

SNTs, Public Benefits Eligibility, and Housing Issues for People with Disabilities

Patricia E. Kefalas Dudek

Amanda E. Filizetti

Katherine E. Lionas

Part One Basics-Special Needs Trusts (SNTs)

I. Why are SNTs an Important Planning Tool?

More than 54 million Americans have a mental or physical disability.¹ Through special needs planning, individuals with disabilities are provided with financial resources to help manage their lives successfully, and as independently as possible. Although public benefit programs are extremely important to special needs people, these programs are usually limited to the financially needy. A SNT is a tool that can assist families of any economic status in planning for their loved one.

The key component of a SNT is that the funds in the trust do not disqualify the beneficiary from public benefit programs. The individual is not disqualified from public benefits because the funds are not considered to be “available” to the individual. SNTs have the potential to be powerful tools to preserve assets and to guard a SNT beneficiary’s eligibility for public benefits. The relationship between the SNT and public benefits is such that the beneficiary is allowed to retain their standard of living, without completely depleting available resources. Without a properly drafted SNT, the individual would exhaust their assets.

II. Considerations in Drafting a SNT

A. Information Gathering

Similar to the drafting of general estate planning documents, the information gathering process is a necessary component to drafting a SNT. Information gathering is the essential first step to take, and it must be done in a thorough manner. Biographical and financial data must be discussed first. This is getting to know the client, their family, and their assets. Next, it is important to get to know the client on a personal level. Learning about the client’s aspirations, goals, and fears, will result in more effective special needs planning. Information gathering provides the

¹ National Organization on Disability, available at: www.nod.org.

foundation for the entire special needs planning process. Samples of the client intake forms I use are attached. See *Attachment 1*.

B. Program Operations Manual System (POMS)

When drafting a SNT, POMS, which are published by the Social Security Administration (SSA) and contain operating procedures for SSI, must be taken into consideration. POMS not only recognize the trust as an instrument, but also provide helpful definitions.²

C. Letters of Intent

A Letter of Intent is a method for the creator of a SNT to communicate their intentions regarding the trust beneficiary to the trustee, successor trustees, or a court. It is not a legally binding document. Ideally, it should include personal information about the beneficiary that only the creator knows. It should include facts, hopes and dreams that the creator has for the trust beneficiary. There is no required format. It can include information on medical history, housing desires, recreation, vocational and travel preferences, family and/or religious traditions, etc. The Letter of Intent should provide the trustee with guidance as to what “special needs” the beneficiary has or will have.

The Letter of Intent should be frequently updated as the beneficiary’s needs change. An updated copy should always be kept with estate planning documents.

For great samples of Letters of Intent and a blank form to help you clients in drafting one check out my website and blog:

- www.pekdadvocacy.com
- http://pattidudek.typepad.com/pattis_blog/welcome.html

² POMS may be accessed online at: www.socialsecurity.gov.

III. Types of SNTs

After the information gathering process is complete, the next step is to determine which type of SNT will best meet your client's needs. There are two types of SNTs: 1) Self Settled Trusts, including: Exception A Trusts, Exception B Trusts and Exception C Trusts; 2) Third-Party Special Needs Trusts.

A. Self Settled Trusts

i. Exception A Trusts³

To meet the requirements of an Exception A Trust,

- A. The trust must be funded with the assets attributable to the person with special needs;
- B. When established and funded, the person with special needs must be under 65 years of age at the time of funding;
- C. The beneficiary must be disabled pursuant to the SSA definition;
- D. The trust must be established by either a parent, grandparent, legal guardian/conservator of the beneficiary, or a court;
- E. The trust must be for the sole benefit of the person with special needs during his or her lifetime;
- F. Any state paid medical assistance on behalf of the beneficiary must be reimbursed from any amounts remaining in the trust upon the death of the beneficiary; and
- G. The trust must be irrevocable.

ii. Exception B Trust⁴

- A. Clients who reside in income cap states must meet an income threshold in order to qualify for Medicaid. Essentially if a client is even as little as a few dollars over the limit they will not qualify for benefits and their application will be denied. Where available Exception "B" Trusts offer a solution.
- B. Exception "B" trusts (also known as Miller or Qualified Income Trusts) may be used in some states to attain qualification for Medicaid when an applicant exceeds the income eligibility limits.

³ Authorized by 42 USC §1396p(d)(4)(A)

⁴ Authorized by 42 USC §1396p(d)(4)(B)

Essentially the client is allowed to keep a certain amount of money for personal needs and the amount exceeding the Medicaid cap or the remainder of their income may be put into the trust.

- C. Upon the death of the beneficiary the state must be paid back with trust funds for assistance provided

iii. Exception C Trusts

- A. Exception “C” trusts or Pooled Accounts Trusts, are established by a non-profit organization or charity.
- B. Individuals with disabilities are allowed to participate in PATs by opening what is known as a sub-account, with the master account being managed by the non-profit entity.
- C. The trust must be established by a parent, guardian, grandparent or conservator for the benefit of the individual with the special needs.
- D. Unlike Exception A Trusts, the beneficiary of a PAT does not have to be under age 65 to participate.
- E. Funds remaining after the beneficiary’s death remain the sub-account and are retained in trust by the non-profit for payback of medical assistance or Medicaid. The funds may also be designated to a remaining beneficiary of the PAT.⁵

B. Third Party SNT

A Third Party SNT is established by a third party, with the assets of the third party, for the benefit of the individual with the disability.⁶ In drafting a Third Party SNT, there are fewer hurdles for the drafter to overcome. For example, there is no requirement that the state Medicaid agency be paid back funds upon the beneficiary’s death. Therefore, the attorney need not be concerned with Medicare claims, Medicaid liens, or age limits in regard to the beneficiary.

It is important to note that income and assets may not be distributed directly to the beneficiary, without the risk of elimination or reduction of public benefits. As a result, the assets should be distributed to a third party who then pays for the beneficiary’s necessities.

⁵ Authorized by 42 USC §1396p(d)(4)(C) and PEM 401.

⁶ Begley, Thomas D. and Canellos, Angela, *Special Needs Trusts Handbook*, §4.01[A] (2008).

IV. Permissible Distributions

The Trustee(s) of a Special Needs Trust may utilize any of the foregoing listing for expenditures from the Trust. The following list of non-support items is provided for purposes of description and shall not limit the Trustee(s) in making other distributions for other items of amenities that the trustee may believe are in the best interest of the beneficiary. Those items may include, but are not limited to:

1. Automobile/Van
2. Accounting services
3. Acupuncture / Acupressure
4. Alterations or mending to clothing – shoe repairs
5. Appliances (TV, VCR, stereo, microwave, stove, refrigerator, washer/dryer and maintenance/repairs)
6. Assistive Technology and Assessments
7. Bottled Water or water service
8. Bus pass/public transportation costs
9. Camera, film, recorder and tapes, development of film, photo albums, scrapbook supplies, web cite or blog services
10. Carpet cleaning
11. Clothing and shoes
12. Clubs and club dues (record clubs, book clubs, health clubs, service clubs, zoo, Advocacy Groups, museums, wine clubs)
13. Computer hardware, software, program, maintenance/service
14. Internet service
15. Assistive technology
16. Conferences and travel related to same
17. Courses or classes (academic or recreational) including supplies
18. Craft and supplies
19. Curtains, blinds, drapes and the like
20. Dental work not covered by Medicaid, including anesthesia.
21. Down payment on home or security deposit on apartment.
22. Dry cleaning and/or laundry services and/or supplies
23. Elective surgery
24. Fitness equipment, personal trainers, bike and maintenance including a helmet
25. Funeral expenses
26. Furniture, home furnishings and insurance
27. Gasoline and/or Maintenance for automobile
28. Haircuts / Salon services
29. Hippo therapy, horse back riding lessons, equipment and the like
30. Holiday Decorations, parties, dinner dances, holiday cards and postage
31. Home alarm and/or monitoring/response system
32. Home improvements, repairs and maintenance (not covered by Medicaid), including tools to perform home improvements, repairs and maintenance by homeowner, paint, wallpaper, contracts for same
33. Home Purchase (to the extent not covered by benefits)
34. House cleaning / maid services/lawn services/snow removal

