabilty Expenses

- Health
- Housing
- Education
- Transportation
- Employment training and support
- Assistive technology and personal support services
- Prevention and wellness
- Financial management and administrative services
- Legal fees
- Expenses for oversight and monitoring

29

Optimizing the use of SN Trusts and ABLE Accounts

Beneficiary Designations

- Take precedent over wills in determining who receives assets at death
- Control distributions from life insurance policies, IRA's, retirement plan accounts and pensions
- An individual receiving means tested benefits or expecting to receive them in the future should not be named as a beneficiary
- Common mistake is to NOT take the individual with special needs off the list of beneficiaries for existing life insurance policies (Also an issue for retirement plans)

30

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Coordinated Communication

- Avoid unintended gift consequences
- Ensure acceptance of planned roles for relatives and friends
- Decrease awkwardness at family gatherings

31

Oak Wealth Advisors on YouTube

The Special Needs Voice podcast on Spotify

32

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33

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34