

# Special Needs Planning

## Key Issues In Working With Special Needs Families

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People



Foundations



Tools

Educate yourself about special needs  
issues and planning tools

# People

A generation ago,  
families did not  
talk about their  
special needs  
members



What does the  
landscape  
look like today?



Startling numbers point to increase in families who need your help

5%

150

800

50,000,000

# The numbers of associations and foundations keep growing

Car Accident Survivor

Traumatic Brain Injury

Williams Syndrome

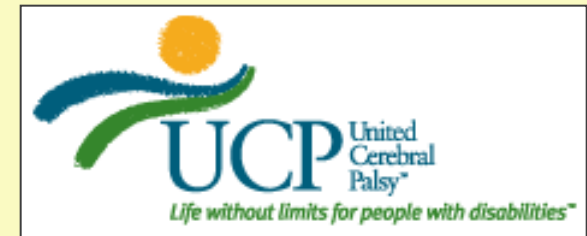
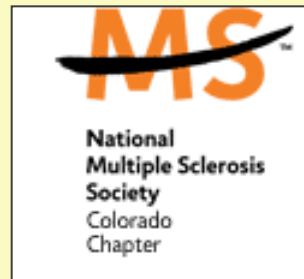
Global Developmental Delays

Blindness

Dyslexia



**PRADER-WILLI SYNDROME ASSOCIATION**  
*Still hungry for a cure.*



**MDA**  
Helping Jerry's Kids

JERRY LEWIS  
MDA National Chairman





# First generation of special needs individuals to outlive their parents

## Aging father agonizes over fate of his son

Maureen O'Hagan

Seattle Times staff reporter

The image, decades old, still lingers in Ron Johnson's mind: his teenage son, Ronny, beaming in the back of the family speedboat, the cool, damp wind rushing by as they zoomed around Lake Chelan. Those were active times, family times.

Now it's just the two of them, and life has slowed. There's the old-fashioned barber shop where they both get haircuts, and the cookies and ice cream they eat together in the car. Father and son, Ron and Ronny, where one goes, so goes the other.

It's the way life has been, and the way life has to be.

Now 41, Ronny was diagnosed with autism as a child. He's needed constant monitoring his entire life. If left alone, he might dash out into the street. And he'll eat anything he can



[enlarge](#)

ERIKA SCHULTZ / THE SEATTLE TIMES

Ron Johnson, of Lake Forest Park, watches as his son Ronny gets a haircut at Smitty's Barber Shop in Shoreline. Ron likes him to have a good, stylish cut. "He's phenomenally handsome and beautiful," Johnson says.

**The Seattle Times**

**Independence**



Individuals  
With Special  
Needs Want a  
High Quality  
of Life



**Self  
Determination**

**Social  
Life**



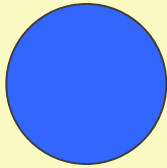
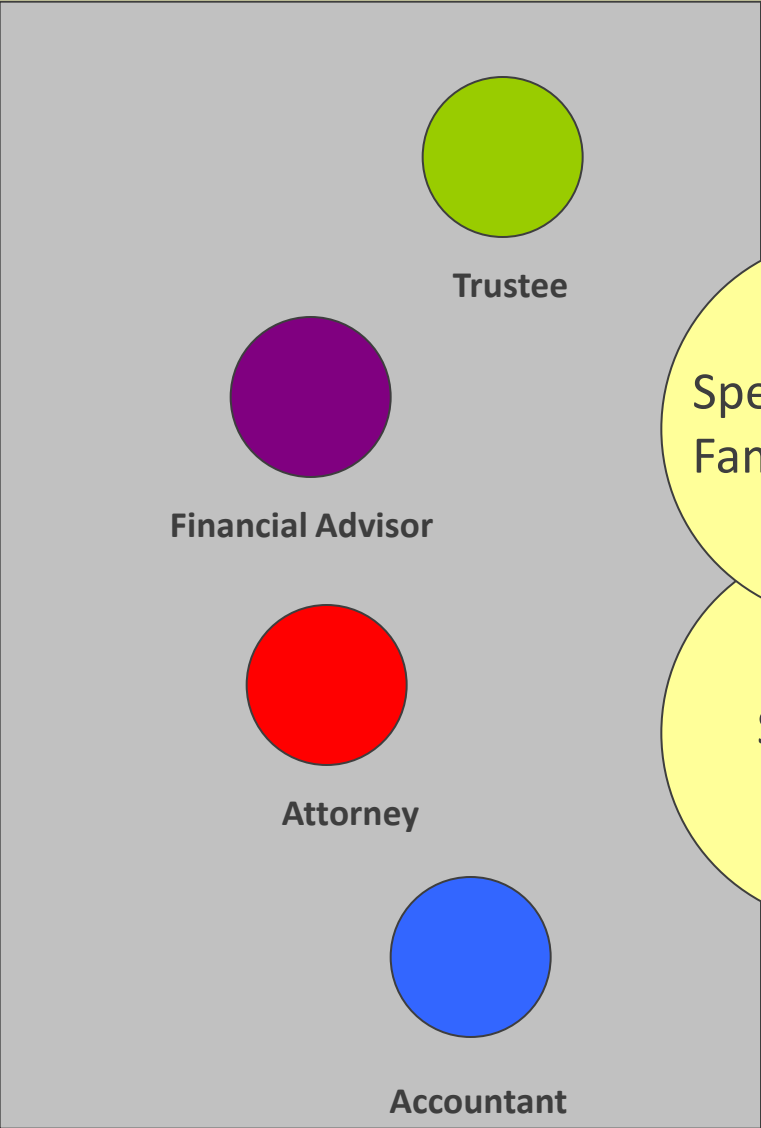
Advisors have a  
greater duty to  
their clients than  
any other time in  
our history