35. Independent Care Managers/Case Managers
36. Insurance (automobile, home and/or possessions)
37. Insurance Co-Payments not covered by any other source
38. Legal Fees/Advocacy
39. Linens, towels, bedding and other household furnishings
40. Massage, facials and other similar services/treatments
41. Musical instruments (including lessons and music)
42. Non-food grocery items (laundry soap, bleach, fabric softener, deodorant, dish soap, hand and body soap, personal hygiene products, paper towels, napkins, kleenex, toilet paper, any household cleaning products, allergy medications, asthma supplies)
43. Over the counter medications (including vitamins and herbs, etc.)
44. Personal Assistance Services not covered by Medicaid or any other source
45. Pets and pet's supplies, veterinary services
46. Physical therapy and equipment not covered by any other source
47. Physician specialists if not covered by Medicaid or any other source
48. Private counseling if not covered by Medicaid or any other source
49. Repair services (appliance, automobile, bicycle, household, fitness equipment)
50. School supplies
51. Snow removal/Landscaping/Lawn Service
52. Sporting goods/equipment/uniforms/team pictures/travel to games/tournaments
53. Stationary, stamps, cards, etc.
54. Storage Units
55. Taxi cab
56. Telephone service and equipment, including cell phone, pager, etc.
57. Any therapy (physical, occupational, speech) not covered by Medicaid – or any other source
58. Tickets to concerts or sporting events (for beneficiary and an accompanying companion, travel)
59. Transportation (automobile, motorcycle, bicycle, moped, gas, bus passes and helmets)
60. Utility bills (direct TV, cable TV, electric, heating as long as not basic needs)
61. Vacation (including paying for personal assistance to accompany the beneficiary)

V. Examples of Trust Distributions which will Reduce SSI Benefit:

1. Food
2. Basic shelter related expenses
3. Cash for any purpose (including for gambling)

VI. Examples of Impermissible Disbursements from 1st Party SNT's:

1. Paying for something that is not for the sole benefit of the beneficiary.
2. Paying for a service already paid for by another source

3. Distribution not in the best interest of the beneficiary.

So on to Part II, which provides an overview of why SNTs are important: They protect eligibility for public benefit programs that people with disabilities depend on to live full and self-determined lives!

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Part Two Basics: Benefits Eligibility

An individual with disabilities may be eligible for a wide range of public benefits and assistance programs. When drafting SNTs, it is important to be aware of what these programs entail and how one becomes eligible for public assistance. The following are available programs that every special needs planner should be familiar with.

I. Medicaid

Medicaid¹ is a program jointly funded by federal and state funds, but administered by the individual states. Generally, federal funds are given to the states to establish medical assistance programs for low income and disabled individuals who reside within that state. The way the programs are developed and carried out varies from state to state. Applicants for Medicaid must meet certain requirements. The program is means-based, with both income and resource testing. Although the individual states are able to determine many details of the program, there are certain medical services that Medicaid must cover.²

II. Medicaid Waivers

Medicaid waiver programs were first enacted by Congress in 1981.³ The Social Security Act §1115, allows the Secretary of the Department of Health and Human Services (HHS) to waive certain requirements of the traditional Medicaid program.⁴ The Secretary of HHS provides federal Medicaid funds to a state, and

¹ For more information on the Medicaid program, see <http://www.cms.hhs.gov/home/medicaid.asp>.

² Enumerated mandatory services may be found at 42 USC § 1396d(a)(1)-(24).

³ Julia Gilmore Gaughan, Comment, *Institutionalization as Discrimination: How Medicaid Waivers, the ADA, and §1983 Fail*, 56 U. Kan. L. Rev. 405, 408 (2007).

⁴ The Henry J. Kaiser Family Foundation, The New Medicaid and CHIP Waiver Initiatives 11 (2002) [hereinafter *The New Medicaid*], <http://www.kff.org/medicaid/4028-index.cfm>.

under the waiver, that state may provide coverage that does not necessarily meet federal standards. In essence, it waives some of the federal requirements.

For people with developmental disabilities, the waivers represent a progression away from unnecessary institutionalization, toward integration in the community. Medicaid Waiver programs require “budget neutrality,” meaning that a particular state’s federal funding for a waiver program cannot exceed what the cost of traditional Medicaid would be in that state without such a program.⁵ The states that use waivers take the federal funds, create a number of available slots for eligible Medicaid beneficiaries, then fill the slots accordingly with the eligible individuals.⁶ If there are more individuals than slots, waiting lists are employed until a slot becomes available.⁷ While on a waiting list the individual will remain on traditional Medicaid.

1915(b) waivers⁸ are available for individuals with developmental disabilities or severe mental illness. Besides the basic Medicaid covered services for medically necessary health care, this waiver expands coverage to psychological testing, psychiatric evaluations, behavioral analysis, and other services related to mental health.

Home and community-based services waivers (HCBS), codified in § 1396n(c), are used in many states to keep people with different types of disabilities integrated in the community, and out of institutions.⁹ The waivers differ from traditional Medicaid in that the waivers do not adhere as strictly to income and resource requirements, and allow the states to experiment with different types of alternative care. These Medicaid waivers are especially helpful for individuals living with mental illness, as the waivers give these individuals more choice and flexibility in their treatment. From 1992 to 2002, Medicaid spending on HCBS waivers has more than doubled, jumping from 15% to 31% of

⁵ *The New Medicaid* at 11.

⁶ “States often have more individuals in need of waiver services than the number of available spaces, called ‘slots,’ on a program. Many states use waiting lists when their program slots are filled.” The Henry J. Kaiser Family Foundation, Medicaid 1915(c) Home and Community-Based Service Programs: Data Update, 9, (2005), <http://www.kff.org/medicaid/upload/7345.pdf>.

⁷ *Id.* at 9.

⁸ 1915(b) waivers are also known as “Managed Care or Freedom of Choice” waivers. Like other waivers, the 1915 (b) waiver allows a state to waive certain traditional Medicaid requirements. See www.cms.hhs.gov follow the “Medicaid” hyperlink.

⁹ 42 U.S.C. §1396n(c)(1).

the long term care budget in those 10 years.¹⁰ In 2002, more than 2 billion individuals received services through the HCBS waivers.¹¹

For more information on Medicaid Waivers, visit: <http://www.cms.hhs.gov/>.

III. Supplemental Security Income (SSI)

SSI is a federally-funded program that is administered by the Social Security Administration (SSA). The program is means-based and provides income to persons with qualified disabilities and the elderly. This program requires familiarity with the Program Operations Manual System (POMS), which can be found at www.ssa.gov.¹² The POMS state the rules for SSI including eligibility and other important aspects of the program. The purpose of the income is to provide food and shelter, and the program is designed to provide those receiving assistance with approximately 75% of the federally defined poverty level.

There are five eligibility requirements that one must meet to receive SSI:

- Applicant must be at least 65 years old, blind or have a disability;¹³
- The recipient must be a citizen of the United States or meet the requirements set forth in the 1996 Welfare Act and the Balanced Budget Act of 1997;
- The recipient must meet financial requirements;
- The person must file for any other benefits for which they may be eligible. The other benefits will reduce the SSI benefits on a dollar for dollar basis;
- The recipient must not reside in a public institution;

¹⁰ The Henry J. Kaiser Family Foundation, Medicaid 1915(c) Home and Community-Based Service Programs: Data Update, 1, (2005), <http://www.kff.org/medicaid/upload/7345.pdf>.

¹¹ *Id.* at 1.

¹² For a direct link to the POMS, follow:
<https://secure.ssa.gov/apps10/poms.nsf/partlist!OpenView>.

¹³ “Disability means the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. The impairment must be so severe that the claimant is unable to do his or her previous work or any other substantially gainful activity which exists in the national economy. The person’s residual functional capacity and age, education, and work experience will be considered in determining whether the person will be able to do other work.” Begley, Thomas D. and Canellos, Angela, *Special Needs Trusts Handbook*, §2.02 [B](1) (2008).

The financial requirements for SSI eligibility are both income requirements and resource requirements. Income is the money that the individual receives such as wages. The income requirements depend on where the individual lives, and vary from state to state. It is important to contact the local Social Security Administration office for more information about a particular locality. Not all income will be counted against an individual for eligibility purposes. Examples of excluded income are:

- The first \$20 a month of most income you receive;
- The first \$65 a month you earn from working and half the amount over \$65;
- Food stamps;
- Shelter you get from private nonprofit organizations; and
- Most home energy assistance.

Resources for the purpose of applying for SSI include real estate, bank accounts, cash, stocks, and bonds. Social Security does not count all resources when calculating SSI. Items that are excluded are:

- The home the applicant lives in and the land it is on;
- Life insurance policies with a face value of \$1,500 or less;
- Applicant's car (usually);
- Burial plots for applicant and members of their immediate family; and

Up to \$1,500 in burial funds and up to \$1,500 in burial funds for the spouse.

It is important to note that felons, parole and probation violators are not eligible for SSI benefits.

For more information on SSI, visit: http://www.ssa.gov/pgm/links_ssi.htm.

IV. Social Security Disability Insurance (SSDI)

SSDI pays benefits to individuals and their family members if they are "insured," meaning that they have worked long enough and paid Social Security taxes during their term of employment. The disabled wage earner is entitled to benefits, along with their spouse and children, based on the work record of the wage earner.

For more information on SSDI, visit: <http://www.ssa.gov/disability/>. Also, see materials later in this conference: *"Understanding SSDI, How To: Get SSDI, Handle Denials, Loss of Benefits, Overpayments and Coordinate with Other Benefits."*

V. Public Housing Benefits

Section 8 Housing is a federal program that provides housing assistance to individuals with disabilities. The Section 8 Housing Assistance Payments Program was created by the Housing and Community Development Act of 1974. Housing and Urban Development Agency (HUD) pays rental subsidies for eligible families, to ensure that they live in a safe environment. HUD funds Public Housing Agencies (PHAs), and PHAs contract with the owner to make rent payments on behalf of the family, if the PHA determines that the family's unit and tenancy is appropriate.

