

Crowdfunding for Individuals with Special Needs

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Many families worry about having enough funds to support a family member with special needs. An increasingly popular method of raising funds is to establish a crowdfunding campaign through fundraising platforms such as GoFundMe. Founded almost 12 years ago, GoFundMe is a crowdfunding website which is used by family, friends and the public to help defray the costs of treatments, home improvements and other myriad expenses incurred by individuals with special needs and their families.

Although crowdfunding can be an expedient way to raise money, it can jeopardize the beneficiary's eligibility for means-tested government benefits such as Supplemental Security Income ("SSI") and Medicaid. When considering a crowdfunding campaign to benefit an individual with special needs who is receiving or will apply for such government benefits, it's important to know how to establish the campaign so that the individual with special needs can access those important public benefits.

A person who is receiving SSI cannot have assets exceeding \$2,000 in his or her name. Medicaid is a jointly funded federal and state program. Although the applicable rules and regulations for Medicaid eligibility may vary from state to state, in many states, individuals who are receiving SSI are categorically eligible for Medicaid. Therefore, assets received in a crowdfunding campaign may be treated as unearned income or countable assets in excess of \$2,000, which would disqualify the individual from receiving SSI and/or Medicaid.

An individual with special needs under the age of 65 can use a self-settled first party special need trust in order to establish or preserve his or her eligibility for Medicaid in the event he or she is establishing his or her own fundraising campaign or in the event he or she is the beneficiary of a fundraiser set up by a third party. If the funds that are raised are modest, the individual may consider a pooled first party special needs trust or an ABLE account. In order to establish an ABLE account, the beneficiary must have been disabled prior to the age of 26, and the annual account contribution is limited to \$16,000 in 2022.

If the beneficiary has access to the funds that are raised, the beneficiary must monitor the fundraiser so that any funds raised are spent on the beneficiary or are transferred to a first party special needs trust or ABLE account in the month of receipt. If funds continue to be raised in the name of the beneficiary and are not spent in the same month they were received, they can be counted as assets which can result in an overpayment for an individual who is receiving SSI and Medicaid.

Self-settled first party special needs trusts must include a payback provision which provides that upon the beneficiary's death, any funds remaining will be paid back to Medicaid to the extent medical assistance was provided to the beneficiary during his or her lifetime before assets are distributed to anyone else. Funds in an ABLE account are also subject to a Medicaid payback requirement. Therefore, a third-party special needs trust may be a better option for the beneficiary or his or her family. Those contemplating this option should establish the third-party special needs trust before launching the crowdfunding campaign. The fundraiser should be set up in the name of the third party special needs trust. By doing so, the beneficiary's eligibility for means-tested public benefits can be preserved and the assets in the third-party special needs trust will not be subject to a Medicaid payback provision. Moreover, since the assets deposited into the third party trust are never owned by the individual who is disabled, the money does not need to be withdrawn in the month in which they are received.

Fundraisers can be started to raise money for immediate needs such as an accessible van which is an exempt asset for purposes of SSI and Medicaid eligibility. However, the purchase of the vehicle should occur in the same month that the funds are raised.

Crowdfunding campaigns may be launched to provide funds to the caregivers or family members who are supporting an individual with special needs. Such campaigns should be separate from those that are designed to raise funds for the person with disabilities for the reasons stated above.

In addition to crowdfunding websites such as GoFundMe, HelpHopeLive (helphopelive.org) is a fundraising campaign that raises money for medical expenses not covered by health insurance. According to its website, the organization maintains discretion over the funds raised so that means-

tested government benefits are not adversely impacted. While contributions to crowdfunding campaigns such as GoFundMe are not tax deductible, the HelpHopeLive website states that contributions to that charitable organization are tax deductible.

SpecialCare is a program developed by Massachusetts Mutual Life Insurance Company (MassMutual) that provides access to information and resources to families with dependents, of any age, who have special needs. The Special Care Planner is a title used by MassMutual financial professionals who have received advanced training and information in estate and tax planning concepts, special needs trusts, government programs, and the emotional dynamics of working with people with special needs and their families.

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