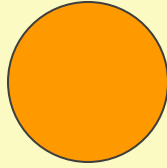
Allied  
professionals  
required to make  
special needs  
plans work



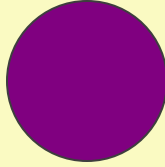




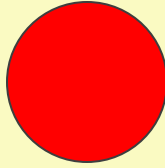
Guardian



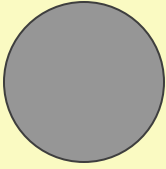
Care Providers



Social Security



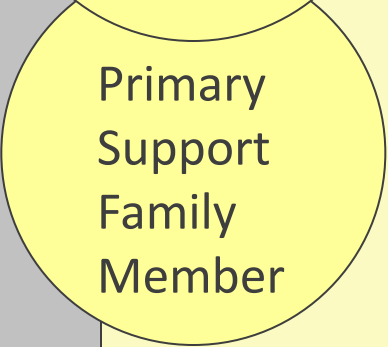
School System



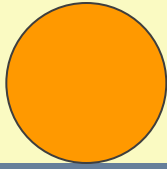
Medical Community



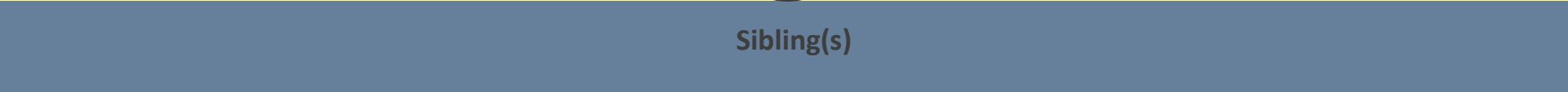
Special Needs  
Family Member



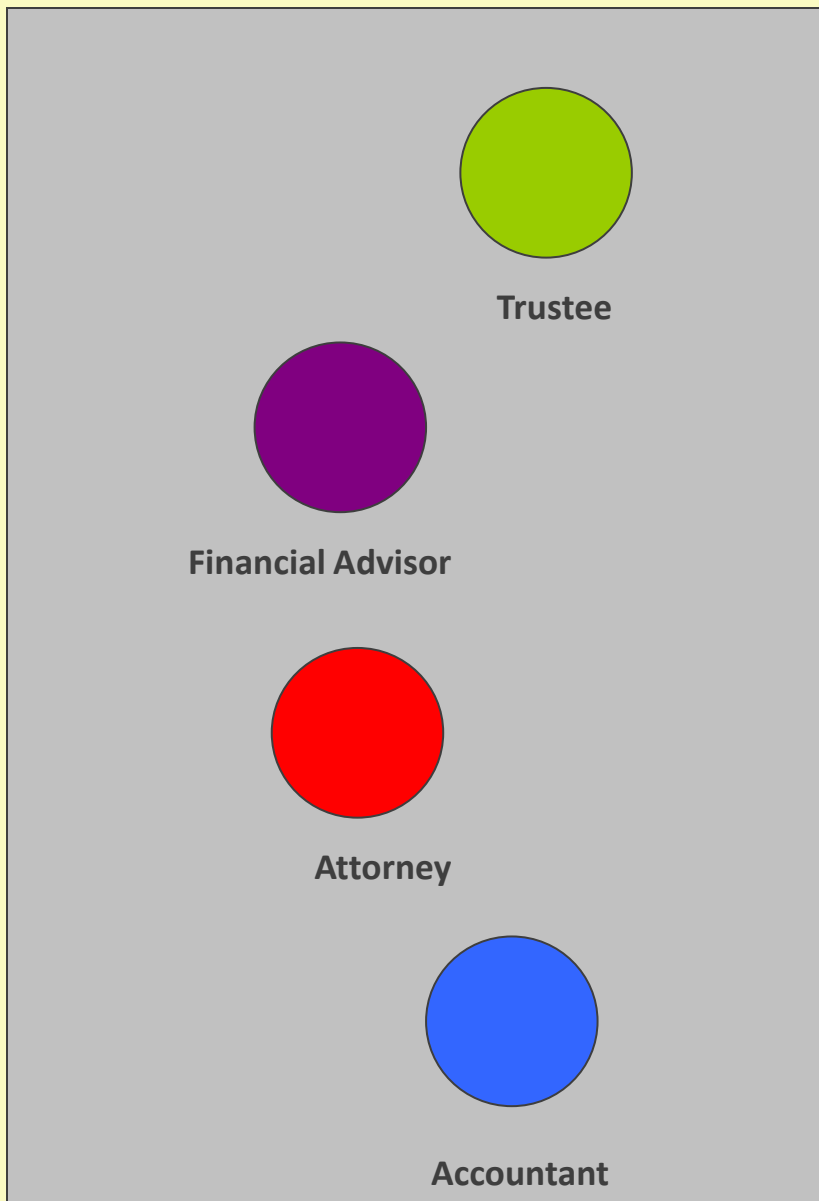
Primary  
Support  
Family  
Member



Sibling(s)



# Coordinated approach improves outcomes



- Tax efficiency
- Disbursements
- Income generation
- Trust funding
- Estate planning
- Benefit protection
- Creditor Protection

# Incorporate specific future expenses related to the disability in planning

The screenshot shows an Excel spreadsheet with the following structure:

	A	B	C	D	E	F	G
1	<b>Financial Planning Worksheet</b>						
2	<b>For Families With A Disabled Member</b>						
3				Monthly	Annually		
4	<b>Family Expenses</b>						
5						<b>Housing:</b>	
6	<b>Medical/Therapeutic</b>					Rent/M	
7		Co-Pays				Utilities	
8		Coinsurance				Mainten	
9		Equipment				Landsc	
10		Medicine				Furnish	
11		Transportation				Insuran	
12		Home Assistance				Propert	
13		Eyeglasses				Other	
14		Other					
15							
16	<b>Food/Dining</b>					<b>Personal Needs</b>	