Eligibility for Section 8 housing assistance is based on meeting the definition of "family", the family's size, and the total gross income of the family.¹⁴ The statutory definition of family is broad and includes both single individuals and groups of people.¹⁵ A family's income may not exceed 50% of the median income for the county or locality where the family chooses to live.¹⁶ Median income levels vary by location and are published by HUD.¹⁷

For a detailed discussion of housing issues, see handout titled "*Part Three Basics: Section 8 and Supportive Housing Issues.*"

VI. Food Stamps

The Food Stamp Program is designed to provide nourishment assistance to low income individuals and their families. Eligibility is determined on a household basis. The general test for eligibility is that the household applying for food stamps may not have more than \$2,000 in resources. If your household includes a disabled or elderly individual then the threshold is increased to \$3,000. It is important to note that the individual's home and real property that the home is located on, do not count against the individual as resources for food stamp eligibility purposes. Along with the resource limits, there are also income limits that the household must meet. These limits vary by the size of the household and the makeup of the family. For instance, a family with more disabled or elderly members would be eligible for addition income exclusions.

For more information visit: <http://www.fns.usda.gov/fsp> and <http://www.ssa.gov/pubs/10101.html>.

¹⁴ The regulations that cover this program are found at 24 CFR § 982.

¹⁵ 24 CFR § 982.201(a).

¹⁶ *Housing Choice Vouchers Fact Sheet*, U.S. Department of Housing and Urban Development, available at: http://www.hud.gov/offices/pih/programs/hcv/about/fact_sheet.cfm#4.

¹⁷ *Id.*

VII. Veterans Benefits

The U.S. Department of Veterans Affairs (VA) offers a wide-range of benefits to U.S. veterans, U.S. service members, and their families. The following individuals are eligible for assistance under the VA program:

- A veteran;
- A veteran's dependant;
- A surviving spouse, child, or parent of a deceased veteran;
- An active duty military service member;
- A member of the Reserve or National Guard.

The following benefits and services are available to the above-listed eligible individuals:

- Compensation – VA will pay an eligible veteran monthly compensation if he or she is at least 10% disabled as a result of military service.
- Pension – VA will pay a monthly pension to wartime veterans with limited income. The veteran must be either permanently or totally disabled or at least 65 years of age.
- Health Care – VA provides a number of health care services, including but not limited to: hospital, outpatient medical, dental, pharmacy, prosthetic, nursing home, community-based residential care, counseling, and alcohol and drug treatment.
- Vocational Rehabilitation and Employment – VA will assist veterans with service-related disabilities in preparation for and obtaining employment.
- Education and Training – Benefits to veterans, active duty service members and reservists. Amount of benefits depends on the individual's type of military service.
- Home Loans – Loan assistance may be available to veterans, military personnel, and surviving spouses.
- Life Insurance – Four different types available, depending on nature of individual's military service.
- Dependency and Indemnity Compensation - Paid to certain survivors of service members and veterans. Death pensions are also available to children of deceased wartime veterans.

- Burial – VA offers certain burial services, based on the nature of the individual's service, including: headstones and markers, presidential memorial certificate, burial flag, reimbursement of burial expenses, and burial in a VA national cemetery.

For more information on veterans benefits, visit: www.va.gov.

VIII. Conclusion

Benefits for people with disabilities can be state-specific or county/city-specific. My office created the attached *Special Needs Trust Checklist* to give to beneficiaries and their advocates. It helps assure that all public resources are accessed before private resources from the trust are used. This checklist is helpful to the trustee in administering the trust.

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Part Three

Basics: Section 8 and Supportive Housing Issues

I. Background

The disability community believes that all people should have the right to live in the community with the supports they need, and advocates for public policy support this right. Adults with developmental disabilities should have the same range of lifestyles and opportunities as any other member of the community. Although individuals with disabilities will encounter many obstacles in their pursuit of fair housing, Section 8 Housing is a public resource that will assist them in reaching their goal.

II. Section 8 Housing: Specifics

A. How it Works

Section 8 Housing is a federal program that provides housing assistance to individuals with disabilities. The Section 8 Housing Assistance Payments Program was created by the Housing and Community Development Act of 1974. Housing and Urban Development Agency (HUD) pays rental subsidies for eligible families, to ensure that they live in a safe environment. HUD funds Public Housing Agencies (PHAs), and PHAs contract with the owner to make rent payments on behalf of the family, if the PHA determines that the family's unit and tenancy is appropriate.¹

Generally, the subsidy is based on a payment standard that is determined by the average cost to rent in that specific locality and the family pays 30% of their adjusted monthly income for rent.

B. Types of Section 8 Housing

- Tenant-Based
 - Paid to units selected by the family

¹ Begley, Thomas D. and Canellos, Angela, *Special Needs Trusts Handbook*, §2.07[A] (2008).

- Project-Based
 - Paid for families who live in specific units
- Vouchers for Individuals with Disabilities
 - Vouchers for people with disabilities are essentially tenant based vouchers that are funded through notices of funding availability (NOFAS) and are set aside for a family that includes a person with a disability.

C. Benefits of Section 8

- In Section 202 housing, assistance is limited to specific “projects.” In contrast, Section 8 vouchers can be used anywhere.
 - Under Section 202, if a tenant moved from the designated project, they immediately lost assistance.
 - Rental assistance under Section 8 is available to tenants, not just projects, to help alleviate this problem.
- Section 8 places the choice of housing in the hands of the individual family.
- Section 8 vouchers are flexible enough to allow families to move without losing their housing assistance.

D. Drawbacks of Section 8

- One of Section 8’s main goals is to spread those who receive the public housing benefit around in the community, to prohibit the creation of “ghettos” of low-income residents. Unfortunately this has been quite difficult because a landlord must first agree to accept Section 8 tenants. Landlords are not required to accept Section 8 tenants. This can sometimes cause the same problem that occurred with Section 202 – many Section 8 families, all concentrated in one geographic area.

E. Section 8 Eligibility

Eligibility for Section 8 housing assistance is based on meeting the definition of “family”, the family’s size, and the total gross income of the family.² The statutory definition of family is broad and includes both single individuals and groups of people.³ A family’s income may not exceed 50% of the median income for the county or locality where the family

² The regulations that cover this program are found at 24 CFR § 982.

³ 24 CFR § 982.201(a).

chooses to live.⁴ Median income levels vary by location and are published by HUD.⁵

- “Countable Income” includes:
 - Social Security and Disability Benefits
 - Pensions
 - Annuities
 - Alimony
 - Certain welfare payments
 - Regular contribution from others
 - Payment in lieu of earnings
- “Non-Countable Income” includes:
 - Temporary/infrequent income
 - Gifts
 - Reimbursement for medical expenses
 - Lump sum acquisitions such as: inheritances, insurance payments, and capital gains
 - Deferred periodic payments of SSI and SSDI that are received in a lump-sum payment or in prospective monthly payments
 - Amounts paid by a state agency to a family with a developmentally disabled family member living at home (to offset the cost of keeping that person at home)
- Income from Trusts
 - Whether income from trusts is countable depends on the applicant’s access to income and/or principal
 - If a trust is revocable, it is considered countable
 - If a trust is irrevocable it depends whether the income is currently available or not. If there is no access to the income or principal, it is non-countable income
 - Please note, trust assets that are included are the cash value of the trust that may be withdrawn by the family, and assets disposed of for less than FMV during 2 years preceding certification or recertification
 - See Attachment 1.

F. Section 8 Compatible Housing

Any unit in which the housing voucher is used for must pass initial and annual inspections of units to determine compliance to the lease. To receive vouchers, the unit must follow thirteen performance requirements:

⁴ *Housing Choice Vouchers Fact Sheet*, U.S. Department of Housing and Urban Development, available at: http://www.hud.gov/offices/pih/programs/hcv/about/fact_sheet.cfm#4.

⁵ *Id.*

- Sanitary facilities
- Food preparation and refuse disposal
- Space and security
- Thermal environment
- Illumination and electricity
- Structure and materials
- Interior air quality
- Water supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition, and
- Smoke detectors

For additional information on Section 8 housing issues, feel free to email Patti, pdudek@hshcdlaw.com.

III. *ADA/Olmstead* and Section 8

A. Reasonable Accommodation Requirement

Most folks prefer to live at home with supports, and will do just about anything to stay out of a group home, institution, or nursing home. We, as advocates cannot allow options that most people do not want to be the responsive of public officials worried about pent up-demand for Medicaid long-term care services. We must use *Olmstead* and the ADA to advocate for services in the least restrictive setting.

