



# PLAN OF PA **Network News**

Quality of Life

Increased Independence

Financial Stability

## Advantages of Creating a Trust Outside of Your Will

By

Dennis C. McAndrews, Esq.

Several major practical advantages exist in creating a Special Needs Trust outside of your Will as a separate independent document. Moreover, some tax and fiscal management benefits exist in funding a Special Needs Trust before death as part of a proper estate plan.

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*A Special Needs Trust setup outside of your Will has immediate legal effect, and can accept contributions from third parties.*

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A discussion of these advantages should be a key part of the development of your estate plan. A Trust that is created during a person's lifetime is known as an "Inter Vivos Trust." This means that the trust is effective immediately and is not deferred until the death of the individual who creates the Trust to act as an independent legal document.

When a Trust is created as part of a Will, it is known as a "Testamentary Trust," and such a Trust does not legally exist and generally cannot accept monies until the Testator of the Will dies, as a Will has no legal effect until the Testator passes away. A Special Needs Trust created as a separate document outside of your Will has immediate legal effect, and can accept contributions from third parties, such as gifts or bequests from other family members or the creator of the Trust. Therefore, when a person with a disability has relatives like grandparents who may wish to leave money to that individual, it is particularly important to use an Inter Vivos Special Needs Trust so that the document can have immediate effect and be able to accept those donations without jeopardizing the public benefits of the person with disabilities.

By creating a Special Needs Trust outside of a Will, the person creating the Trust can

also gift monies to the Trust, providing immediate available resources for the benefit of the person with disabilities, and reducing the size of the Testator's Estate by taking advantage of annual gift exclusions, and thus potentially reducing both federal and state death taxes.

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*An Inter Vivos Special Needs Trust can accept donations without jeopardizing the public benefits of the person with disabilities.*

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A Special Needs Trust is also often an effective management tool to hold, invest and distribute monies to an individual with disabilities, thus fostering a transition between childhood dependence upon parents for the needs of the person with disabilities, and developing appropriate and long-term relationships among the various interested parties,

PLAN of PA provides ongoing care, now and in the future, for people with special needs.

Serving adults with mental disabilities and their families.



## PLAN OF PA

Dennis C. McAndrews is an attorney with McAndrews Law Offices, P.C. He has worked for over twenty-five years in the public and private sectors in disability law. Mr. McAndrews regularly represents individuals with disabilities and their families in a variety of areas, including special education, special needs trusts, guardianship, estate planning, right-to-treatment cases, and injury cases.

GINNY KOEHLER, Executive Director

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i.e., the person with disabilities, close family members, and the individual or organization who will be trustee of the Special Needs Trust.

In many cases, it is particularly useful to use an independent organization to serve as Trustee of the Special Needs Trust even while a person with disabilities and his/her parents are alive.

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*An independent Trustee can provide an orderly transition between periods of life, manage financial activities, and create a valuable buffer between the individual with disabilities and family members.*

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This Trustee can provide an orderly transition between major periods of life, such as school-age and early adult activities, or a move from the family home to independent living. It can also professionally manage financial and programmatic activities. The use of an independent Trustee in these circumstances creates a valuable buffer between the individual with disabilities and family members where unwise or inappropriate requests are made for distributions from either family resources or a Special Needs Trust. ●

## PLAN of PA Services

### Ongoing Care

#### Case Management

##### *Best Possible Quality of Life*

PLAN of PA fee-for-service case management seeks to improve lives by working with each person to develop a support network unique to his or her needs – encouraging independence, stability, and security while enhancing quality of life. Our private case managers maintain a flexible approach, with a focus on individual strengths. We assist clients in finding housing, managing their finances, and coordinating transportation and recreation opportunities, as well as monitoring personal needs. Please contact the office to learn more about our services and fees.

#### Trust Services

##### *Financial Stability*

The PLAN of PA Special Needs Trust for the Mentally Disabled allows the establishment of an account for the benefit of a person with a disability. This trust account can pay for supplemental needs while at the same time protecting government benefits such as SSI (Supplemental Security Income) and Medicaid. This is made possible by an act of Congress, The Omnibus Budget Reconciliation Act of 1993. Common purchases by a trust

include computer/electronic equipment, transportation costs, counseling/therapy, medical expenses and clothing. Please contact the office to learn more about our trust services and fees.

#### Representative Payee Program

##### *Community Outreach*

The Representative Payee program was begun in 1996 by the Board of Directors of PLAN of PA, originally as a way to provide Rep Payee services to the fee-paying Case Management and Trust Service clients. (For many people who are mentally disabled and eligible to receive SSI & SSD, the SSA requires that they have a designated Representative Payee in order to get benefits.) It soon became apparent to the BOD that there was a compelling need for these services in the community far beyond our Case Management and Trust clients. The BOD made a commitment to expand the program and to reach out to those in need. The result has been the steady growth of a program that has become a vital link in the continuum of care for organizations serving the chronically homeless. This program is partially supported through grants and donations. ●

# Representative Payee: A Vital Link in Community Services

**H**all-Mercer is an out-patient Community Mental Health Center serving the needs of mental health clients. I work in the Homeless Outreach Services division, which provides psychiatric and case management services to mentally ill homeless individuals. A crucial component of these services seeks to answer the question, "How can we assist severely mentally impaired homeless persons with the management of their resources to maximize the quality of their lives?" This is the crucial role that a Representative Payee plays. Individuals with severe mental disabilities, substance abuse issues etc., often have difficulty managing their money appropriately, resulting in wasted resources and poor results for the client.