# Foundations

Special Needs  
Planning has  
unique  
foundational  
elements to  
understand





Understand  
government  
benefits to  
preserve wealth  
and safety net



# Government programs provide a safety net for citizens

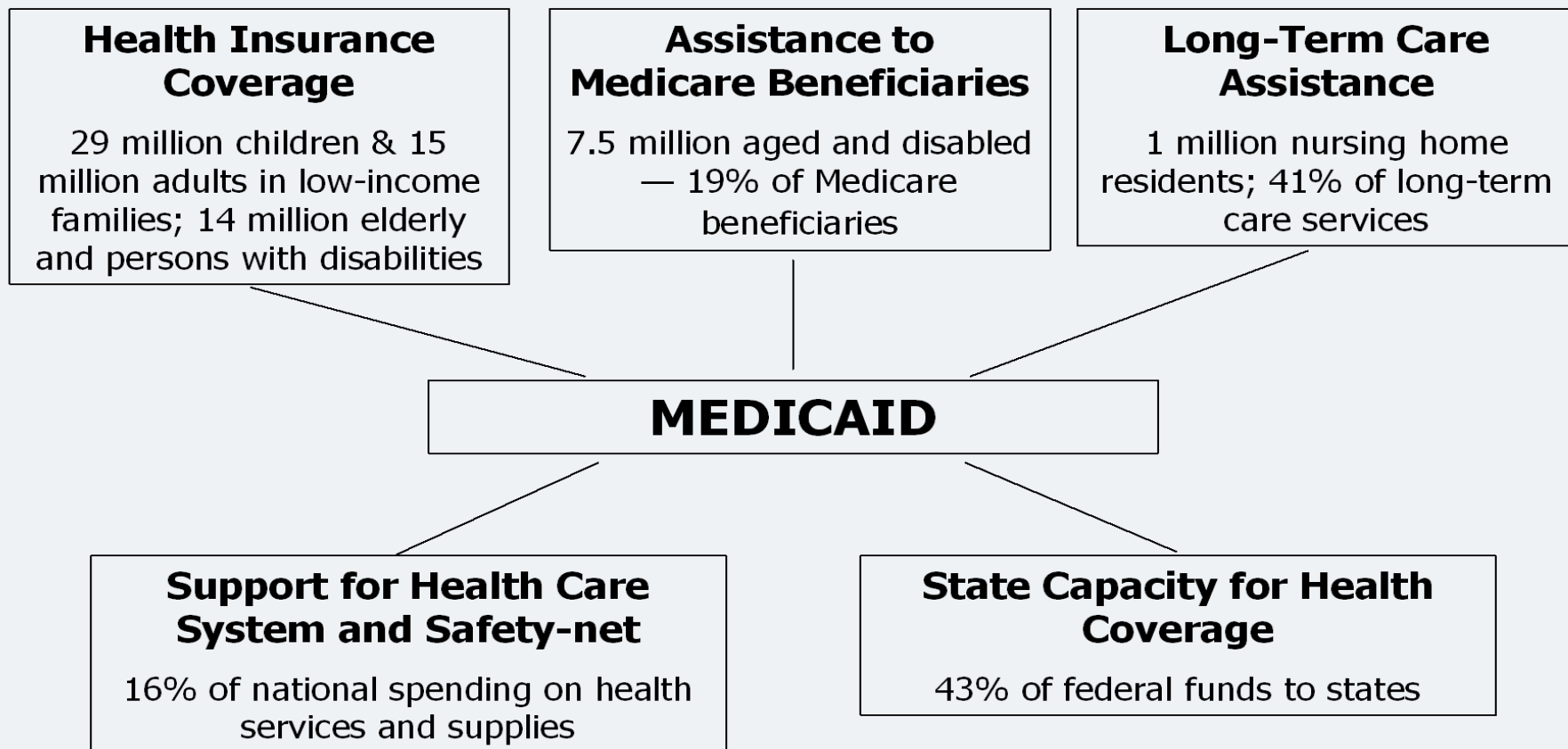
## **Supplemental Security Income (SSI):**

- ▶ Monthly income to people age 65 or older, blind or disabled
- ▶ Must have limited income and financial resources
- ▶ Cannot have more than \$2,000 in assets (some exemptions)

## **Social Security Disability Insurance (SSDI):**

- ▶ Cannot earn more than \$940 per month (2008)
- ▶ Cannot do basic work activities—such as walking, sitting and remembering—for at least one year.
- ▶ Cannot do other work