B. Negotiate to Achieve Least Restrictive Setting with private dollars

Use private resources from family members, or a special needs trust as a means to negotiate for services in the least restrictive setting. It can be used to demonstrate that the service request can be reasonably accommodated. Use new models such as Self-Determination, that allows elders and people with disabilities to have control over their services. The Medicaid budget is forwarded to a Fiscal Intermediary, under contract with the Community Mental Health Board, or contract Agency. Allows for a creative use of the private dollars with the public dollars. For example, the Medicaid budget could be used to hire staff, and the private trust funds could be used to provide for extra training, and benefits. This could allow the person with a disability and their family to recruit, hire, train, and maintain quality staff people.

IV. Supportive Housing Resources

The disability community believes that all people should have the right to live in the community with the supports they need, and advocates for public policy support this right. Adults with developmental disabilities should have the opportunity to pursue the same range of lifestyles and opportunities as other members of the community.

A. *Housing First*

A team of NPR News radio and Web journalists is producing *Housing First*, a yearlong special reporting project. *Housing First* explores why it's so difficult for Americans with special needs to find good housing -- and how the lack of housing often stymies their efforts to join, and flourish in, the mainstream of society.

<http://www.npr.org/news/specials/housingfirst/index.html>

B. Other Resources:

- NEW: *Opening Doors*, Issue 28 - The Section 8 Project-Based Voucher Program. A new HUD Final Rule published on October 13, 2005 now makes it much easier for Public Housing Authorities (PHAs) to use the Project-Based Voucher program. This issue of *Opening Doors* provides a basic overview of these new HUD voucher policies, including how the disability community and PHAs can work together to expand affordable, accessible, and permanent supportive housing opportunities.
- Community Housing Network: a network, a community economical development organization dedicated to building and management of resources for the benefit of people with disabilities. Their link includes information on their Housing Resource Center and their Housing Manual at:
www.communityhousingnetwork.org
- *Home Control Through Trust and Estate Planning* by Theresa M. Varnet and Richard C. Spain, January 2004. A 60 page booklet on understanding government benefits, preserving eligibility for government benefits through estate planning, and planning for residential options for persons with developmental disabilities, "HOME CONTROL" was originally commissioned by

and funded through a grant from the Illinois and Missouri Planning Councils on Developmental Disabilities. A copy of "Home Control Through Estate and Financial Planning" costs \$15.00; contact:

SPAIN, SPAIN & VARNET P.C.

33 N. Dearborn #2220
Chicago, IL 60602
(312) 220-9112

- *A Bill of Rights for Homeowners in Associations: Basic Principles of Consumer Protection and Sample Model Statute* by David A. Kahne, July, 2006, AARP, Public Policy Institute at www.aarp.org/ppi
- *Meaning of Homeownership for Individuals With Developmental Disabilities: A Qualitative Study*, Volume 44, Number 4-295-303: In-person interviews were conducted with 7 homeowners selected by 6 state home-ownership programs as representing good examples of home ownership by individuals with developmental disabilities. Recurring themes were found in the choice of a home, advantages and disadvantages of home ownership advice. Although the process of purchasing the home was described as lengthy and difficult and ownership brought unexpected problems, these were outweighed by the financial, social, and psychological benefits of owning one's own home. Written by David Hagner, Judith Snow, and Jay Klein.

Amanda E. Filizetti is a 2008 graduate of Ave Maria School of Law in Ann Arbor, Michigan. She currently works as a law clerk for Patricia E. Kefalas Dudek.

Katherine E. Lionas is a 2008 graduate of Thomas M. Cooley Law School in Lansing, Michigan. She currently works as a law clerk for Patricia E. Kefalas Dudek.

INTAKE FORM FOR OBRA 1993 Clients

Personal Information regarding the Person with a Disability

1. Full Name of the person with a disability, including middle initial:

2. Address and telephone number of the person with a disability:

3. Date of Birth:

4. Social Security Number:

5. Sex: ☐ Male ☐ Female

6. If the person with a disability is a minor, does he or she:

- a. Have a guardian? ☐ Yes ☐ No

If so, who? _____

In which county was the guardianship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

- b. Have a conservator? ☐ Yes ☐ No

If so, who? _____

In which county was the conservatorship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

- c. Have a guardianship of the estate? ☐ Yes ☐ No

If so, who? _____

In which county was the guardianship of the estate established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

Please attach court orders, guardianship letters of authority and relative pleadings.

7. Is the adult person with a disability the subject of a guardianship?

☐ Yes ☐ No

If so, who? _____

In which county was the guardianship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

b. Have a conservator? ☐ Yes ☐ No

If so, who? _____

In which county was the conservatorship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

c. Have a guardianship of the estate? ☐ Yes ☐ No

If so, who? _____

In which county was the guardianship of the estate established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

Please attach court orders, guardianship letters of authority and relative pleadings.

8. What is the marital status of the parents of the person with a disability? With whom does the person with a disability reside?

9. Does the person with a disability live at home or in an alternative living situation? If the person with a disability resides in an alternative living situation, please list:

a. Type of living arrangement: _____

b. Address and phone number of residence:

c. Contact person (if necessary):

10. Is the person with a disability a citizen of the United States? ☐ Yes ☐ No

11. If the person with a disability is not a U.S. citizen, is he/she a qualified alien?

☐ Yes

☐ No

☐ Don't Know

Potential Trustees

1. Initial Trustee Name:

2. Address:

3. Telephone:

4. Fax:

5. Alternate Trustee Name:

6. Address:

7. Telephone:

8. Fax:

9. Advisors to Trustees:

Name

Address

Factual Background

1. What was the date of the injury and / or disability and how did it occur?

2. Describe the nature and extent of the injuries and / or disabilities.
3. Describe the person with a disability's current physical, mental and emotional condition.
4. What is the prognosis for the future?
5. Is it anticipated that nursing home care will be required?
6. What is his or her life expectancy?
7. Who are the present caregivers? Please describe them.
8. Are services provided by an agency or by family members?

9. If from an agency, please list:

Name of Agency:_____

Address of Agency:_____

Telephone:_____ Fax:_____

Contact Person at Agency:_____

10. If he or she is receiving care from family members, please list the following:

Name of Family Member:_____

Address of Family Member:_____

Telephone Number of Family Member:_____

11. Are there other significant health conditions (related or not)? If so, please attach a copy of pertinent past history.

Source of Funds & Amount of Funds

(Be very specific)

Public Benefits

1. Is *anyone* in the household of the person with a disability or an immediate family receiving public benefits? Who?

2. What public benefits are family or household members receiving?

3. What public benefits is the person with a disability receiving? (Please list all public benefits: Medicaid, Special Waiver Programs, SSI, SSD, Workers' Comp, Medicare, etc. and please attach verification of all forms of benefits received).

Have any of the benefits been discontinued?

Are any of the state and federal agencies aware of the possibility of these funds?

4. Does the person with a disability receive case management from an agency? If so, which agency?

5. Is it likely he or she will require public benefits assistance in the future? If so, why?

6. Does the he or she have any income? From what source?

7. Has the person with a disability made an application for public benefits that is still pending?

8. Has the person with a disability ever received public benefits (other than Medicaid) in any other state? ☐ Yes ☐ No

If so, please list the states in which benefits were paid and the nature of the benefit.

Expectations

1. What types of services does the person with a disability now need that the he or she is not receiving?

2. What kinds of equipment or personal property does the person with a disability hope to purchase.

3. Where would the person with the disability like to be in two years?

4. If the person with a disability is living with parents or a spouse, what kinds of equipment, personal property or renovations would the parents or spouse like to see come out of this trust?

Estate Planning

1. Does the person with the disability presently have any estate planning documents (wills, trusts, powers of attorney)? If so, please attach copies.

2. Do the parents or spouse have any estate planning documents? If so, please attach copies.

Who is the client?

1. Who will be the client of the Law Office of Patricia E. Kefalas Dudek?

Counsel?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Person with the disability?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Guardian?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
-----------	------------------------------	-----------------------------

Conservator?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--------------	------------------------------	-----------------------------

Power of Attorney for the Person with the Disability?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--	------------------------------	-----------------------------

3. Who is the guarantor of the fees of the Law Office of Patricia E. Kefalas Dudek?

What type of OBRA' 93 Trust is best suited for the client?

- Exception A
- Exception C

If other, please describe. Attach a copy of

Special Needs Trust Checklist

Prescription Drug Assistance Programs

1. ☐ Partnership for Prescription Assistance (www.pparx.com)

- Resource bank of drug company assistance plans, discount prescription cards, and state programs.
- Eligibility information is entered and available options are generated.

Utilized:

☐ Yes

☐ No

Reason _____

2. ☐ Needy Meds (www.needymeds.com)

- Resource bank of drug company assistance plans, disease based assistance, discount prescription cards, and government programs.
- This site contains information and links to available programs. Clients search by brand and generic drug name, company, disease, and state; they are then given links to the appropriate website or application.

Utilized:

☐ Yes

☐ No

Reason _____

3. ☐ Rx Hope (www.rxhope.com)

- Resource bank of government and corporate assistance plans.
- Eligibility information and drug names are entered online and options are generated.

