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PROPER PLANNING MAY CREATE PEACE OF MIND



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SPECIAL NEEDS TRUSTS

FOR CLIENTS WHO RECEIVE SECTION 8 HOUSING VOUCHERS

What would you do if a client came to you who is living in Section 8 HUD housing and is about to receive either a lawsuit settlement or, an inheritance?

The Tale: Ms. S came to our office after she had already received more than \$100,000.00 from her late mother's estate. During our meeting she disclosed that she had been receiving Section 8 housing benefits for many years. She has significant physical disabilities. The HUD housing benefit provides her with a rental apartment at a reduced rate. Ms. S was afraid that if HUD learned of the assets she would lose her housing. She was also concerned that she was living without health insurance coverage and if she continued to pay privately for an aide she would quickly exhaust her inheritance.

The Tip: Section 8 Housing is a rental assistance program that provides a subsidy so a low income individual or family can obtain safe sanitary housing.

The average income must not exceed 50% to 80% of the median income in the area. There is no rule for limiting assets although income is imputed if the individual's assets exceed \$5,000.00. While a

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lump sum payment is considered an asset and not income it could earn income causing an individual to exceed the income limit.

The Housing Choice Voucher Guidebook provides that assets not controlled by or accessible to the individual and which provide no income to the individual are not counted (albeit the income from those assets is not counted). Consequently, establishing an irrevocable special needs trust will allow the client to maintain their HUD benefits, qualify for Medicaid, and supplement her quality of life with the special needs trust assets.

The federal law concerning the creation of a qualified disability trust (a/k/a special needs trust) still applies. The individual:

A) Must be disabled as that term is defined by the Social Security Administration.

B) Must be under age 65 (if over 65 we can consider using a Pooled Trust).

C) The trust must be created by a parent, grandparent, guardian or Court.

D) The trust agreement must provide for repayment of the state Medicaid lien upon the death of the beneficiary.

**May is
National Elder Law Month**
Call us for Event Schedule

**Host our free
Advanced Level CLE Seminar
at your office**

Practice Areas

Estate & Incapacity Planning

- ◆ Last Will & Testament
- ◆ Probate & Trust Administration
- ◆ Revocable Trust
- ◆ Durable Power of Attorney
- ◆ Designation of Healthcare Surrogate
- ◆ Quit Claim Deed
- ◆ Living Will

Emergency & Advocacy Services

- ◆ Emergency & Standard Guardianships
- ◆ Long Term Care Facility Residents' Rights
- ◆ Medicaid Applications & Appeals

Government Assistance

- ◆ Special Needs Trusts
- ◆ Representation of Special Needs Trust's Trustees
- ◆ Protecting Lawsuit Proceeds and Inheritances While Preserving Medicaid and SSI Eligibility
- ◆ Exceptions to Medicaid Lien Recovery