



Summer 2014

Futures

A no-nonsense newsletter from The Dayton Foundation for estate planners and financial advisors

The 2014 Ohio Community Pooled Flexible-Spending Trust A New Option for Families of Individuals with Disabilities

By **Brittany D. O'Diam, Esq., O'Diam & Stecker Law Group, Inc.**

“The Disability Foundation is driven by a passion for serving the disabled community, and they are constantly working to improve its offerings to continue to make a positive impact.”

– *Brittany D. O'Diam*

For nearly 15 years, The Disability Foundation, a supporting organization of The Dayton Foundation, has offered a Pooled Special Needs Trust designed to support the financial well-being of individuals with disabilities while protecting their eligibility for governmental benefits, such as Medicaid and Supplemental Security Income (SSI). Pooled Special Needs Trusts, such as the Flexible-Spending Trust offered by The Disability Foundation, are a very popular option for

families who wish to provide for the supplemental needs of their loved ones with disabilities. Trusts, however, do have limitations as to how a family can disburse any remaining funds in the trust after the individual passes away. Until now the only options were

to leave the funds with The Disability Foundation or give them to the state to reimburse Medicaid for benefits paid to the individual with disabilities during his or her lifetime. Fortunately, The Disability Foundation has recently added a new option into the mix.

Consider this situation: John Jones has two adult children. His son, Marty, is a teacher and is married with a young son of his own. His daughter, Melissa, has a developmental disability and lives with her father. Melissa enjoys participating in local developmental disability programs.

Before she passed away last year, Mr. Jones's mother, Gwen, was very close to Melissa and helped with her care. Gwen wanted to leave her estate to Melissa, but she did not want to disqualify Melissa from receiving her much-needed disability benefits. Gwen decided to disinherit her granddaughter and give her estate to John instead, with the unwritten understanding that he would use it for Melissa's benefit. When Gwen passed away, John inherited \$300,000 from her estate.

Mr. Jones wanted to honor his

mother's wishes, but he knew he needed a plan to make sure the inheritance was protected for Melissa's benefit. After consulting with an estate planning attorney who focuses on special needs law, Mr. Jones established a Pooled Trust account in Melissa's name at The Disability Foundation. The Disability Foundation holds and manages the funds in Melissa's account and makes distributions as needed to enhance her quality of life above and beyond what Medicaid and SSI covers, while preserving Melissa's eligibility for public benefits. John was thrilled that The Disability Foundation could help him honor his mother's wishes, without impacting Melissa's benefits, but he was concerned about what would happen to the money in the account when Melissa passes away.

A New Plan for Remainder Funds

Recently The Disability Foundation introduced the 2014 Ohio Community Pooled Flexible-Spending Trust to provide qualified donors the opportunity to designate siblings, children or other individuals as beneficiaries of any remainder

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BRITTANY D. O'DIAM, ESQ.

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– Brittany D. O’Diam

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donors and families who have stepped forward to become the 2013-2014 “I Believe!” Partners of The Dayton Foundation. Their commitment underwrites a full year of Dayton Foundation publications, thereby freeing resources for the Foundation’s other community work.

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A New Option for Families of Individuals with Disabilities

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funds (once Medicaid has been reimbursed) after the individual with disabilities passes away.

Similar to other trusts offered by The Disability Foundation, the 2014 Flexible-Spending Trust gives individuals with disabilities the opportunity to use funds to pay for supplemental needs, or “extras,” that enhance and enrich their quality of life. For families who want to choose a beneficiary for what is left after the state is paid back for benefits it provided, this new trust offers greater flexibility and control.

By establishing an account in the 2014 Flexible-Spending Trust with his \$300,000 inheritance, Mr. Jones is guaranteed that any remaining funds (following state reimbursement) after Melissa passes away will go to his son rather than being tied up in the trust. A small percentage will remain with The Disability Foundation to help serve the disabled community. The new trust met all of the Jones family’s goals, and John was very pleased. Gwen would have been, too.

Conclusion

As an attorney who has referred numerous clients to The Disability Foundation, I’m very excited to offer this new planning option to help meet my clients’ needs and the needs of their loved one with dis-

Help Your Clients Make a Greater Impact

As the region’s community foundation, The Dayton Foundation offers several options for individuals and families who wish to make a greater impact in the community with their charitable giving.

For clients interested in supporting the Foundation’s efforts to help area nonprofits “move the needle” on critical community initiatives, establishing a Community Impact Endowment Fund, or designating a portion of their fund for this purpose, may be a good option. These funds give The Dayton Foundation discretion to apply dollars towards emerging community needs.

If you have clients who have a particular area of interest – such as the arts, health or education – but want to use the Foundation’s knowledge to determine where community need is greatest, a Field-of-Interest Fund might be a good fit. Endowed funds can be established in your clients’ names today or after their passing with a gift through their estate plans.

You can help by encouraging clients who care about Greater Dayton to join with the Foundation in making a greater impact, now and in the future. Community Impact Endowment Funds support efforts that are innovative, collaborative and dynamic – and are making a real change. Visit www.daytonfoundation/unrestricted.org for more information, or contact Joe Baldasare, Vice President of Development, at (937) 225-9954 or at jbaldasare@daytonfoundation.org.

abilities. The Disability Foundation is driven by a passion for serving the disabled community, and they are constantly working to improve its offerings to continue to make a positive impact.

If you have an appropriate client who you think may benefit from the services of The Disability Foundation, I urge you to contact Kevin Hayde, Executive Director of The Disability Foundation, at (937) 225-9939. 📞

Note: Solutions differ from case to case. The above does not constitute professional financial or tax advice.

Brittany D. O’Diam is an attorney with the law firm O’Diam & Stecker Law Group, Inc., and concentrates her practice in the areas of estate planning, probate and trust administration, and special needs and elder law. She is the vice chair of The Disability Foundation Board of Trustees and was one of the legal architects of The Disability Foundation’s 2014 Ohio Community Pooled Flexible-Spending Trust.

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