# Medicaid Today



Source: Kaiser Commission on Medicaid and the Uninsured, 2008

# Medicare provides health care coverage for people who have worked

Part A

Hospital Insurance

Part B

Medical Insurance

**MEDICARE**

Part C

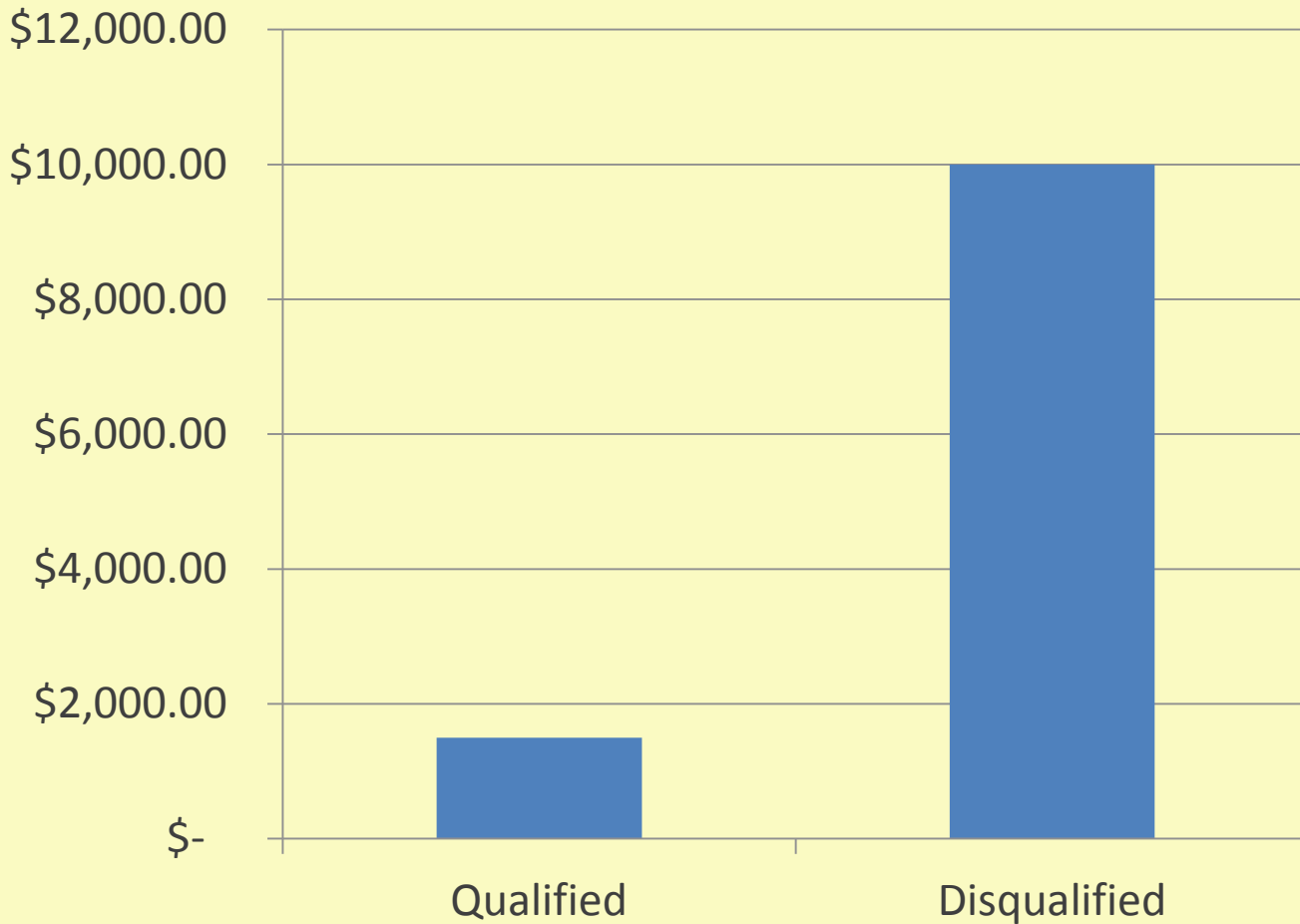
Medicare Advantage  
Plans

Part D

Prescription Drug  
