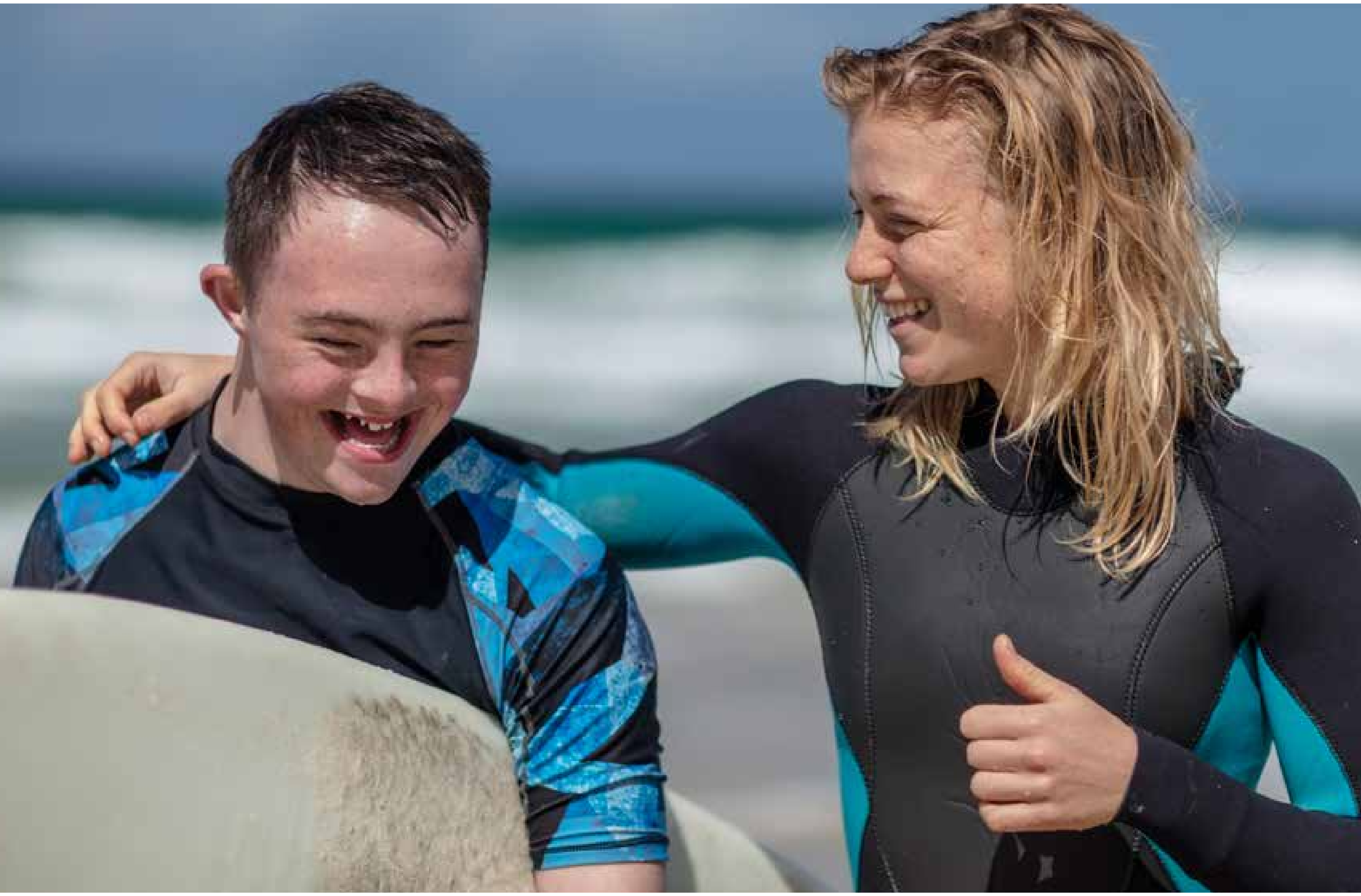
Special Needs

CLIENT GUIDE



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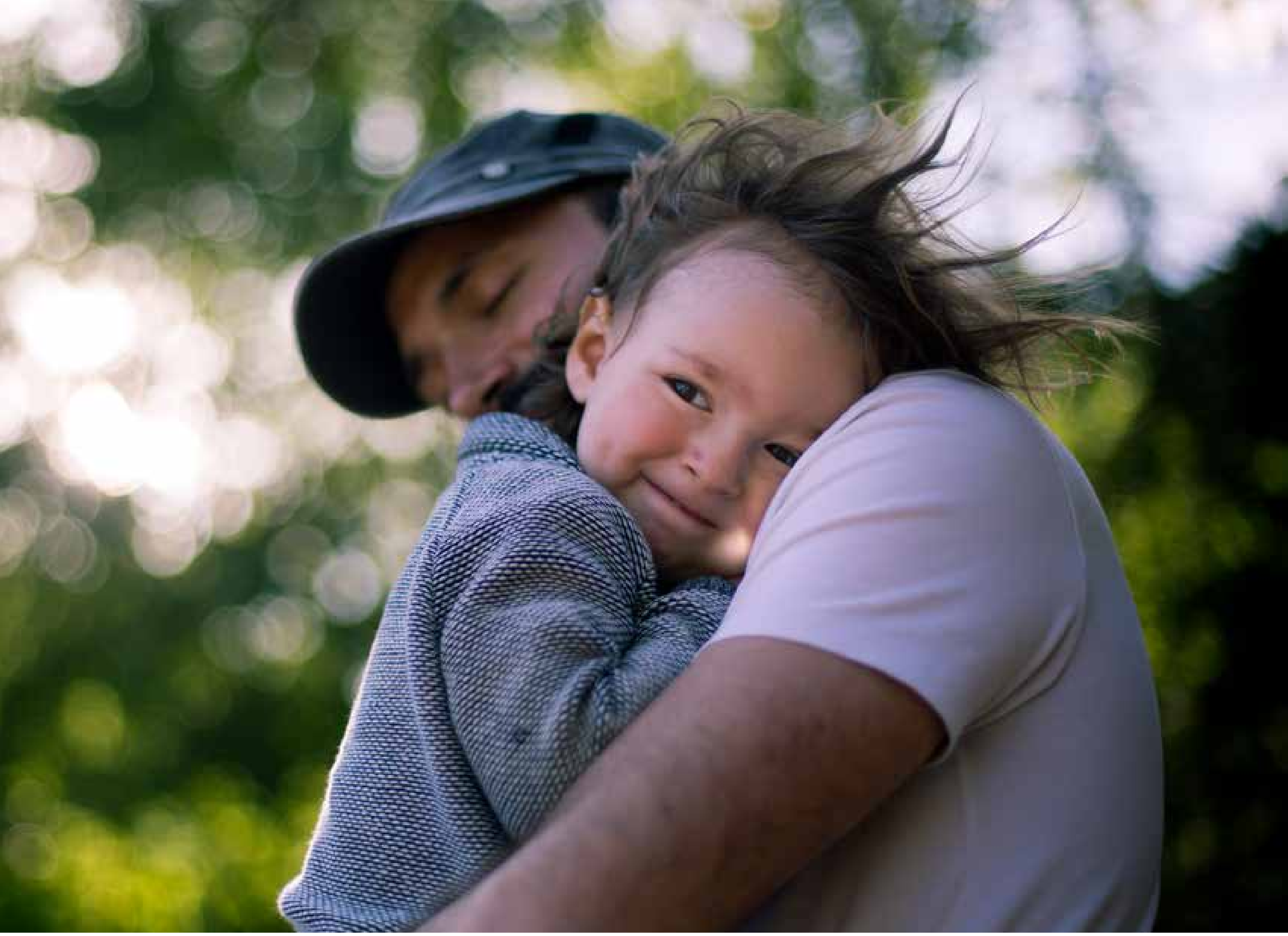


As someone who loves and cares for an individual with special needs,

you understand there is a certain level of support – and resources – your loved one will require throughout his/her life. A special needs trust funded with life insurance may be one solution to ensuring your loved one has access to the needed resources.

Planning for a special needs individual

Individuals who are referred to as having "special needs" fall into a wide spectrum of persons with physical, mental, and emotional disabilities. To maximize the quality of their lives, these individuals may need additional medical care, special educational support, physical, occupational or speech therapies, as well as financial help to adapt their adult living environment to their unique set of needs in order to establish and maintain a degree of independence.

A Team Approach

Special needs planning usually involves engaging a team of specialized professionals, including caregivers, a life care planner, a special needs attorney, financial advisors, and/or insurance professionals. This team of experts works with you to navigate all of the complexities associated with planning for your loved one, including evaluating the costs associated with a specific disability, accessing the availability of public benefits, and developing a plan to fund what may be a lifetime of care.

