CRESTWOOD ADVISORS

PLANNING FOR BENFICIARIES WITH SPECIAL CIRCUMSTANCES

Special needs
Medical needs
Mental health
Addiction
Financial vulnerability

TODAY'S PRESENTER



Katherine M. Sheehan, JD, AEP, ATFA
Managing Director, Wealth Strategist
Crestwood Advisors, LLC
One Liberty Square
Boston, MA 02109
617-226-0044
ksheehan@crestwoodadvisors.com
www.crestwoodadvisors.com

National Association of Estate Planners & Councils (NAEPC)

CRESTWOOD ADVISORS

Value Partners (flagship *Trusts & Estates* $149 subscription, only $99) - Discounts available, the authority on estate law, tax issues, and wealth management for over a century.

Webinars – November 11, 2026, **Susan L. Chalgian, JD **FREE** Planning with Veteran's Benefits**

December 9, 2026, **Whitney Webb From Woodstock to TikTok: Understanding and Bridging Generational Divides**

Change in our annual conference– Spring 2027-LIVE conference May 3rd to 6th in Tampa, FL

Council Leadership Series – Virtual sessions – Recorded Events available

NAEPC Journal of Estate & Tax Planning – published twice a year, original content from leading practitioners, newest edition just published October 20, additional issues in February and June 2027.

Monthly Leimberg Newsletter on national website

AEP Designation - https://www.naepc.org/designations/estate-planners

WHAT WE WILL COVER

CRESTWOOD ADVISORS

Chances are we all know and love someone with emotional, intellectual, medical and/or physical challenges and so do our clients. With that love often comes what feels like insurmountable worry. How do you plan for their future? How do you know they will be ok, especially when you won't be here anymore to love, protect and provide for them? Everyone needs some level of estate planning, no matter their asset level, but when your client's family includes someone with special circumstances, careful planning is more than a recommendation, it is critical.

In this presentation we will examine the different circumstances that can present themselves, special needs, medical needs, mental health challenges, addiction, financial vulnerability, and how to help our client adequality plan and provide for those beneficiaries.

- Discover what the family may be reluctant to disclose.
- Match the structure of key documents to benefits, capacity and risk.
- Select fiduciaries who can administer under pressure and meet the unique needs of the beneficiary.
- Build an adaptable plan for the beneficiary's lifetime.

DISCOVERY: ASK QUESTIONS THAT NORMALIZE DISLCOSURE

CRESTWOOD ADVISORS

The work begins before any legal documents are drafted or any financial plan is executed. It starts with discovery and clients often don't freely disclose information. We need to ask the right questions in the right way:

Families often have concerns about health, disability, substance use, relationships or money management. Are any of those relevant to how we should design your plan?

If the beneficiary inherited today, what concerns might you have?

Can the beneficiary budget, plan, and follow through consistently?

What public benefits, services, housing, and care supports are in place, if any? What benefits might you expect them to qualify for in the future?

Does capacity or behavior change during illness, relapse, or crisis?

Who already helps, what is their role? —and who should not be placed in that role?

SPECIAL CIRCUMSTANCES ARE A SPECTRUM, NOT A LABEL

CRESTWOOD ADVISORS

Public- Benefit Risk

Means tested benefits, resource allowance and income rules.

Decision-Making Risk

Capacity may fluctuate.

Health and Safety Risk

Medical fragility, psychiatric crisis, and/or active substance use.

Financial Risk

Impulsivity, exploitation, creditors, spendthrift.

COMMUNICATIONI IS KEY AMONGST ALL KEY PLAYERS

CRESTWOOD ADVISORS

Client
- Wants to ensure values are instilled and carried on.
- May fear for wellbeing, stability, financial health, vulnerability, etc. of beneficiary.
- Wants to be sure resources are available now and in the future for the beneficiary without any negative consequences (loss of benefits, easy target, etc.).

Care team
- If a care team is in place who are the key players?
- How do they function?
- Is there a treatment plan in place?
- Is there a crisis plan in place?

Beneficiary
- What are their particular needs and/or circumstances?
- What are their preferences?
- Do they desire autonomy/independence? Is that feasible? To what extent?

Future (and/or current) fiduciaries
- Choice of fiduciary is crucial for administration and continuity.
- Is there a succession plan in place?
- Are there are also named guardians and conservators?
- Are named parties comfortable and capable in their roles?

