Frequently Asked Questions

When should I begin planning for my son or daughter with special needs?
It's never too early to plan! Develop your estate plan now to protect against unexpected tragedies or challenges, to prepare for changes in your family, and to ensure that you son or daughter has the financial, legal and other resources to lead a personally fulfilling life. Starting special needs planning early enables the family to build the Special Needs Trust fund and make plans that will serve the individual with disabilities well for years to come.

What is the best way to fund a special needs trust?
Many people find that purchasing a permanent life insurance product is the most efficient and most secure way to fund the special needs trust. With the trust owning and being the beneficiary of a life insurance policy, the trustee will have quick access to funds without having to sell real estate or stocks.

What changes after my son or daughter turns 18?
The law provides for all people who reach age 18 to be considered an adult, which means parents or guardians no longer have legal authority on behalf of their child. Also the criteria for determining some government benefits differs for minors and adults. Therefore, understanding your legal options regarding guardianship and eligibility for government programs is especially important during this time.

What are some important considerations in drafting a will?
- Naming beneficiaries, personal representative, and guardian;
- Determining which assets will be covered in the will, and which need to be included in the estate plan; (for example, joint bank accounts, life insurance, retirement plans, annuities, and property are treated differently than assets in the name of the testator alone);
- Ensuring that the family's wishes direct how assets are distributed, rather than following the Intestacy Stature dictated by the State;
- Preparing the will in conjunction with other important documents, such as a letter of intent and estate plan,;
- Setting up a special needs trust to manage funds and avoid loss of government benefits.

What is a letter of intent and how does it differ from a will?
The letter of intent can be instrumental in guiding and directing the care routine and other aspects of the daily life of the individual with special needs. It does not have the meet the special requirements of a will and is not legally binding. The letter should describe the child now and future preferences for areas such as living arrangements, employment, important relationships, abilities and needs, education, health care needs, supports and services needed, and other important things to know.

Why should I establish a special needs trust rather than directly leaving assets to my child?
If a child with a disability receives SSI and Medicaid (or could qualify for these benefits when he or she becomes an adult) and directly inherits money or assets, that child will lose those benefits and have to use
the inheritance for daily living costs and health care. A special needs or supplemental needs trust fulfills two primary functions: to manage funds for someone who may not be able to do so himself due to disability; and to preserve the beneficiary's eligibility for public benefits, such as SSI, Medicaid, public housing, or other program.

Which government benefits can my child benefit from and how is eligibility determined? Government financial and health care programs can be very beneficial to people with disabilities, but the conditions and rules can be somewhat complicated. A person may be eligible for any one, or all, of these benefits at the same time.