Creating a Life Care Plan

A life care plan is a snapshot into a typical day in the life of your special needs loved one and serves as an essential guide to ensure that his/her routine and level of care is not disrupted should something happen to the caregiver. It is a written document that begins by assessing the special needs person's current situation and projecting his/her medical and nonmedical needs throughout life expectancy. This document outlines the person's needs related to general care, medical needs, education, housing, vocational needs and more. It also considers the person's psychological needs and personal preferences, such as clothing or meals.

Funding the Plan

The financial costs of caring for a special needs individual can be substantial and are often underestimated at the outset of the planning process. Evaluate current and projected income (such as Social Security Income (SSI), structured settlements, earned/unearned income) and expenses (housing, food, transportation, medical, recreational costs, etc.). Keep in mind that costs related to the care of a special needs individual often do not end at "adulthood" and depending on the condition, may increase over time. The difference between projected income and expenses can help to determine any shortfall and the total funding need.

Care for a special needs individual is typically paid from a combination of the following sources:

1. Government benefits, such as SSI and Medicaid
2. Tax-favored "ABLE" accounts
3. Self-funding through private insurance, out-of-pocket, or via special needs trusts (often funded with life insurance)

Government programs

Your loved one may be entitled to government programs, such as SSI and Medicaid, that can provide access to residential and medical facilities not otherwise available through private insurance. Generally, eligibility for these types of programs is determined by a "means" test, meaning that assets and/or income over certain very modest amounts will disqualify an individual from benefits.

Although these programs can provide substantial benefits to eligible recipients, many are limited in the types and amounts of services they can offer, and may not be sufficient to meet your loved ones needs. Exclusion from government benefits may include:

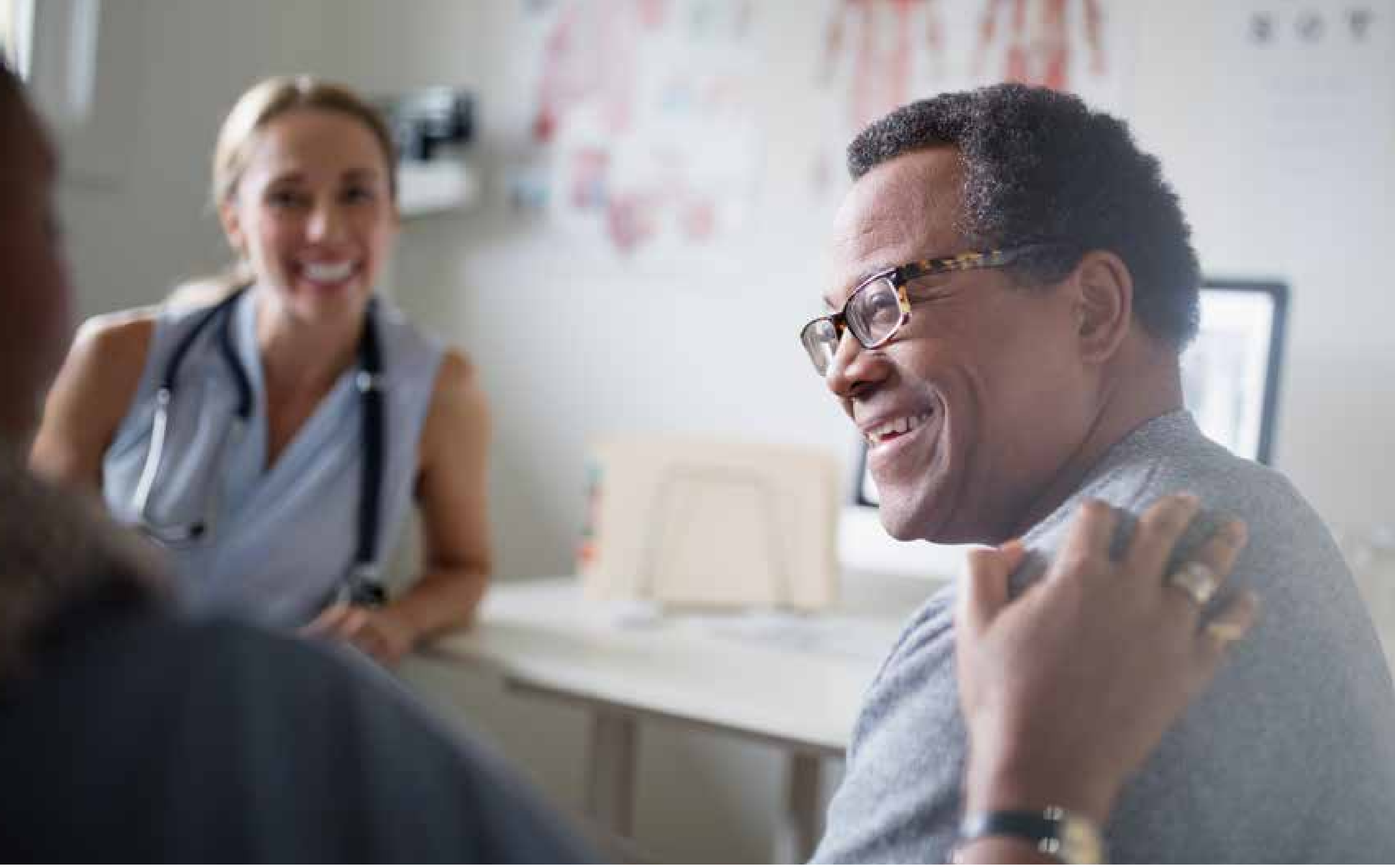
- Certain medications
- Education or vocational training
- Transportation needs
- Living accommodations
- Home modifications
- Implementation and maintenance of adaptive equipment
- Specialized computers
- Other aids for independent function