Legal, financial and tax team
- Attorney(s)
- Tax professional
- Insurance professional
- Benefits specialist
- Financial advisor
- This teams provides structure, manages assets, quarterbacks all planning and maintains benefits, and eligibility for benefits.

ONE PLAN MUST COORDINATE FOUR LAYERS

1 Core Documents

Will, Revocable Trust, Power of Attorney, Healthcare Documents (Health Care Proxy, HIPAA Authorization, Living Will)

2 Transfer Design

Beneficiary designations, lifetime gifts and/or transfers at death, what is being transferred?

3 Protective Vehicles

Special/Supplemental Needs Trust (SNT), Irrevocable Discretionary Trust, Pooled Trust, ABLE Account

4 Operating System

Trustee, Advisor, Care Manager, Letter of Direction

BENEFITS PRESERVATION STARTS WITH IDENTIFYING THE BENEFIT – PUBLIC BENEFITS

CRESTWOOD ADVISORS

Program	Planning character	Drafting implication
SSI	Means-tested cash benefit	Resource and income rules matter
Medicaid	Eligibility pathway varies by state	Trust and payment rules require state review
SSDI	Work-history insurance benefit	Not means tested
Medicare	Federal health insurance	Not means tested
Housing / SNAP	Program-specific	Payments may affect eligibility or subsidy

TRUST SELECTION – WHOSE ASSETS FUND THE TRUST CHANGE THE RULES

CRESTWOOD ADVISORS

Third Party SNT – Often the Preferred Planning Vehicle

Funded only with the assets of third parties, typically parents, grandparents or other relatives.

No federal Medicaid payback requirement.

Remainder passes as the settlor directs pursuant to trust terms.

First Party SNT (d)(4)(A) – Self Settled

Funded with the beneficiary's own assets – often from inheritance or settlement.

Beneficiary must meet Social Security definition of disability – unable to work for at least 12 months, must be established before age 65, must be for sole benefit of the beneficiary.

Medicaid provisions required. Medicaid named as first beneficiary at death.

Pooled Trust (d)(4)(c)

Funded with beneficiary's own assets joined in a nonprofit-managed pool.

They have a separate account but there is pooled investment and administration of the assets.

Also requires a payback provision, often a good option for smaller funding amounts.

No age limit, can be funded beyond age 65.

DRAFT FOR DISCRETION – ADMINSTER WITH PRECISION

The trust instrument is only the beginning - benefit consequences arise from the actual administration of the trust. This is commonly misunderstood by clients and beneficiaries alike. The trust itself may not impact benefit eligibility at all, but particular distributions certainly can.

Best Practice

Pure discretion.

Should Supplement, not supplant.

Trustee pays vendors directly.

Trust purchases goods and services for the beneficiary.

Trustee coordinates with benefits counsel and care team.

Document purpose of distribution, authority to make distribution, and eligibility impact distribution will have.

Requires Analysis

Cash paid to beneficiary is rarely a good choice if they are receiving any kind of government benefit.

Food or shelter payments affecting SSI, although now more flexibility regarding food post 2024.

Assets titled for beneficiary. Eligibility for benefits often has a strict asset limit.

Payments that alter housing. Medicaid, or other program eligibility, which could be any trust distribution, depending on the level of benefit.

DRAFTING SHOULD CREATE OPTIONS, NOT FALSE CERTAINTY

CRESTWOOD ADVISORS

Discretion

Avoid enforceable withdrawal rights that defeat protection.

Purpose Language

State safety, recovery, benefits, dignity, and quality-of-life goals – or better yet maybe put this language outside the document in a letter of direction.

Trustee Powers

Pay providers, hire care managers, obtain evaluations, manage housing. Make sure trustees have extensive powers to handle trust administration and adequately and appropriately meet the needs of the beneficiary.

Governance

Removal/replacement powers, trust protector, directed functions. Make sure these provisions are robust so they don't get stuck!

Information

Permit appropriate communication while respecting privacy. Make sure trustee and other members of the care team can freely share information.

Flexibility

Build flexibility into the document so it can meet the needs of the beneficiary for the long term. Decanting, modification, change of situs, etc.

BE CAREFUL WITH INCENTIVE CLAUSES

CRESTWOOD ADVISORS

Potentially problematic

- All-or-nothing sobriety clauses
- Mandatory employment despite disability
- Automatic suspension based on accusation
- Trustee acting as clinician
- Conditions that discourage treatment disclosure

More adaptable

- Discretion informed by qualified professionals
- Treatment and recovery support
- Safe housing and structured payments
- Temporary protective measures
- Periodic review and a path back to autonomy

PROTECTIONS AND AUTONOMY CAN(AND DO) CHANGE OVER TIME

CRESTWOOD ADVISORS

Avoid promised outcomes: build a process for reassessment

Acute risk

Tighter distribution controls; professional coordination.