Coverage



# Benefits are usually subject to asset and income tests



Understand the  
purpose of a  
special needs  
trust

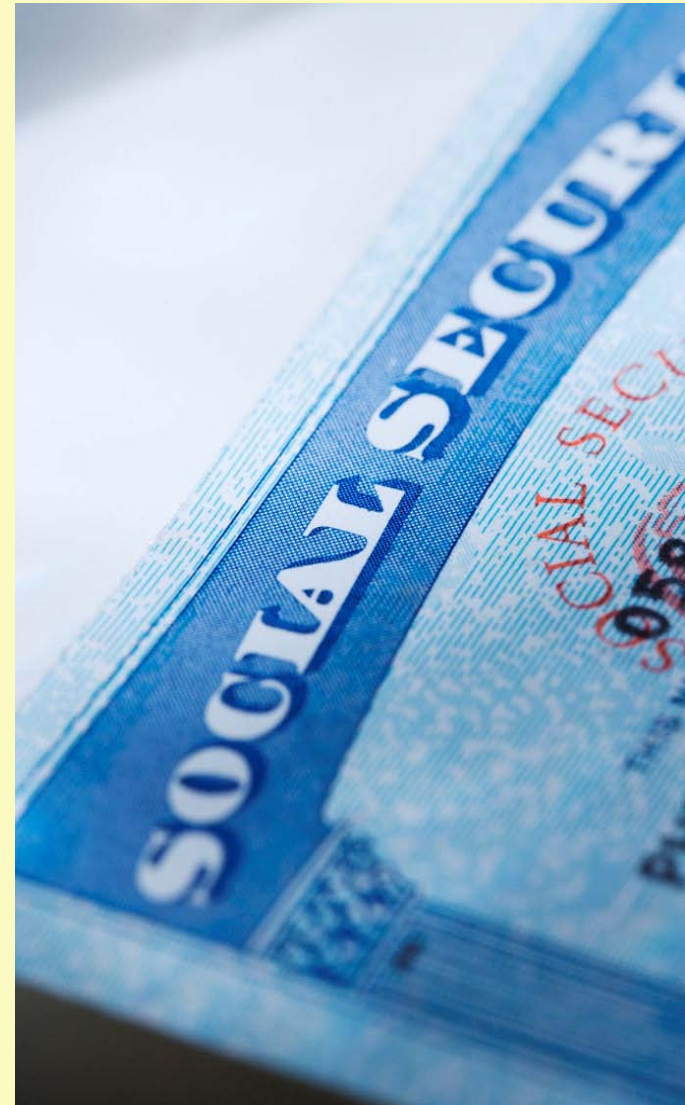


# OBRA 1993

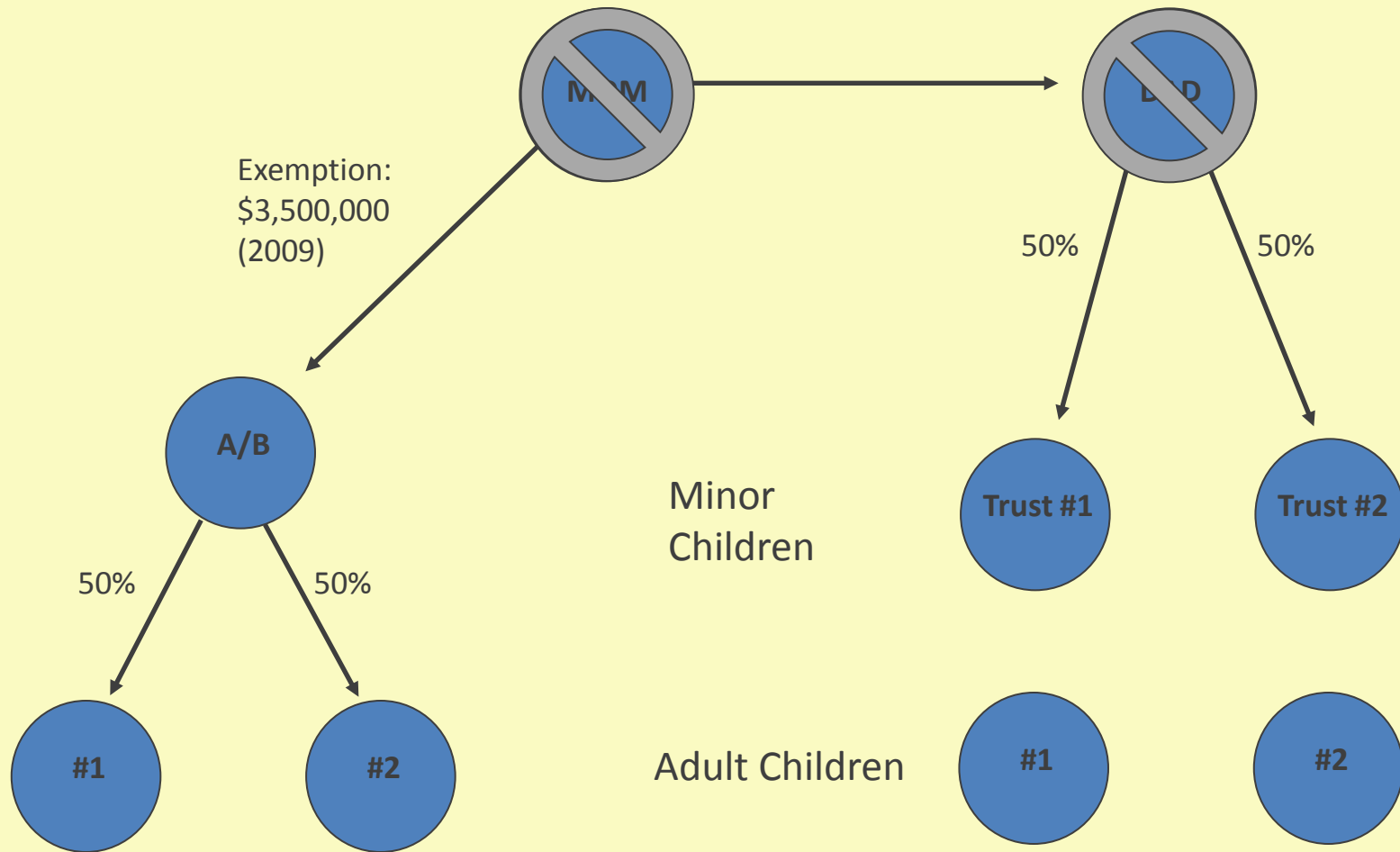
d(4) (a) – Medicaid Payback  
(1<sup>st</sup> Party)

d(4) (b) – Miller Trust (Utah Gap)