Utilized:

☐ Yes

☐ No

Reason _____

4. ☐ Rx Outreach (www.rxoutreach.com)

- Provides reduced costs prescriptions at the rate of \$20, \$30, or \$40 for a 90-day supply. Prescriptions fall into one of three tiers and price is determined by the drug's category.
- An application is filled out annually and eligibility is determined.

Utilized:

☐ Yes

☐ No

Reason _____

5. ☐ Together Rx Access Discount Card (www.togetherrxaccess.com)

- Prescription discount card offered by 12 companies collectively. Card participants are given discounts of 25-40% on prescription drugs.
- Applicant may not have prescription coverage and may not be eligible for Medicare.
- Application filled out and eligibility is determined.

Utilized:

☐ Yes

☐ No

Reason _____

6. ☐ Merck Discount Drug Card (<http://www.merck.com/merckhelps/>)

- Offers discounts on 11 Merck drugs: Cosopt[®], Cozaar[®], Emend[®], Fosamax[®], Fosamax Plus D[™], Hyzaar[®], Janumet[™], Januvia[™], Maxalt[®], Maxalt-MLT[®], Singulair[®], Trusopt[®]
- Applicant may not have prescription coverage from public or private plans. They may be eligible for Medicare Part D but have opted out.

Utilized:

☐ Yes

☐ No

Reason _____

7. ☐ Michigan Rx Price Finder

- Provides current price information for drugs.
- Users enter zip codes or city, mile radius, and drug name and options are generated. Pharmacy name, address, and phone number, map option and drug price are given.
- Visit www.michigandrugprices.com

Utilized:

☐ Yes

☐ No

Reason _____

8. ☐ **Mi Rx Discount Card**

- A discount card used at pharmacies that save participants 5-25% on prescription drugs
- Applicants must be residents of the state of Michigan, have no other prescription coverage, and meet *median* state income requirements.
- Call **(1-800-755-6479)**
- Application is completed and mailed and eligibility is then determined.

Family Size	Median Income	Family Size	Median Income
1	\$27,930	6	\$66,090
2	\$37,470	7	\$75,630
3	\$47,010	8	\$85,170
4	\$56,550	9	\$94,050

Utilized:

☐ Yes

☐ No

Reason _____

Dental Services

1. ☐ **Oakland County Discount Dental Plan**

- Participants receive 20-50% discounts on most dental procedures, at participating dental providers.
- The cost is \$69 per year.
- Applicants must be residents of Oakland County.
- Application can be filled out online.
- <http://www.ocdiscountdental.com>

Utilized:

☐ Yes

☐ No

Reason _____

2. ☐ **Macomb County Discount Dental Plan**

CAREington (586) 469-6313; Dentemax 1-866-498-7914

- Participants receive 20-50% discounts on most dental procedures, at participating dental providers.
- The cost is \$69 per year.
- Applicants must be residents of Macomb County.
- Applications must be submitted via mail.
- <http://www.macombcountymi.gov/discountdental>

Utilized:

☐ Yes

☐ No

Reason _____

3. ☐ University of Michigan School of Dentistry-Adult Clinic & Urgent Care Clinic

- Provides a wide variety of dental services to the public at reasonable rates. Services are provided by supervised dental services.
- Call (734-763-6933) for appointments or information/wait could be several weeks for dental clinic appointments.
- Urgent Care Clinic is open Monday-Friday 8:00-5:00 on a walk-in basis.
- <http://www.dent.umich.edu/patients/>

Utilized:

☐ Yes

☐ No

Reason _____

4. ☐ University of Michigan School of Dentistry-Children's Clinic

- Provides dental care to children under the age of 14
- Call (734-764-1523) for appointments
- <http://www.dent.umich.edu/patients/>
-

Utilized:

☐ Yes

☐ No

Reason _____

5. ☐ The Hope Dental Clinic

- Provides general and restorative dental care at a low cost.
- Call (734-480-9575)
- <http://www.thehopeclinic.org/>

Utilized:

☐ Yes

☐ No

Reason _____

6. ☐ Washtenaw Children's Dental Clinic-Mack School

- Provides dental services to children at very low cost.
- Children must be low income, under age 18, and attend school in Washtenaw County.
- Call (734-663-7073)

Utilized:

☐ Yes

☐ No

Reason _____

7. ☐ University of Detroit Mercy Dental Clinic

- Provides a variety of dental services and specialty care including braces and root canals to accepted patients.
- Accepts most insurance including Medicaid. \$40 should be brought to appointment for x-rays.
- Call (313-494-6700)
- http://dental.udmercy.edu/dentalhygiene/pt_care.htm

Utilized:

☐ Yes

☐ No

Reason _____

8. ☐ Tri-County Dental Health Council

- Provides emergency treatment, treatment to low income uninsured workers, and dentures for low income seniors age 60+ from volunteer dentists.
- Provides an extensive referral service of dentists who accept Medicaid and treat low income patients.
- Cost is dependent upon income and family size and patients' pay 10-30% of usual dentist's fees.
- Call (248-559-7767)
- <http://www.dentalhealthcouncil.org/>

Utilized:

☐ Yes

☐ No

Reason _____

9. ☐ Dental Hygiene Clinic at Baker College of Auburn Hills

- Clinic is open to the public and anyone can make an appointment for services
- Clinic charges a nominal fee of \$5.00 - \$50.00 based on the type of procedure
- Because the clinic charges a nominal fee, no type of insurance is accepted
- Services rendered by students under the direct supervision of licensed dentists
- Call (248-276-6664)
- <http://www.dentalhealthcouncil.org/>

Utilized:

☐ Yes

☐ No

Reason _____

10. ☐ Wayne County Health Department

- Health Department provides dental care to Wayne County residents.
- Call (734 727-7000) for appointments
- <http://www.waynecounty.com/hhSvcs/>

Utilized:

☐ Yes

☐ No

Reason _____

11. ☐ Detroit Department of Health & Wellness Dental Clinic

- Clinic offers pediatric (ages 3-18) and adult dental services
- Children (313-876-4739); Adults (313-876-4164)
- <http://www.detthealth.org/>

Utilized:

☐ Yes

☐ No

Reason _____

Health Care Services

Macomb County

1. ☐ Macomb County Adult Benefit Waiver

- Covers visits to an assigned Primary Care Physician (PCP), referrals to specialists, referrals for outpatient diagnostic services and procedures and prescription drugs.
- Only available during open enrollment periods through Department of Human Services (DHS).
- Applicant must be a Macomb County resident, Ages 19-64, not disabled or eligible for Medicaid or other medical programs, and must meet income requirements.
- Apply at DHS office (DHS 586- 469-7700)

Utilized:

☐ Yes

☐ No

Reason _____

2. ☐ Macomb Connect Care

- Covers visits to Primary Care Physician offices, prescriptions, lab work, x-rays, medical supplies, urgent care clinics.
- Applicant must be a Macomb County Resident, Ages 19-64, an adult with no minor children, not eligible for any other medical coverage, and meet income requirements.
- Application can be downloaded online and must be mailed.
- <http://www.macombhealthplan.org/macombcareconnect.php>

Utilized:

☐ Yes

☐ No

Reason _____

3. ☐ Macomb County Breast & Cervical Cancer Screening Program

- No cost breast and cervical cancer screenings.
- Applicant must be a resident of Macomb County, ages 40-64, have no health insurance, and be low to moderate-income level.
- (586) 412-3384
- http://www.macombcountymi.gov/publichealth/HPDC/hpdc_breast_and_cervical_cancerscreen.htm

Utilized:

☐ Yes

☐ No

Reason _____

4. ☐ Macomb County Cardiovascular Disease Risk Reduction Program

- Provides education and screenings throughout the community for residents.
- Call (586) 412-3387 to find screening locations.
- <http://www.macombcountymi.gov/publichealth/HPDC/cvdrp.htm>

Utilized:

☐ Yes

☐ No

Reason _____

5. ☐ Macomb County Family Planning Services

- Provides family planning education, counseling, cervical and breast exams, and contraceptives for Macomb County Residents.
- Fees are determined on a sliding scale.
- (586) 469-5491
- <http://www.macombcountymi.gov/publichealth/>

Utilized:

☐ Yes

☐ No

Reason _____

6. ☐ Macomb County Immunization Clinic

- Provides immunizations for adults and children
- Call (586) 469-5372.
- http://www.macombcountymi.gov/PublicHealth/ClinicServices/fhs_immunization_clinic.htm

Utilized:

☐ Yes

☐ No

Reason _____

7. ☐ Macomb County Sexually Transmitted Disease Program

- Provides confidential counseling, testing, diagnosis, and treatment of sexually transmitted diseases.
- Applicants must be age 12 or over and a resident of Macomb County.
- (586) 465-9217
- <http://www.macombcountymi.gov/publichealth/HPDC/STD.htm>

Utilized:

☐ Yes

☐ No

Reason _____

8. ☐ Veterans Aid & Assistance Program

- The Aid and Attendance Special Pension provides benefits for veterans and surviving spouses who require the regular attendance of another person to assist in eating, bathing, dressing and undressing or taking care of the needs of nature. It also includes individuals who are blind or a patient in a nursing home because of mental or physical incapacity. Assisted care in an assisting living facility also qualifies.
- The veteran needed to have been active during specified time periods (http://www.veteranaid.org/docs/Periods_of_War.pdf)
- Applicant must have less than \$80,000 in assets, EXCLUDING their home and vehicles
- Required information: Discharge/separation papers, marriage certificate, copy of death certificate-surviving spouse only, current social security award letter, net worth information, proof of all income, if a guardian is in place a copy of the court order appointing a guardian, proof of insurance, medications, Medicare, Medicaid, Physician statement, Banking information, employment history, list of hospitals/doctors visited in the last year.
- For information visit: <http://www.veteranaid.org/program.php>

Utilized:

☐ Yes

☐ No

Reason _____

Oakland County

1. ☐ Oakland County Hearing and Vision Screenings

- Hearing and vision screenings by appointment for school aged children in Oakland County
- Call (248) 424-7070 for appointments
- http://www.oakgov.com/health/program_service/hv_about.html

Utilized:

☐ Yes

☐ No

Reason _____

2. ☐ Oakland County HIV/AIDS Prevention and Control

- Provides confidential and anonymous counseling, and testing.
- 1-888-350-0900 ext. 85416 for appointments.
- http://www.oakgov.com/health/program_service/hiv_control.html

Utilized:

☐ Yes

☐ No

Reason _____

3. ☐ Oakland County Immunizations

- Provides immunization for children, teens, and adults.
- (248) 858-1305 (North Oakland) /(248)424-7046 (South Oakland)
(248)926-3361 (West Oakland)
- http://www.oakgov.com/health/program_service/immunize_about.html

Utilized:

☐ Yes

☐ No

Reason _____

4. ☐ Oakland County Sexually Transmitted Disease Program

- Provides testing, diagnosis, treatment and counseling.
- Patients should visit clinic location for services.
(<http://www.oakgov.com/health/contact/index.html>)

Utilized:

☐ Yes

☐ No

Reason _____

Wayne County

1. ☐ Wayne County Health Department

- Provides personal health services to Wayne County residents
- Services include HIV testing and counseling, immunizations, STD testing, hearing and vision screening, and family planning.
- Call 734-727-7000 for appointments
- <http://www.waynecounty.com/hhSvcs/>

Utilized:

☐ Yes

☐ No

Reason _____

2. ☐ Detroit Department of Health & Wellness Clinic

- Clinics provide Adult Medicine, Healthy Kids Medicaid Enrollment assistance, free pregnancy testing family planning/birth control services WIC Food Supplement Program assistance, social work services
- 313-876-4000
- www.dethealth.org

Utilized:

☐ Yes

☐ No

Reason _____

Statewide Programs

1. ☐ MARS

- This site is a resource bank of state programs.
- Applicant fills out information such as number in home, age, income, medical conditions, and an estimate of what state programs they are eligible for is generated.
- <http://www.mfia.state.mi.us/mars>

Utilized:

☐ Yes

☐ No

Reason _____

2. ☐ Medicaid

- Michigan Dept. of Community Health
- (517-373-3740)
- <http://www.michigan.gov/mdch>

Utilized:

☐ Yes

☐ No

Reason _____

3. ☐ MI Child

- This Department of Community Health program provides health and dental care to qualified applicants. Not a Medicaid program.
- There is a five dollar monthly premium for *all* Children in one family
- Applicants must be Michigan residents or legal immigrants, meet income requirements, and inform of any other medical insurance.
- Income requirement: The adjusted gross income must be at or above 150% and below 200% of the federal poverty level. For children under 1 year of age, the adjusted gross income must be above 185% and at or below 200% of the federal poverty level.
- Call (888-988-6300) for information and local DHS office for application
- http://www.michigan.gov/mdch/1,1607,7-132-2943_4845_4931---,00.html

2007 Federal Poverty Guidelines	
Number in Family or Household	48 Contiguous States and D.C. <i>*Chart does not include AK, HI</i>
1	\$10,210
2	\$13,690
3	\$17,170
4	\$20,650
5	\$24,130
6	\$27,610
7	\$31,090
8	\$34,570
Each + person add	\$3,480

Utilized:

☐ Yes

☐ No

Reason _____

4. ☐ Healthy Kids

- Medicaid program which provides a variety of health services including vision, dental and mental health to pregnant women, babies and children under age 19.
- Applicants must be Michigan residents or legal immigrants, meet income requirements, and inform of any other medical insurance.
- Income Requirements: Healthy Kids for Pregnant Women (185% of poverty) Healthy Kids for Children under age 1 (185% of poverty) Healthy Kids for other children (150% of poverty) (See above for federal poverty guidelines)
- Call (888-988-6300) to determine eligibility.
- <http://www.michigan.gov/mdch>

5. ☐ MI Department of Community Health Breast & Cervical Cancer Control Program

- Provided through the MDCH. Provides screening and treatment.
- Call (800-922-MAMM) for local providers.
- http://michigan.gov/mdch/0,1607,7-132-2940_2955-13487--,00.html

Utilized:

☐ Yes

☐ No

Reason _____

6. Children's Special Healthcare Services

- A trust funded program within the Department of Community Health which provides children and some adults with coverage and equipment for their special healthcare needs and their families. It also provides family centered services to support primary caretakers, as well as community based services to allow for at home care and maintenance of routines.
- Applicants must be diagnosed with one of the 2,700 conditions covered, and be a Michigan resident.
- Applications can be obtained at local health departments or by calling (800-359-3722) or (517-241-7420)
- <http://www.mdch.state.mi.us/msa/cshcs/CSHCS.htm>

Utilized:

☐ Yes

☐ No

Reason _____

7. ☐ DHS HIV/AIDS Support Services

- Provides support services to those who have tested positive HIV/AIDS as well as insurance assistance.
- Call (877) 342-2437
- http://www.michigan.gov/dhs/0,1607,7-124-5452_7122_36921---,00.html

Utilized:

☐ Yes

☐ No

Reason _____

8. ☐ DHS Plan First!

- Provides family planning to women.
- Applicants must be Michigan residents, ages 19-44, not Medicaid eligible, no family planning coverage through a private insurance plan, meet income requirements (family income at or below 185% of the federal poverty level (FPL), and citizenship requirements.
- Application must be filled out and returned to Plan First!
- Fax number (517) 324-0710.
- www.michigan.gov/mdch

Utilized:

☐ Yes

☐ No

Reason _____

Nutrition Services

1. ☐ Bridge Card/Food Stamps & Cash Benefits

- Electronic Benefits Transfer Card (EBT)
- Obtained through DHS and provides food/cash benefits to recipients.
- Application may be printed online but must be completed and taken to the local DHS office. The applicant will then be assigned a DHS specialist who will lead them through the application process.
- The card is just like a debit card and food/cash benefits are made available according to the benefits schedule..
- (800-481-4989); Apply at local DHS
- http://www.michigan.gov/dhs/0,1607,7-124-5455_7034---,00.html

Utilized:

☐ Yes

☐ No

Reason _____

2. ☐ Michigan's Coordinated Access to Food for the Elderly (MiCafe)

- Helps residents age 60 or older maneuver through the Michigan Bridge Card application process. They do not have to visit DHS through this program.
- Currently available in Branch, Cass, Charlevoix, Eaton, Emmet, Genesee, Gratiot, Kalamazoo, St. Joseph, and Wayne Counties.
- Call (877) 664-2233
- <http://www.elderslaw.org/Micafe/index.htm>

Utilized:

☐ Yes

☐ No

Reason _____

3. ☐ Oakland County Meals-on-Wheels

- Provides home delivered meals to homebound individuals and senior citizens who are unable to prepare meals for themselves due to physical or mental impairments related to age and medical condition.
- Call (248-288-3311) for service

Utilized:

☐ Yes

☐ No

Reason _____

4. ☐ Macomb County Meals-on-Wheels

- Provides congregate and home delivered meals to home bound individuals and senior citizens who are unable to prepare meals for themselves due to physical or mental impairments related to age and medical condition.
- \$3.00 donation suggested per meal.
- Call (800-852-7795) for service.

Utilized:

☐ Yes

☐ No

Reason _____

5. ☐ Wayne County Meals-on-Wheels

- Provides daily delivered meals, several congregate meal sites, as well as holiday home delivered meals to seniors and disabled individuals who are unable to prepare meals for themselves due to physical or mental impairments related to age and medical condition.
- Call (313-964-6325-Detroit Area Agency on Aging) for location or information.