Stabilization

Structured support; monitored access; review points.

Sustained Capacity

Co-trusteeship, advisor role, or expanded participation.

FAIR ISN'T ALWAYS EQUAL, AND EQUAL MAY NOT BE FAIR

CRESTWOOD ADVISORS

Child A: Stable and Capable

Outright distribution or beneficiary-controlled trust may fit the client's objectives.

Child B: Episodic and High Risk

Independent discretionary trust with monitoring, professional administration, and carefully designed access.

Child C: Special Needs

Independent discretionary trust with monitoring, professional administration, and carefully designed access.

Or may direct their share to a stand alone SNT. May also direct a larger percentage of assets to them since their needs are greater.

WHO TO PICK AS TRUSTEE

When a client needs to name a trustee to manage their trust assets, they have many choices and who/what/how they choose will vary based on a number of factors:

- The type of trust:
  - Revocable – typically name self or self and spouse during lifetime
  - Irrevocable – typically not the grantor, could be spouse, friend, professional trustee or hybrid approach
- The type of assets being administered:
  - Liquid – cash, securities, etc.
  - Illiquid – real estate, specialty assets
  - Complex - closely held business interests
- Special circumstances of the beneficiaries:
  - Special needs or medical needs
  - Addiction issues
  - Mental health concerns
  - Spendthrift
- Adverse family circumstances:
  - Blended family
  - Family members who do not get along
  - Unequal distribution pattern and/or differing dispositive language.

The Grantor wants to ensure the trustee will faithfully follow the direction set in the trust document, carry out its purpose and prudently mange and administer trust assets, and not be swayed by emotional ties or outside influences. As we saw on the prior slides being a trustee means performing specific duties for the trust, including:

Administration - monitoring paperwork, and recordkeeping
Investment Management - managing specialty assets such as real estate properties and/or portfolios of securities
Communication - keeping beneficiaries and other interested parties informed and up to date
Discretionary Duties - assisting a beneficiary with lifestyle decisions/distributions

FIDUCIARY SELECTION IS CRUCIAL

CRESTWOOD ADVISORS

Candidate	Potential strength	Central risk
Family member	Relationship knowledge	Pressure, conflict, fatigue, manipulation, Emotional burden
Individual professional	Judgment and continuity	Cost, availability, succession
Corporate trustee	Systems, records, permanence	Minimums, flexibility, personal connection
Pooled-trust nonprofit	Access for smaller trusts	Program rules and less customization

A HOLLISTIC TEAM SEPARATES RELATIONSHIP FROM ADMINISTRATION

CRESTWOOD ADVISORS

Family Advisor

Context, preferences, history

Independent Trustee

Manages money, keeps records, makes distributions

Care Manager

Services, housing, implementation of care plan

Clinician/specialist

Assessment and treatment input

Trust Protector

Oversight and replacement authority, etc.

SPECIAL/MEDICAL NEEDS: COMPLEXITY CALLS FOR CONTINUITY, LIQUIDITY AND ACCESS

CRESTWOOD ADVISORS

Continuity

Providers, medications, equipment, routines, and decision-makers.

Liquidity

Model insurance needs, housing needs/modifications, therapies, and caregiving (now and in the future) to know what current and projected cash needs are.

Access

Authorize information-sharing without ignoring privacy and capacity.

Back-up

Name successor agents, trustees, advocates, and emergency contacts. Must be a team in place now and ready to go in the future.

PLANNING WITH RETIREMENT ASSETS

CRESTWOOD ADVISORS

The Opportunity

A disabled or chronically ill individual may qualify as an eligible designated beneficiary, potentially allowing life-expectancy treatment.

The Trap

A trust may not automatically qualify. Does it have appropriate provisions, are there multiple beneficiaries? The devil is in the details.

Sources: IRC §401(a)(9); Treas. Reg. §1.401(a)(9)-4; IRS Publication 590-B (2025). Obtain retirement-benefits expertise.