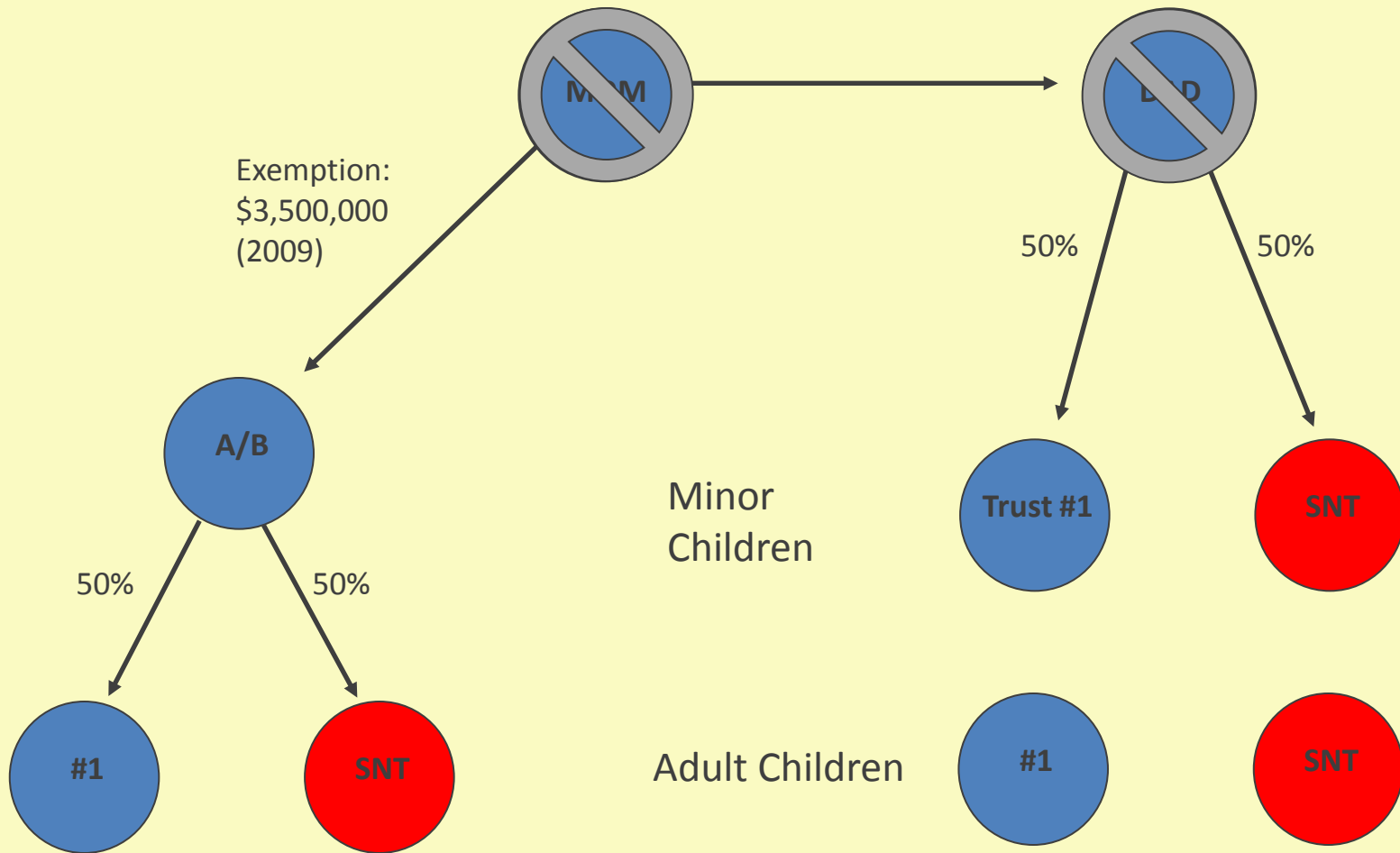
d(4) (c) – Pooled Income Trusts



# Typical estate plan



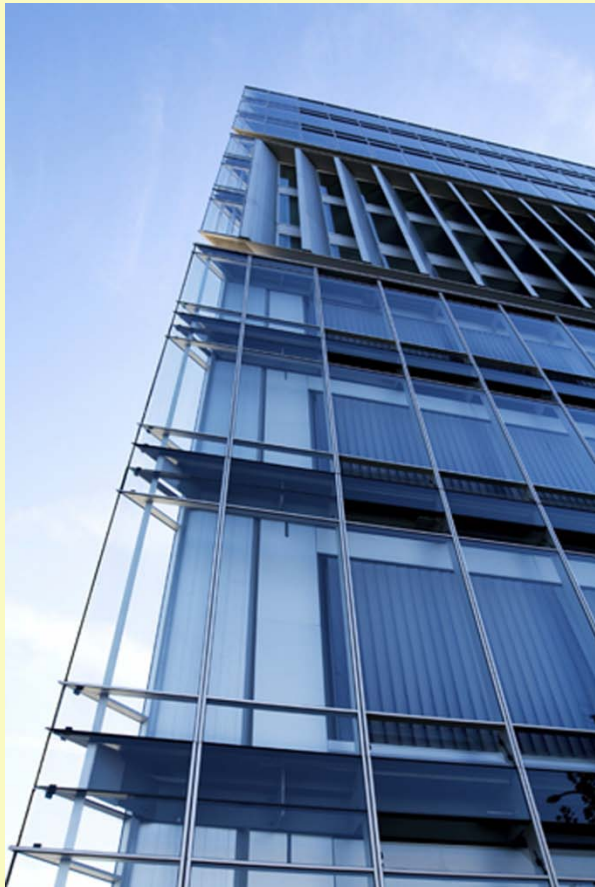
# Special Needs Trust





# Who should you choose as trustee?

Corporate?