Utilized:

☐ Yes

☐ No

Reason _____

Heat and Utility Services

1. ☐ Consumer's Energy Budget Plan

- Allows customers to spread out annual energy costs into equal monthly payments.
- The plan begins June 1 each year and runs through May 31.
- (800-477-5050); www.consumersenergy.com

Utilized:

☐ Yes

☐ No

Reason _____

2. ☐ Winter Protection Plans

- Protects seniors and low income customers from utility shut off and high winter payments. Consumer's Energy, DTE & SEMCO are participants.
- Participants will not be shut off if they pay at least 6% of their estimated annual bill each month plus 1/12 of any past due bills.
- Applicants must meet one of the following: 62 years+, receive DHS cash assistance, food stamps, Medicaid, or meet income requirements.
- Contact Michigan Gas Utilities (800) 401-6402

Utilized:

☐ Yes

☐ No

Reason _____

3. ☐ Gas Payment Arrangements

- Michigan Gas Utilities can help customers who have past due balances arrange for repayment and avoid shut off.
- Customers must have a Michigan Gas Utilities residential account, have a balance less than \$400, and not currently on a payment plan for a past due balance.
- Arrangements can be made online at:
<http://www.michigangasutilities.com/service/arrangements.aspx>

Utilized:

☐ Yes

☐ No

Reason _____

4. ☐ Third Party Notification

- DTE, SEMCO, and Consumer's Energy offer third party notification or double notice of bill due dates. The third party is not liable for the bill; they are simply notified to remind the responsible party. This option is an added measure of protection to avoid late bills and shut offs.
- Contact companies: DTE (800) 477-4747, SEMCO (800) 624-2019, Consumer's Energy (800) 477-5050.

Utilized:

☐ Yes

☐ No

Reason _____

5. ☐ Michigan Home Heating Credit

- Provides low income individuals with a home heating draft or voucher which is sent to energy providers including DTE, SEMCO, and Consumer's Energy. The companies then credit the customers account.
- Eligibility is based on income, number of exemptions and household heating costs.
- Applicant files Michigan Home Heating Credit Form MI-1040CR-7 with the department of treasury who determines eligibility.
- DHS Energy Hotline at 1-800-292-5650.

Utilized:

☐ Yes

☐ No

Reason _____

6. ☐ Weatherization Assistance Program

- DHS administered program for homeowners and renters. Provides energy conservation services including: wall, attic, and foundation insulation, air leakage reduction, smoke detectors, dryer venting.
- Applicants, which meet income requirements, are recipients of Family Independence program through DHS, or are recipient of SSI automatically, qualify at no cost.
- Contact local weatherization operators for eligibility determination
- **Macomb County**, Macomb County Community Services Agency, (586) 469-6999;
- **Oakland County**, Oakland Livingston Human Services Agency, (248) 209-2760
- **Wayne County**, City of Dearborn, (LPO), (313) 943-2180; City of Detroit, Department of Human Services, (313) 852-5609; Downriver Community Conference, (LPO) (734) 362-3472; Western Wayne County, (LPO) (313) 224-5250; Wayne-Metropolitan Community Action Agency, (734) 246-2280.

Utilized:

☐ Yes

☐ No

Reason _____

7. ☐ State Emergency Relief (SER)

- This Program is intended for occasional extreme financial hardship for low-income individuals or families. The program is administered by DHS and can meet emergency need for the following: heat & utilities home repairs, relocation assistance, home ownership services, and burial.
- Eligibility is determined by income and assets and one of the following: demonstration of immediate need (shut off notice), declared need for deliverable fuel, verified need for energy related home repair.
- DHS Energy Hotline (800-292-5650); Apply at local DHS Office
- Uses only state funds; no Medicaid match

Utilized:

☐ Yes

☐ No

Reason _____

8. ☐ Energy Direct

- Utility shut off avoidance program in which DHS partners with DTE, SEMCO, and Consumer's Energy. DHS matches client's names with the three providers. When a match is found DHS pays the bill, up to \$550 for heat and electricity respectively.
- DHS Energy Hotline (800-292-5650); Contact local DHS office for assistance.

Utilized:

☐ Yes

☐ No

Reason _____

Telephone Assistance Programs

1. ☐ Lifeline and Link-up Telephone Assistance

- Lifeline is a government program in which qualified individuals receive discounts on monthly telephone bills.
- Link-up helps pay the expense of phone installation.
- Applicants must meet income requirements or, be recipients of Medicaid, Food Stamps, SSI, Section 8, temporary needy family assistance, National School Lunch Program.
- Verizon customers call (800-483-4000)
- AT&T Customers call (800-621-8650)
- All other companies call (866-321-2323)

Utilized:

☐ Yes

☐ No

Reason _____

Consumers Services

1. ☐ Credit Card Offer Opt-Out

- Consumers can visit the secured website, which is a joint venture between the major credit reporting agencies, and choose to opt-out of credit offers for five years or permanently.
- If the five year electronic opt out is selected the form may be completed online. If permanent opt out is selected the form is filled out online, but the permanent election form must be printed, signed and mailed. In the interim a five year request will be processed until receipt of the permanent form.
- www.optoutprescreen.com
- Call (1-888-567-8688)

Utilized:

☐ Yes

☐ No

Reason _____

Questions for Personal Injury Attorneys/OBRA 1993 Clients

Personal Information regarding the Person with a Disability

1. Full Name of the person with a disability, including middle initial:

2. Address and telephone number of the person with a disability:

3. Date of Birth:

4. Social Security Number:

5. Sex: ☐ Male ☐ Female

6. If the person with a disability is a minor, does he or she:

- a. Have a guardian? ☐ Yes ☐ No

If so, who? _____

In which county was the guardianship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

- b. Have a conservator? ☐ Yes ☐ No

If so, who? _____

In which county was the conservatorship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

- c. Have a guardianship of the estate? ☐ Yes ☐ No

If so, who? _____

In which county was the guardianship of the estate established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

Please attach court orders, guardianship letters of authority and relative pleadings.

7. Is the adult person with a disability the subject of a guardianship?

☐ Yes ☐ No

If so, who? _____

In which county was the guardianship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

b. Have a conservator? ☐ Yes ☐ No

If so, who? _____

In which county was the conservatorship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

c. Have a guardianship of the estate? ☐ Yes ☐ No

If so, who? _____

In which county was the guardianship of the estate established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

Please attach court orders, guardianship letters of authority and relative pleadings.

8. What is the marital status of the parents of the person with a disability? With whom does the person with a disability reside?

9. Does the person with a disability live at home or in an alternative living situation? If the person with a disability resides in an alternative living situation, please list:

a. Type of living arrangement: _____

b. Address and phone number of residence:

c. Contact person (if necessary): _____

10. Is the person with a disability a citizen of the United States? ☐ Yes ☐ No

11. If the person with a disability is not a U.S. citizen, is he/she a qualified alien?

☐ Yes

☐ No

☐ Don't Know

Personal Injury Attorney

1. Name: _____

2. Address: _____

3. Telephone: _____ 4. Fax: _____

Insurance Companies

☐ Health

☐ Auto

☐ Other

1. Name _____

2. Address: _____

3. Telephone _____ 4. Fax: _____

5. Contact Person: _____

6. Policy Owner: _____

☐ Health

☐ Auto

☐ Other

1. Name: _____

2. Address: _____

3. Telephone: _____ 4. Fax: _____

5. Contact Person: _____

6. Policy Owner:_____

Potential Trustees

1. Initial Trustee Name:_____

2. Address:_____

3. Telephone:_____ 4. Fax:_____

5. Alternate Trustee Name:_____

6. Address:_____

7. Telephone:_____ 8. Fax:_____

Factual Background

1. What was the date of the injury and / or disability and how did it occur?

2. Describe the nature and extent of the injuries and / or disabilities.

3. Describe the person with a disability's current physical, mental and emotional condition.

4. What is the prognosis for the future?

5. Is it anticipated that nursing home care will be required?

6. What is his or her life expectancy?

7. Who are the present caregivers? Please describe them.

8. Are services provided by an agency or by family members?

9. If from an agency, please list:

Name of Agency:_____

Address of Agency:_____

Telephone:_____ Fax:_____

Contact Person at Agency:_____

10. If he or she is receiving care from family members, please list the following:

Name of Family Member:_____

Address of Family Member:_____

Telephone Number of Family Member:_____

11. Are there other significant health conditions (related or not)? If so, please attach a copy of pertinent past history.

The Parties

1. Is there more than one plaintiff? () Yes () No

2. If so, who are they?

3. What is the nature of their claims?

4. What are their damages?

5. If the plaintiff is a parent, does he or she have reimbursable costs? If so, for what?

6. Who is the tortfeasor? Is there a qualified assignment?

The Settlement

1. How much is the overall settlement of judgement?

2.What are the costs?

3. What is the contingency fee?

4. Are fees owed to more than one lawyer?

5. Will there be any attorney liens filed in the case?

6. Will the amount of the settlement or judgement make the Plaintiff whole or will Plaintiff's injuries be permanent?

7. Is the settlement a lump sum?

A structured settlement?

8. If there is no settlement, is there an offer?

If so, how much is the offer?

What does plaintiff's attorney realistically think the case is worth?

9. How much of the settlement is allocated to medical claims of the person with a disability?

10. What is the allocation of that portion of the settlement not allocated to medical claims of the person with the disability?