Due to these types of exclusions, caregivers and family members may wish to ensure additional financial resources are available to provide care beyond government allowances.

Maintaining Government Benefit Eligibility

When the costs of care are supplemented through other sources, special caution must be taken to ensure that eligibility for public benefits is not jeopardized. Items that may jeopardize government benefits include: child support in a divorce decree, assets titled in a special needs beneficiary's name (such as an UTMA account), and gifts or inheritances paid directly to the special needs individual. Even if your loved one is not currently receiving government benefits, it is crucial that steps are taken to ensure future benefits are not endangered.

Review existing beneficiary designations, including retirement accounts and life insurance policies, to ensure that a special needs beneficiary is not a direct recipient. Naming a special needs trust as the beneficiary can help to ensure that the beneficiary's access to public benefits is not jeopardized.



ABLE Accounts (529A)

The Achieving a Better Life Experience Act ("ABLE Act") of 2014 enhanced the ability of a special needs individual to supplement the benefits received under public benefit programs.[1] Assets within ABLE accounts and subsequent distributions from these accounts will not count against asset/income limits for public benefit eligibility so long as certain contribution and distribution requirements are met. For example, contributions to an ABLE account are limited to one annual exclusion gift (currently $15,000) per year, and to maintain SSI eligibility, the ABLE account balance cannot exceed $100,000.[2] Assets within an ABLE account enjoy tax-free growth and can be distributed tax-free when used for "qualified disability expenses."[3] An ABLE account is a simple and affordable way to allow a special needs beneficiary access to tax-favored funds beyond what is provided under government programs. Consult your team of advisors for more information.