PLAN of PA, as the designated payee for many of our homeless individuals, provides the answer. The impact of the payee intervention is quite significant. For those clients who have worked with our services and obtained housing, rent and utility bills and related expenses are paid by PLAN of PA as the Representative Payee. Disbursements for food, transportation, medical bills, pharmacy costs, etc., all result in drastic improvements in the quality of life for our clients. Creative and sensitive disbursements for personal client spending result in a preservation of needed resources. When payee money management is done efficiently, as with PLAN of PA, funds often exist for unexpected scenarios (death in family, special need disbursements, clothing purchases, etc.), and for new opportunities (education, training, etc.).

In summary, through the PLAN of PA Representative Payee Service, a client is afforded the opportunity to improve his life quality, extricate himself from the homeless condition, improve his health care and educational opportunities, and lessen significantly needless waste and interpersonal suffering. For most case managers a frightening scenario exists: that a severely mentally ill person will be robbed, exploited or otherwise abused for having large sums of money on their person with no security for themselves or their resources. Even worse, unscrupulous "street payees," or even family, will take needed resources from a client, leaving them broke and on the street. Clients are truly blessed to have responsible payeeship services; the quality of life for those without these services can be truly tragic. We have much gratitude for PLAN of PA and its record of efficiency and integrity. They are, along with other reputable payees, truly invaluable. ●

Daniel J. Bartoletti B.S, Homeless Outreach Services Specialist, Hall-Mercer CMHC, University of Penna. Health System

## Executive Director's Message

# On the Shoulders of Giants

**I**t is with much excitement and great pleasure that I have recently become Executive Director of PLAN of PA. Having worked at PLAN since April 2008, I have been passionate about its mission and the people we serve. PLAN of PA, as you are well aware, offers an invaluable service to adults with mental disabilities and their families. When PLAN was started in 1989 by a group of families who wanted to ensure that someone would be caring for their loved one when they were no longer able, they put in motion the beginnings of an excellent organization.

For the last eight years in her tenure as Executive Director, Nadine Hoch grew PLAN to where we are today, building the staff and community support to serve an expanding clientele and inspiring the establishment of the PLAN of PA Foundation. She is now in the newly created position of Director of Clinical Services for PLAN. As it is said, I am standing on the shoulders of giants.

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*My focus is to continue to grow and strengthen the organization, thereby continuing its mission of answering the question "Who will care for my loved one when we are no longer able?"*

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I recognize that inherent in the PLAN of PA Executive Director position is great responsibility to our clients and client families both now and in the future. My focus is to continue to grow and strengthen the organization, thereby continuing its mission of answering the question "Who will care for my loved one when I/we are no longer able?" I look forward to partnering with our client families and the community to ensure this question continues to be answered with "PLAN of PA is here now and in the future for your loved one."

Feel free to contact me at any time for help with planning for your relative's future, to schedule a presentation, or if you have any feedback. ●

— Ginny Koehler

In all ways and all circumstances, PLAN of PA promotes acceptance and respect for individuals, and models a positive, "see beyond disability, see the strengths" perception of mental illness to the whole community.

Planned Lifetime Assistance Network of Pennsylvania (PLAN of PA) is a private non-profit 501(c) 3 organization dedicated to serving adults (18+ years of age) with mental disabilities – including mental illness, mental retardation, brain injury, and autism – and their families in the greater Philadelphia area. We provide fee for service Case Management, Trust and Representative Payee services in Bucks, Chester, Delaware, Montgomery and Philadelphia counties.

## Please join us at the PLAN of PA Annual Meeting

Wednesday, November 10, 2010

### **Highlights**

**Bernard White Community Award Presentation to Marvin Elias**, Director of Chestnut Place Clubhouse, a program of The Consortium, Inc., in recognition of Outstanding Community Service to Adults with Mental Disabilities.

**Guest Speaker:** Thomas D. Begley, Jr., Esquire, on Planning for Adults with Disabilities. Mr. Begley is an attorney with the Begley Law Group. He is a founding member of the

Special Needs Alliance, a national network of lawyers dedicated to serving families of individuals with disabilities, and is a Certified Elder Law Attorney.

### **Time & Place**

6:00 PM – 7:30 PM  
Villanova Conference Center  
601 County Line Road  
Radnor, PA 19087

**RSVP** to PLAN of PA at 610-687-4036 or [mail@planofpa.org](mailto:mail@planofpa.org) by November 3.

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PLAN OF PA

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