

Information of interest to people with disabilities and other special needs and their families.

SpecialCareSM

Getting Divorced? Separated? Time to Review or Create Your Financial Strategy

If you'll soon be facing a separation or divorce, or it has recently occurred, and you have a child with special needs, taking time to review your finances with professionals can be one of the best things you can do for yourself right now. Your team of advisors, such as a Special Care Planner or other financial professional, your divorce lawyer, and a special needs attorney, could help you review your financial strategy, and help you develop a new one focused on the current and long-term financial wellbeing of your family.

“Generally speaking, helping a couple who is separated or divorced and has a child with special needs with their financial strategies is basically similar to helping a married couple or even a single person,” says Bill Van Evera, a Special Care Planner with The Albany Agency, LLC (www.wvanevera.com) in Albany, New York, a general agency of Massachusetts Mutual Life Insurance Company (MassMutual). “Your team of advisors will look at your current circumstances, short- and long-term goals for you and your family, and so forth. However, when a couple is divorced or separated, a few more significant factors enter the picture.”

Communication: *open and ongoing*

It's in the best interest of everyone if you and your ex-spouse agree to openly communicate and act together for the benefit of your child with special needs (as well as for any other children you may have), and to keep that communication open throughout the years to come. Be willing to sit down together with a financial professional, at least for an initial meeting, to review matters and discuss options. It will go a long way if you create financial strategies for each of you that work in conjunction with the needs of your child.

“I find that I actually have two clients, the custodial parent and the other parent, especially if either or both have remarried,” explains Van Evera. “They, and their strategies, have the common bond of the

child.” Ideally, the best strategies can be developed if, prior to finalizing the divorce decree, the couple meets with a financial professional, their divorce lawyers, and an attorney who's experienced in serving the special needs community.

“So many things can affect the financial wellbeing of the child with special needs, and knowing what they are and planning accordingly before the divorce papers are drawn up can make a real difference,” Van Evera says.

“However, that can be hoped for only under the most ideal circumstances. A more common scenario is to sit with one or both ex-spouses after divorce occurs. We can still look at the divorce decree and review their good strategies together. However, we'll be limited in our choices and may need to make corrections to what's already in place.”

Government benefits: *helping protect current and future eligibility*

Household income plays a critical role in whether or not your child will continue to receive government benefits – or will qualify for them at some time in the future. It includes the custodial parent's earned income, alimony, child support (including support paid for siblings of your child with special needs), and any income earned by your child and his or her siblings. Whom you choose to be the custodial parent could be a deciding factor in your child being approved or denied government benefits.

Child support payments: *making and receiving them*

When it comes to support payments, the parent who pays them usually has two concerns, especially when the support is for a child with special needs. First, will the payments actually be used for the child? This is primarily an issue of trust – that the money will be spent on the presumed direct and indirect expenses determined by the divorce attorneys, parents, and court.

“We can address this concern during the development of the families’ financial strategies,” says Van Evera. “If your child is currently receiving government benefits, or might want to apply for them at some point in the future, having child support payments directed to a special needs trust (SNT) will ensure that the money will not count as your child’s income.” Personal assets exceeding \$2,000 would make him or her ineligible for government benefits. “And once the money is in the trust,” adds Van Evera, “the non-custodial parent can be assured that it will be used for the benefit of the child.”

Support beyond the age of majority: *planning ahead is wise*

The second concern of a parent paying child support is when the payments will end. Will it be when the child reaches the age of majority, or will payments continue indefinitely? This question is usually answered by the severity of the child’s needs, and whether or not the child will be able to earn an income and be self-supportive.

“In New York, where I do business,” explains Van Evera, “and in many other states, a child is automatically deemed competent at age 18 and has all the rights given an adult. Support payments would no longer be paid to the custodial parent. Instead, the child would receive them, unless precautions are put in place to prevent it.”

Once again, an SNT can help, and having it established while the child is young will ease any stress and eliminate any oversight. Your child smoothly transitions from childhood to adulthood with no negative impact to your family’s financial strategy.

Another benefit of creating a trust when your child is young is having a way for family members to provide gifts of money for your child over the years without jeopardizing eligibility for government benefits. Many grandparents are familiar with UTMA’s, Uniform Transfer to Minors Accounts or UGMA’s (Uniform Gifts to Minors Act); they make contributions to them for the benefit of a grandchild. However, account ownership automatically transfers to the child when he or she becomes 18, which would make him or her ineligible to receive government benefits.

One more thing regarding the age of majority: considering the changes in rights and responsibilities at this critical turning point in life and your child’s capability in managing them, you may want to think about becoming a legal guardian of your child. If you and your spouse are on good terms and have your child’s best interest at heart, having one of you as guardian and the other as back-up guardian may be a good option.

What more can you do?

Review your wills and look at insurance products, retirement and pension plans, and other investment products to see if beneficiary changes need to be made. Think about having your divorce lawyers and your special needs attorney work together so your divorce decree doesn’t complicate your efforts to develop a financial strategy. And take care that your strategy and your ex-spouse’s don’t conflict with one another, one canceling out the intent of the other, in regards to the finances of your child with special needs. When your strategies are created, be sure they’re flexible enough to meet future needs (for instance, to make adjustments if you or your ex-spouse remarry), then review them at least annually and when a major event occurs. And remember: communicate openly. Ultimately, it benefits everyone. ♦





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The Special Care Planner receives advanced training and information in estate and tax planning concepts, special needs trusts, government programs, and the emotional dynamics of working with people with disabilities and other special needs and their families. The certificate program is offered by The American College in Bryn Mawr, PA, exclusively for MassMutual financial professionals. State insurance departments recognize that the Special Care Planner certificate program provides essential information on the profession of special care by granting continuing education (CE) credits (varies by state).

A Special Care Planner through MassMutual's SpecialCareSM program can assist parents in drafting Letters of Intent and can help make a difference in the quality of life for an individual with special needs, their caregiver and other family members. Through SpecialCare you will learn valuable financial strategies, identify financial strategy solutions, access vital information, and meet certified specialists who will work with you and your professional advisors – your banker, accountant or financial planner, lawyer, social workers and health care providers – to review your financial picture and offer options to fit the needs of each situation. For more details, visit MassMutual's website at <http://www.MassMutual.com/specialcare>, or call 1-(800)-272-2216.

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