



## **Don't Confuse the Roles of Trustee and Care Manager**

Trustees of special needs trusts wear many hats. They act as investment manager, bookkeeper, distribution manager, benefits advocate, and financial planner. Often trustees are in constant communication with the beneficiary and the beneficiary's caregivers regarding many aspects of the beneficiary's life such as approving distributions for the purchase of a vehicle or even the purchase of a home.

This level of involvement can be confusing for beneficiaries and their families, who may be under the impression that the trustee has the decision-making power in all aspects of a beneficiary's life. If a trustee can approve or reject the proposed purchase price of a home for the beneficiary, can't they also decide where the beneficiary lives? In general, the answer is no.

While a trustee is very involved in making distributions from the trust and administering it, the trustee's duties do not extend to day-to-day decisions that need to be made involving the management of the beneficiary's care and placement. These decisions are typically assumed by a parent (or both parents), a close family member, or a guardian of the beneficiary who is acting as the beneficiary's care manager.

The reason that these decisions are not taken on by trustees is because although a trustee may have had the opportunity to get to know a beneficiary well, the family members of the beneficiary typically know how best to serve the beneficiary's needs. This is why it is important to make this distinction and plan appropriately to ensure that the beneficiary has an advocate not just for the lifetime of the family member managing his or her care, but for the beneficiary's entire lifetime.

It is possible that a parent or close family member will be appointed as trustee. In that circumstance the parent or close family member would still be acting in their capacity as care manager and not as trustee when making decisions regarding the beneficiary's care and placement. When a parent or close family member is serving this dual role, it is even more crucial to plan ahead for the eventuality of that person being no longer able to manage the trust or the beneficiary's care to ensure continuity.

If you have questions about the trustee's role, or if you want to ensure that your loved one will be cared for even when his or her current caregivers are no longer able, contact Attorney D'Onofrio.

For more information about special needs planning in general and special needs trusts in particular, contact Attorney John D'Onofrio today.

**As a member of the Academy of Special Needs Planning, John is constantly reviewing new laws and amendments in this area of law as well as attending seminars and continuing education classes relevant to special needs planning and trusts.**

Call today to schedule a free initial consultation. Call today, get peace of mind today.

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