## **Duties:**

- Manage assets
- File tax return
- Fiduciary obligation
- Disbursements

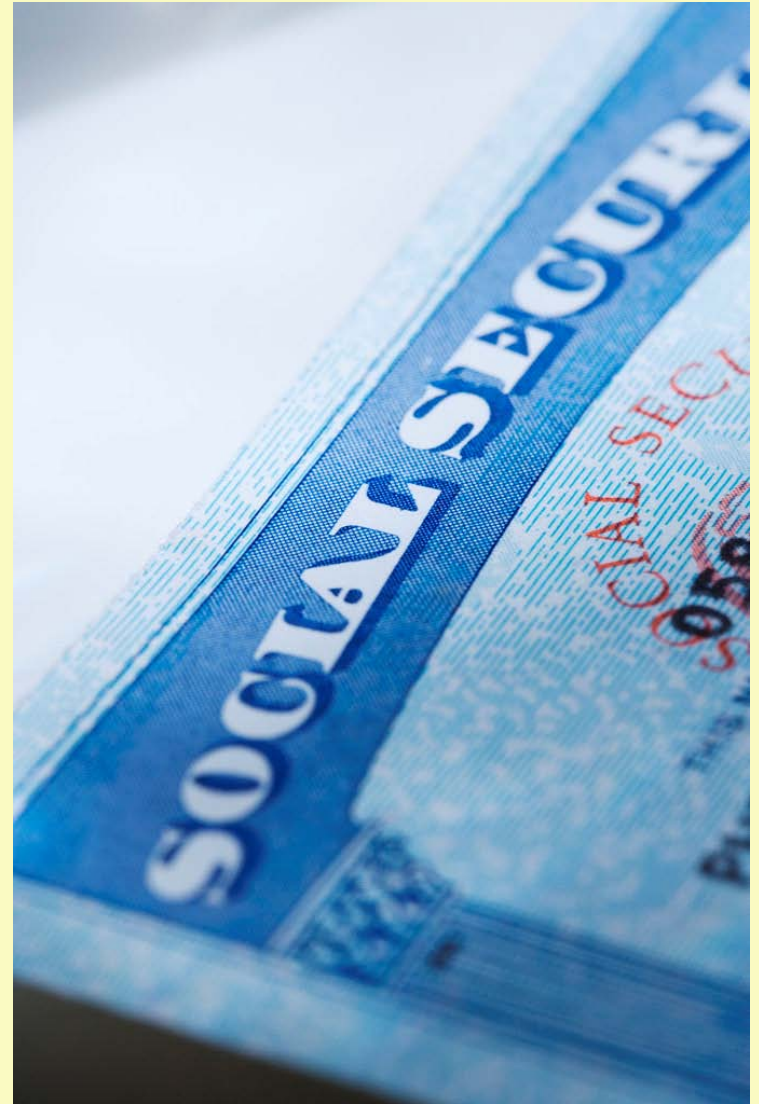
Personal?



Special needs  
trusts help pay  
for a better  
quality of life



Trustee must stay  
compliant with  
government rules  
to maintain  
benefits

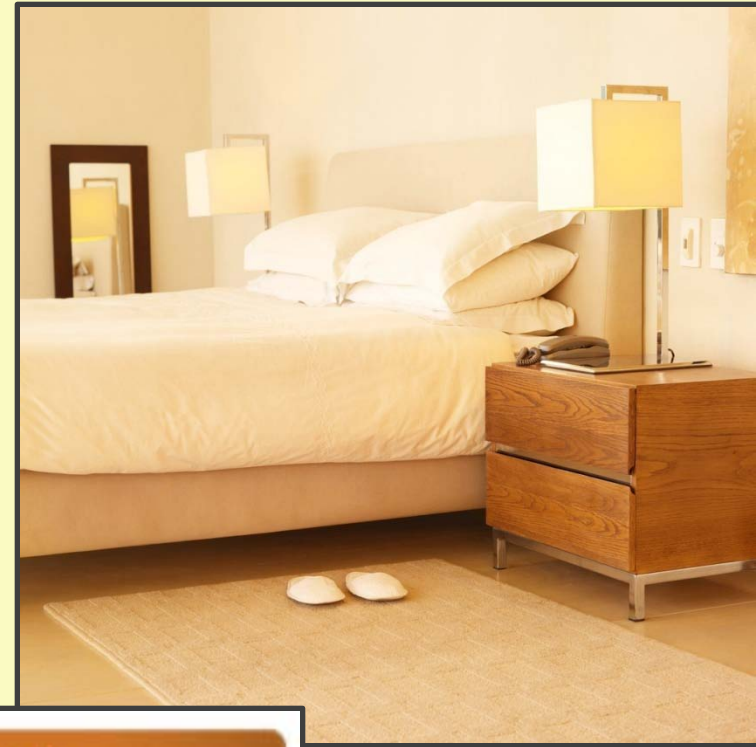




# Allowable spending



# Disallowed spending





# Tools

Trust Advisory  
Team and  
Committee Plays  
Key Role



Funding and  
managing  
special needs  
trust requires  
specialized  
knowledge



# Typical scenarios probably won't work

- Review beneficiary designations
- Limit use of 529 plans to typical members
- Review asset transfer plans
- Plan for a second generation
- Asset protection important
- Unexpected disbursements likely
- Government benefit programs change

# Typical Methods For Funding A Special Needs Trust

## First Party Funding (My Money)

- Savings
- Injury Settlement
- Court Award
- Inheritance

Medicaid payback  
provision typical

## Third Party Funding (Other People's Money)

- Life Insurance
- Transfer By Will/Estate
- Beneficiary Designations
- Gift

Remainder to family or  
designated beneficiary

# Special needs trust have unique funding aspects

## Challenges

- Annual Gifts Not Likely To Qualify
- Debatable Use of Crummy Powers
- Lifetime Exclusion Possible

## Opportunities

- Life Insurance
- Remainder Assets at Death
- Beneficiary Designations
- Residence
- Vehicle



# Government rules do not require all assets to be held in trust

## Assets than can be held personally

Real estate – personal residence  
One vehicle  
Personal property – (reasonable)  
Some life insurance