Special needs trusts

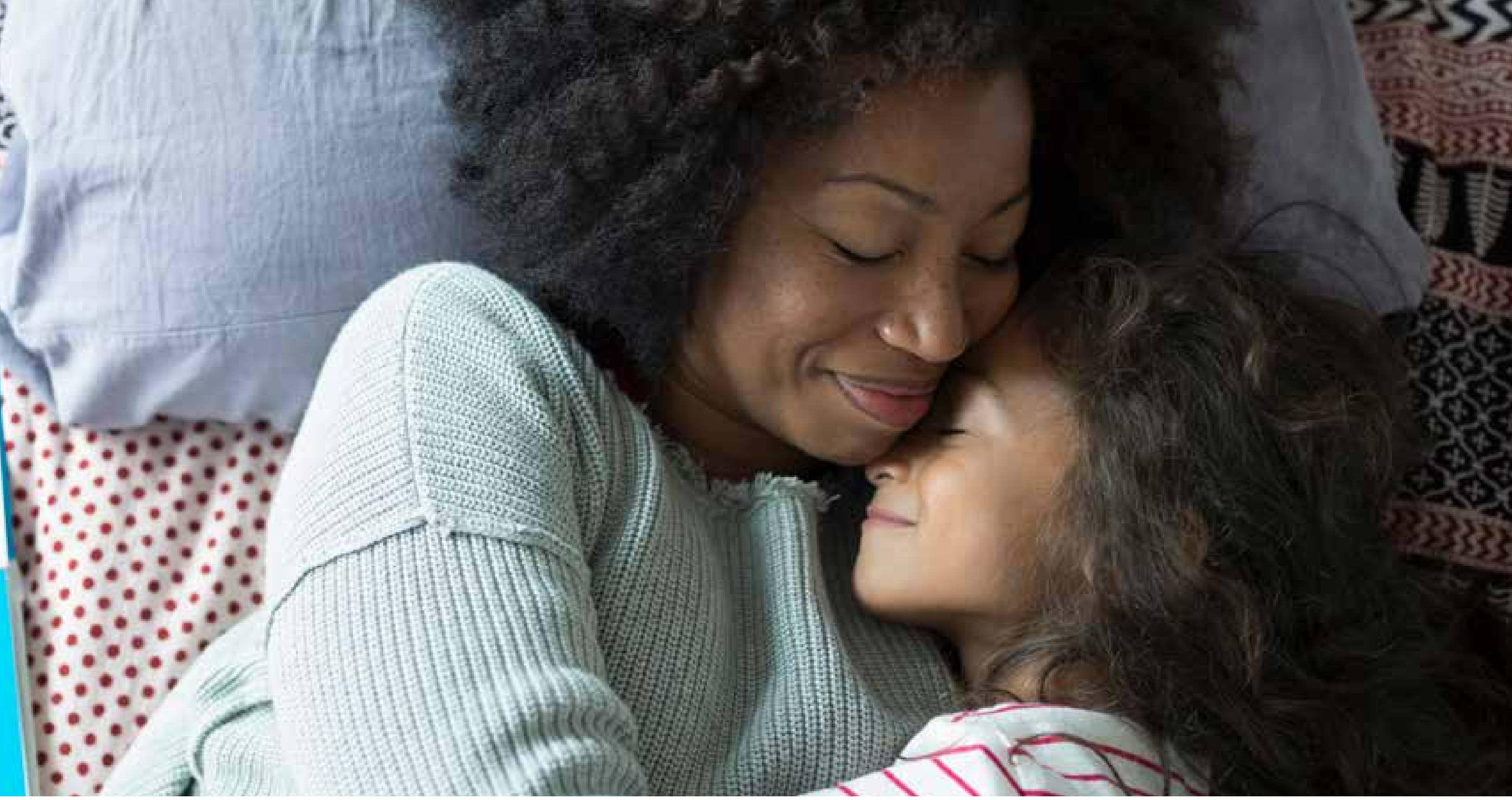
A properly drafted special needs trust ("SNT") is another way to round out the government benefits a special needs individual receives. A SNT is designed to ensure that any distribution from the trust does not disqualify the special needs individual from receiving ongoing governmental support. SNTs are also useful to provide ongoing care for a special needs individual whose disabilities are such that he/she will not need, or qualify for, government benefits. In most cases, SNTs are drafted to "supplement" and not "supplant" the public benefits being received, ensuring that if the individual's disability and corresponding needs change, the SNT will not prevent the beneficiary from qualifying for government benefits.

There are two types of SNTs: "first-party special needs trusts" and "third-party special needs trusts." These trusts must be drafted with specific special language and therefore should only be drafted by an attorney with expertise in special needs planning.

First-Party Special Needs Trust

A first-party SNT[4] is a type of trust that is created using the special needs person's own assets. The primary benefit of a first-party SNT is that assets held within a first-party SNT are not countable for Medicaid/SSI purposes. However, first-party SNTs require a Medicaid payback provision upon the death of the special needs person, meaning the trust is required to repay the state's Medicaid agency for all services rendered.

EXAMPLE: John, a special needs individual, receives a structured settlement due to injuries sustained in an accident resulting in a disability. If the settlement is paid directly to John, these payments may reduce or eliminate John's ability to receive government assistance. Instead, if the settlement payments are made to a first-party SNT created for John's benefit, rather than to John directly, these payments should not count towards John's assets for the purpose of qualifying for government benefits.



Third-Party Special Needs Trust

A third-party SNT is a trust created and funded by a third-party (e.g., parent or grandparent) for the benefit of a special needs individual. When drafted and administered properly, a third-party SNT can preserve SSI/Medicaid eligibility and does not require a payback provision to Medicaid. At the death of the special needs beneficiary, the remainder of the SNT's property can be paid to other beneficiaries, such as the child's siblings or other relatives. In this way, the terms of the SNT can be structured to benefit both the special needs individual and other family members.