Liens, Subrogation Claims

1. Was the plaintiff receiving Medicaid at any time since the accident?

2. Was the plaintiff receiving Medicare at any time since the accident?

3. Has Medicaid or Medicare been notified of the commencement of the action, or of the settlement, arbitration award or jury verdict?

4. Is there a Medicaid lien or Medicare claim? If so, how much is it?

5. Has this lien of claim already been negotiated? Have any releases been signed?

6. Has Plaintiff received any benefits from worker's compensation?

If yes:

Name of Carrier: _____

Address of Carrier: _____

Telephone number of Carrier: _____

Fax Number of Carrier: _____

Contact Person at Carrier: _____

7. Are there any insurance subrogation claims in the case? If so, please describe the nature and extent of the subrogation claim.

8. Has he or she ever received Medicaid in any other state?

If so, please list the states in which Medicaid benefits were paid.

Public Benefits

1. Is *anyone* in the household of the person with a disability or an immediate family receiving public benefits? Who?

2. What public benefits are family or household members receiving?

3. What public benefits is the person with a disability receiving? (Please list all public benefits: Medicaid, Special Waiver Programs, SSI, SSD, Workers' Comp, Medicare, etc. and please attach verification of all forms of benefits received).

Have any of the benefits been discontinued?

Are any of the state and federal agencies aware of the possibility of these funds?

4. Does the person with a disability receive case management from an agency? If so, which agency?

5. Is it likely he or she will require public benefits assistance in the future? If so, why?

6. Does the he or she have any income? From what source?

7. Has the person with a disability made an application for public benefits that is still pending?

8. Has the person with a disability ever received public benefits (other than Medicaid) in any other state? ☐ Yes ☐ No

If so, please list the states in which benefits were paid and the nature of the benefit.

Court Proceedings

1. Do you believe court approval of the settlement is necessary? If not, why not?

2. Assuming court approval is necessary, who are the interested parties? What are their names and addresses?

3. Who signed the engagement agreement with the plaintiff's counsel?

4. Please set forth the court in which the proceeding is pending.

5. Please set forth the docket number of the case.

6. Please set forth the name of the presiding judge.

Expectations

1. What types of services does the person with a disability now need that the he or she is not receiving?

2. What kinds of equipment or personal property does the person with a disability hope to purchase.

3. Where would the person with the disability like to be in two years?

4. If the person with a disability is living with parents or a spouse, what kinds of equipment, personal property or renovations would the parents or spouse like to see come out of this trust?

Estate Planning

1. Does the person with the disability presently have any estate planning documents (wills, trusts, powers of attorney)? If so, please attach copies.

2. Do the parents or spouse have any estate planning documents? If so, please attach copies.

Who is the client?

1. Who will be the client of the Law Office of Patricia E. Kefalas Dudek?

Counsel? ☐ Yes ☐ No

Person with the disability? ☐ Yes ☐ No

Guardian? ☐ Yes ☐ No

Conservator? ☐ Yes ☐ No

Power of Attorney for the
Person with the Disability? ☐ Yes ☐ No

2. Will the fees of the Law Office of Patricia E. Kefalas Dudek be carried as a cost of the pending litigation by plaintiff's counsel?

3. Who is the guarantor of the fees of the Law Office of Patricia E. Kefalas Dudek?



Patricia E. Kefalas Dudek

fax (248) 731-3081
pdudek@hshcdlaw.com
www.hshcdlaw.com

**HAFELI STARAN HALLAHAN
CHRIST & DUDEK, P.C.**
Attorneys at Law
4190 Telegraph Road, Suite 3000
Bloomfield Hills, Michigan 48302-2082
(248) 731-3080

L. Rider Brice, III
P. Daniel Christ
Patricia E. Kefalas Dudek
Mark W. Hafeli
Laura M. Hallahan
John D. Staran
Ann D. Christ, Of Counsel

**PRELIMINARY ESTATE PLANNING QUESTIONNAIRE
CONFIDENTIAL**

Estate planning recommendations are based on your present asset and family information. Therefore, we would appreciate you providing us with the enclosed confidential information. Furthermore, in the event of a significant change should occur after your estate plan has been prepared, you should contact this office for a review of the impact of any change to your existing estate plan.

FAMILY DATA

1. Basic Information

Client/Husband 1: _____ **DOB** _____

Social Security Number: _____ **U.S. Citizen?** Yes ☐ No ☐

Client/Wife 2: _____ **DOB** _____

Social Security Number: _____ **U.S. Citizen?** Yes ☐ No ☐

Home Address: _____

County: _____

City, State, Zip: _____ **Home Phone:** _____

Client 1's Employer: _____ **Business Phone:** _____

Client 2's Employer: _____ **Business Phone:** _____

Email Address: (1) _____ (2) _____

Date of Marriage: _____

Has Client 1 ever been married to someone else? Yes ☐ No ☐

Has Client 2 ever been married to someone else? Yes ☐ No ☐

Children: (attach an additional sheet for additional children)

1. Name: _____ **SSN:** _____ **DOB:** _____

Address: _____ **Phone:** _____

Marital Status: _____ **# of Children** _____ **Spouse's First Name** _____

Who is parent of this child? Client 1 ☐ Client 2 ☐ Both ☐

2. Name: _____ SSN: _____ DOB: _____
Address: _____ Phone: _____
Marital Status: _____ # of Children _____ Spouse's First Name _____
Child of this marriage? Client 1 ☐ Client 2 ☐ Both ☐

3. Name: _____ SSN: _____ DOB: _____
Address: _____ Phone: _____
Marital Status: _____ # of Children _____ Spouse's First Name _____
Who is parent of this child? Client 1 ☐ Client 2 ☐ Both ☐

Do any members of your family have any special physical or mental challenges? Yes ☐ No ☐

If so, please state name and any special physical or mental challenges: _____

If you now assist your parents/grandparents or other relatives, or wish to make provisions for them in your estate plan, or discuss long term care for them, please list below:

1. Personal Representative of Will and Trustees (of any trust) and Attorney-in-Fact for Durable Power of Attorney (Names and Addresses)

For Client 1:

First Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Second Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Third Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

For Client 2:

First Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Second Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Third Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

2. Proposed Guardian of Any Minor Children (Names and Addresses)

First Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Second Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Third Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

3. Patient Advocate for Patient Advocate Designation

For Client 1:

First Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Second Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Third Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

For Client 2:

First Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Second Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Third Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Please list the name and address of those who are to be the primary beneficiaries of your estate.

Please provide the name, address and relationship of those to whom you would leave your estate (final takers) and the percentages for each in case all of your primary beneficiaries predecease you or perish with you.

If you wish to make any charitable or other special gifts, please indicate the charity and the amount you wish to donate.

SUMMARY OF ASSETS & LIABILITIES
--

1. Assets	Client/Husband 1	Client/Wife 2	Joint
(FEEL FREE TO ATTACH MORE DETAILED STATEMENTS/SUMMARIES)			
A. Non-Retirement Securities, Mutual Funds, Cash Related Accounts and similar Intangible Property	\$	\$	\$
B. Real Estate			
C. Retirement Benefits – IRA’s & 401k’s			
D. Insurance			
Face Value on the Life of:			
Named Beneficiary:			
E. Monies owed you From whom:			
F. Government Bonds			
G. Additional Assets (personal effects, collections, patents, trademarks, etc.)			
Total	\$	\$	\$
2. Liabilities	\$	\$	\$
A. Real Estate Mortgages			
B. Notes to Financial Institutions			
C. Loans on Insurance Policies			
D. Other Obligations			
E. Charitable Pledges			
F. Tax Liabilities			
Total	\$	\$	\$
3. Net Worth	\$	\$	\$
4. Potential Inheritance	\$	\$	\$

5. Do you have long term care insurance?

Yes _____

No _____

CHECKLIST OF DOCUMENTS & FAMILY ADVISORS

1. Safe Deposit Box – Location: _____
2. Present Documents (if any)
 - A. Will: dated _____
 - B. Trusts:
 - i) created by client _____
 - ii) created for client by others _____
 - C. Gift Tax Returns filed? _____ location? _____
3. Advisors (Names and Addresses)
 - Accountant _____
 - Trust Officer _____
 - Commercial Banker _____
 - Investment Advisor _____
 - Stockbroker _____
 - Life Insurance Agent _____
 - Casualty Insurance Agent _____

DOCUMENTATION FOR ESTATE PLAN ANALYSIS

- Please bring this documentation to your meeting -

- 1. Copies of Last Will and Testaments, Revocable Trust Agreements, Durable Powers of Attorney for Health Care and General Durable Powers of Attorneys for Finances and/or any additional estate planning documentation which may currently be in effect.**
- 2. Copies of deeds for all real estate holdings wherever situated.**
- 3. Copies of Partnership Agreements and Operating Agreements for any partnerships, limited liability companies or other entities in which the client is a member of other participant.**
- 4. Current personal balance sheet, if available.**
- 5. Copies of life insurance policies and current statements regarding the same.**

March 30, 2006