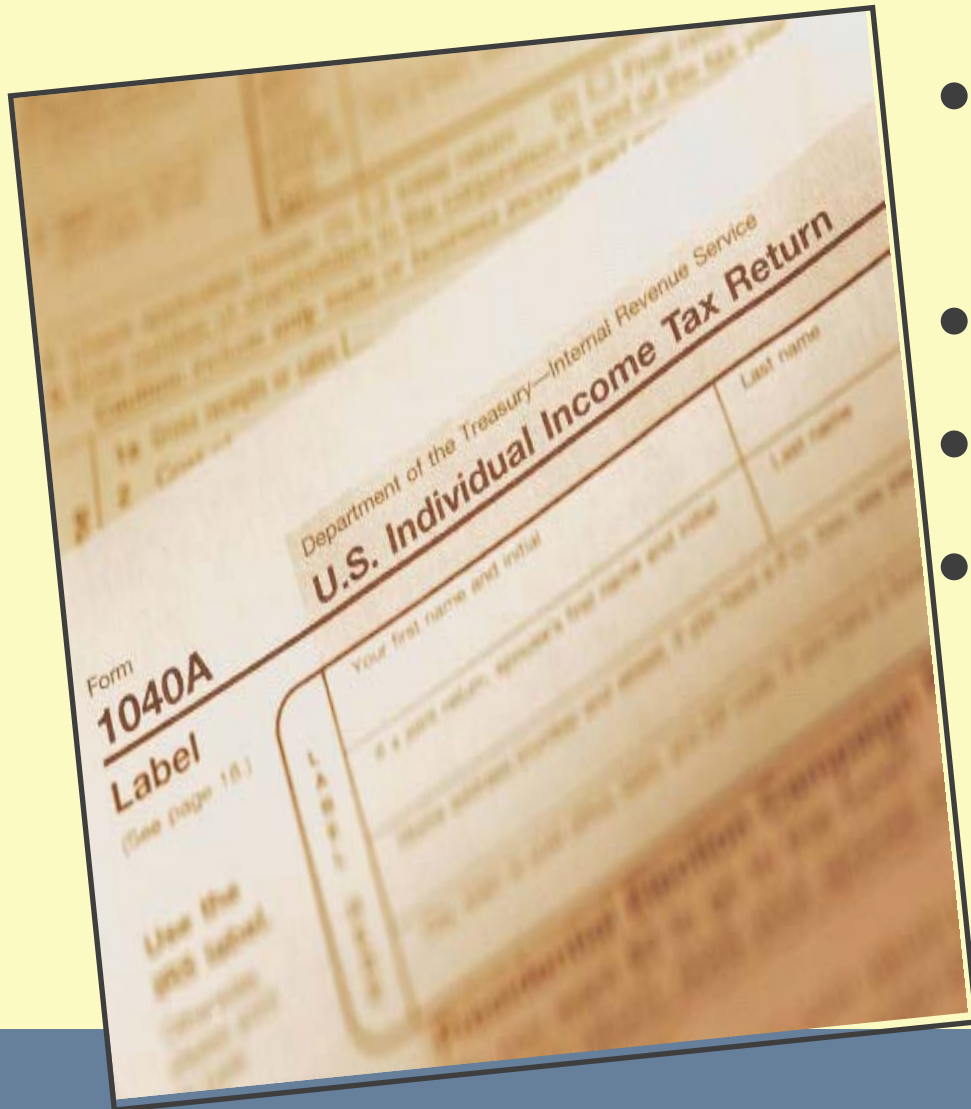
## Assets that count as resources if not held in trust

Stocks  
Bonds  
Annuities  
Life insurance  
CDs/Savings  
Investment real estate  
Business interests

Investment and  
insurance needs  
must fit  
individual  
circumstances



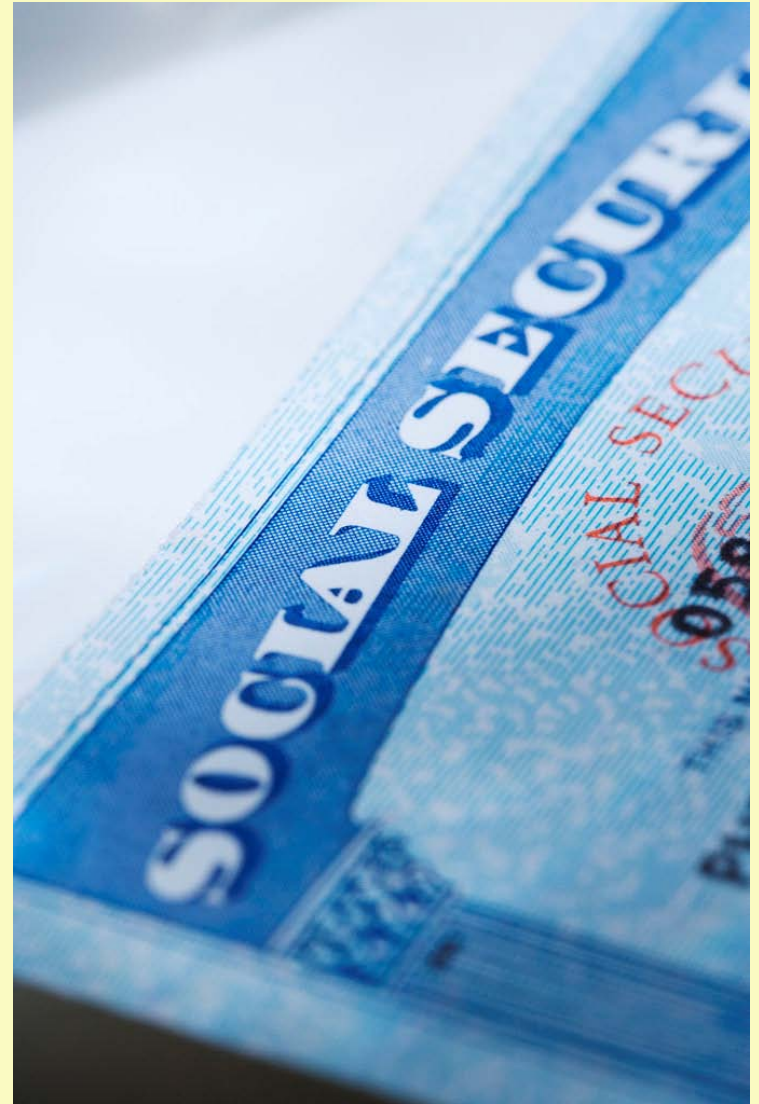
# Trust assets must be managed with knowledge of potential tax issues



- No pass through of income
- \$11,150 (2009)
- Capital Gains
- Dividends



Trustee must stay  
compliant with  
government rules  
to maintain  
benefits



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