A third-party SNT is more flexible than a first-party SNT in that it can be created and funded by a parent (or other relative) during life or can be created at the parent's death via his/her will (generally known as a testamentary trust). A third-party SNT created during life can also be revocable (meaning it can be revoked or changed) or irrevocable. Deciding what type of third-party SNT to create and when to create it will be highly dependent on your own goals and financial situation.

EXAMPLE: Josie is a special needs individual who is unlikely to ever be able to manage her own finances and may need government assistance in the future. Josie's Mom and Dad decide to create a third-party SNT to help provide additional financial assistance to Josie. Mom and Dad decide to make regular gifts to the trust to build up a fund of assets that will be used towards Josie's support. Upon Mom and Dad's death, any bequests from their estate will be paid to the SNT, rather than to Josie directly, to help preserve her eligibility for benefits.

Using life insurance with special needs trusts

Although an SNT can be funded with a variety of assets, including stocks, bonds and real estate, life insurance is a particularly effective asset with which to fund an SNT trust because it can provide a substantial payout at a time it is often most needed — at the death of a caregiver/parent/grandparent.

Using a life insurance policy to fund a SNT can provide many benefits, including:

- An **income-tax free source of funds** to help replace the services of a caregiver at the caregiver's death
- **Cash to fund the trust** over the lifetime of the special needs individual, enhancing and/or supplementing the benefits provided under government programs
- **Competitive rates of return** on the death benefit when compared to other investment options
- For permanent policies, **cash value in the policy grows free of income taxes** and may be accessed (via withdrawals or loans) income-tax free to provide support to the special needs beneficiary while the insured is still alive

Commonly asked questions

Who should be the insured of the life insurance policy?	• Generally, the insured will be someone who has a close family tie to the special needs individual and whose loss will have a financial impact on that person. • Examples may include: parents, grandparents, and/or family members who provide financial support or caregiving services.
Who should be the owner of the policy?	• There is no one right answer to this question, but it is important that the special needs individual never be the owner of the policy or be named as the beneficiary to avoid jeopardizing eligibility for public benefits. • A few potential options for ownership include: – Insured owns policy and names a third-party SNT as the beneficiary – A revocable third-party SNT owns policy and is the beneficiary – An irrevocable third-party SNT owns the policy and is the beneficiary • It is important to work with an attorney to draft any trusts and to advise you on possible income, gift, estate or generation-skipping transfer (GST) taxes resulting from your chosen ownership arrangement.
Who should be the trustee of the SNT?	• Because of the responsibilities inherent in being a trustee of a special needs trust, the ideal trustee will have many of the following qualities: – Familiarity with the special needs individual and a good understanding of the individual's disabilities, needs, routine, etc. – Close in age with the beneficiary to avoid frequent turnover of trustee responsibilities (if possible) – Knowledge/experience with public benefits, or willingness to work with a professional until the trustee becomes comfortable with the rules and requirements – Financial knowledge and competence in managing/investing money • Oftentimes two or more people may be named as "co-trustees," and will share or divide trustee duties. This may be a good option in instances where you may want a family member who is close to the special needs individual to serve as trustee, but that individual lacks experience with public benefits and/or managing investments. • If you don't want to place the responsibilities of managing the trust on a family member or friend, you can hire a professional trustee. A professional trustee is usually a financial institution, like a bank, that will administer the trust for a fee.

Where to start?

To help you think about the specific care items to consider funding for your special needs loved one, contact your advisor for a Special Needs Fact Finder to use as a starting point. Work with an attorney familiar with special needs planning and include an insurance advisor to assist you with an analysis regarding the type of insurance policy to buy and how much death benefit is appropriate.[5]

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For more information on using life insurance to help plan for special needs, please contact your financial advisor.

1. A special needs individual whose disability started before age 26 with a condition expected to last at least 12 consecutive months may be the owner of an ABLE account.
2. The total amount that an ABLE account can hold will also be limited to the plan's respective state limit, which is tied to such state's limit for education-related 529 savings accounts.
3. Earnings on distributions for non-qualified expenses are subject to ordinary income taxes and a 10% penalty.
4. First-party SNTs can be a d(4)(A) SNT in which the assets are not pooled with other beneficiaries, or established as a pooled d(4)(C) SNT. Both types of first-party SNTs must be created by an irrevocable inter vivos trust agreement.
5. The amount of life insurance protection you qualify for will be subject to medical and financial underwriting requirements.

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