

ESTATE AND FUTURE PLANNING

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Foundation (CFMF)

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Community Fund Management Foundation (CFMF)

Nonprofit organization for people with disabilities

Created by Cuyahoga County Board of MRDD
and Federation for Community Planning

Offers a Master Trust and a Pooled Trust

Uses Equity Trust as Trustee

Headquartered near Cleveland in Strongsville

Board from around Ohio

MISSION OF CFMF

Use Trusts to:

- Enhance quality of life of people with disabilities
- Safeguard eligibility for government benefits

Governmental Benefits

(Not means-tested, no **asset** limits)

- Social Security Disability Insurance (SSDI)
 - based on someone's work history
 - amount paid is in proportion to amount put in
- Medicare
 - 2-year waiting period

[**Income** from work can reduce or end SSDI]

Government Benefits (Means-tested, **asset** limits)

- Medicaid
 - Normal limit of only \$1,500
 - Limit w/Medicaid Buy-In \$11,281
 - * Payer of last resort *
 - Pays approx. 60% of state/county programs
- Supplemental Security Income (SSI)
 - Support for Aged, Blind and Disabled
 - Pays maximum of \$721 per month

[Income also affects eligibility and may reduce or end SSI]

Do not try to hide surplus funds!

- Don't move extra cash to someone else's account, a separate account, under the mattress or in a shoe box
- Looks like hiding funds and might be fraud
- Options limited to spending surplus (e.g., burial account), paying to Medicaid, or putting into Special Needs Trust

Medicaid Buy-In

- An exception to the normal \$1,500 limit meant to encourage employment
- To qualify, must have a disability, be employed and earning an income – no matter how small the amount
- Will pay a premium out of your income (on a sliding scale) in order to retain Medicaid
- See <http://jfs.ohio.gov/OHP/mbiwd.stm> or call 1-800-324-8680

Goal of this Presentation

To provide you with information about:

- How a family can set aside funds for person/child with a disability *to continue to provide things that the family currently provides*, after family is gone
- How to save and spread out lump sums received by a person with a disability

And still retain eligibility for Medicaid

Medicaid Eligibility (p. 2)

Concerned whether assets are ***accessible***
(i.e., can be reached or turned into cash)

Examples of Assets:

- back payments from Social Security
- inheritances, bank accounts
- IRAs, life insurance policies, annuities
(as owner or beneficiary)

\$1,500 ceiling

Parents' Obligation of support ends at 18

Parent's Estate Plan

- Could simply disinherit the person with a disability in a Will and leave nothing to him/her
 - not a good option
- Ohio and federal Law now provide better options (i.e., Trusts) to enhance the lives of persons with disabilities

Last Will and Testament (p. 7)

- Recommend Guardians 3-deep
- If disinherit child, add clause in Will
- Consider equal share for each child
- Extra share to other child = Problems

Letter of Intent

- Document that shares knowledge and wishes
- Not mandatory
- Samples/forms available on Internet

Trusts Generally (p. 9)

- Flexible legal documents
- Not only for the wealthy

Types of Trusts

- Testamentary or Living (Intervivos)
- Revocable or Irrevocable
- Support
- Special Needs

Selecting a Trustee

- The more funds in the trust, the more skill and experience needed
- A Professional Trustee has to be paid
- Pooled Trusts have “built in” Trustee

Trustee: Family or Nonprofit?

Parent as Trustee – continues your current role

- Lifetime of experience

Siblings or other relatives as Trustee

- Limited Time
- Limited Resources
- Limited knowledge regarding Medicaid and SSI

Non-profit Trustee of Pooled Trust – specialized knowledge and staff

If Assets Belong to Someone Else, Typically Parents

When the person with a disability is the
Beneficiary of someone else's assets:

There are two (2) options:

- Wholly Discretionary Trust
- Supplemental Services Trust

If Assets Belong to a Person with a Disability

There are two (2) options:

- Special Needs Trust
- Pooled Medicaid Payback Trust

Assets From Family, Parents

Wholly Discretionary 3rd Party Beneficiary (p. 11)

- Requires careful drafting (see p. 12-14)
- Avoid "support, education, maintenance, welfare"
- Include "Poison Pill"
- Advantage -- No payback

Supplemental Services Trust (p. 15)

- In state law (R.C. § 5815.28)
- Limit on size at creation
- 50% of remainder (when beneficiary dies) must be paid back to state DD or MH
- Limited usefulness

Assets Belong to Person With a Disability

Special Needs Trust (p. 19) *aka* Regular Medicaid Payback Trust

- SNT = Ohio terminology / also general term
- Remainder to Medicaid 1st when Beneficiary dies
- Can be created by parent, grandparent, guardian or a court
- For Beneficiary under 65 at time of creation

Pooled Medicaid Payback Trust (p. 19)

- Separate accounts, Funds pooled for investment
- Can be created by same parties, and also by the individual
- Remainder to Medicaid 1st **OR** remain in Pooled Trust
- Provides Trustee

Options Offered by CFMF

- (See brochure)
- Master Trust (Wholly Discretionary 3rd Party)
- Pooled Trust (Medicaid Payback)
- Roll-In Trust (A type of Pooled Trust)
- Partners (Remainder can be left to them)

Signing Up With CFMF

- Joinder and Trust Documents on website
- Must have your own attorney assist you
- Submit documents with payment/deposit
- Should select Designated Advocate (can be the beneficiary with the disability)

Requesting Payments from CFMF

- Forms and instructions on website
- Allow lead time, especially for big, unusual requests
- Requests reviewed to maintain eligibility
- Can request 6 months of payments for items

Other Concerns (p. 24-35)

- Leaving the family home
- Guardianship (residency law change)
- Advanced Directives
(Powers of Attorney, Living Will)
- Do Not Resuscitate Orders
- Planned Lifetime Assistance Network (PLAN)