ABLE ACCOUNTS – TYPICALLY A COMPLEMENT TO, NOT A REPLACEMENT FOR A TRUST

CRESTWOOD ADVISORS

Use	Beneficiary-controlled spending for qualified disability expenses (QDEs).
Eligibility	Disability onset before age 46 beginning in 2026.
SSI interaction	First $100,000 generally disregarded as a resource; excess can suspend SSI. Distributions from ABLE account not counted as income. Distributions from ABLE account do not reduce SSI payment.
Coordination	Third-party and SNT contributions require annual-limit tracking.
Caution	State program, Medicaid recovery, tax, and documentation rules apply.
Contributions and Disbursements	Contributions limited to $20K (additional amounts may be contributed if the beneficiary is working and not contributing to a retirement account). Total value capped at state limit for 529 plan. Distributions for QDEs - education, housing, transportation, health, etc.

REVIEW THE PLAN WITH A REPEATABLE SEQUENCE

CRESTWOOD ADVISORS

1. Discover	2. Design	3. Identify Key Parties	4.Operationalize	5. Revisit
Benefits, function/ability, capacity risks, family system.	Trust type, dispositive standards, beneficiary designations.	Trustee, Trust Protector, care team, successors, attorney, tax professional, investment advisor.	Letter of Direction, budgets, protocols, permissions, etc.	Annual review and event driven updates.

PROTECT THE PERSON – NOT JUST THE PROPERTY

CRESTWOOD ADVISORS

Remember that the strongest plan combines legal structure, informed fiduciaries, careful administration, and a process that adapts as the beneficiary's life changes.

CRESTWOOD ADVISORS

#1 Three Siblings – Very Different Circumstances

Dad Passes Away with a funded Revocable Trust – Upon his death three separate trust shares established for his children.

- Child #1 – also named as trustee and personal representative. Relatively well off, living a "normal" life.
- Child #2 – an alcoholic with serious health concerns, he has two children, one who also has "the bug" and one who hopefully has a bright future ahead. Within two years both child #2 and his son are deceased. All assets go to daughter, outright, probably would have been best to hold in trust.
- Child #3 – SSI recipient and in government housing when not homeless. Struggles with mental illness. Coordination with case manager required, pre-funding of True Link card, fielded MANY calls per week.
- Three trust shares funded with just over $1M.
- Luckily three separate trust shares established and pure discretionary language.
- Child #1 immediately appoints corporate fiduciary to administer because the emotional and administrative burden is too great.

Imagine if all those assets had gone outright when Dad passed away?

CRESTWOOD ADVISORS

#2 Beneficiary Entering Religious Life

Husband and wife are interested in updating their estate plan.

- Currently have fairly standard revocable trusts with tax provisions and then goes outright to kids at certain ages/intervals upon death of surviving spouse.
- Two sons in their early twenties.
  - One doing very well, has a good job seems to have a good head on this shoulders ("Good Son").
  - One recently joined religious life – vow of poverty and has to pledge to give any assets he might have or receive to the religious organization ("Religious Son").
- How do they redraft their documents to fairly benefit both of their sons?
  - We suggested lifetime discretionary trusts for both sons.
  - They ended up with lifetime discretionary trust provisions for Religious Son, and outright distribution for Good Son. Wanted to make sure any assets for Religious Son would pass to Good Son and/or Good Son's children should Religious Son predecease Good Son.

CRESTWOOD ADVISORS

#3 Beneficiary with Special Needs – Not Sure What The Future Holds

Clients have done some estate planning and have three children, two are neurotypical and one is neurodiverse.

- Grandma starts wanting to do some planning of her own and talking about how she should leave her assets to grandkids, also looking to leave her retirement assets in the most tax advantageous way.
- Prompted clients to ask if they had done enough planning for their neurodiverse child, they hadn't.
- End result:
  - Set up stand alone SNT for special needs child's benefit they could start to make gifts to now and grandma could as well.
  - Revised estate plan so any assets for special need's child would be directed to that SNT.
  - Grandma's retirement assets were left to special need's child's SNT.

Important to make sure other family members that intend to benefit beneficiaries with special circumstances will do so the right way!

#4 Beneficiary with Complex Medical Needs Living in a Facility

Mentally ill beneficiary had been inpatient at a facility, self harm. As a result of litigation received large settlement.

- First party trust funded to receive settlement proceeds.
- Beneficiary very compromised, inpatient at another facility.
- Care team, facility team members, professional trustee, distribution committee which included his attorney, guardians (his parents), beneficiary.
- Distributions from trust carefully coordinated to administer trust properly and keep benefits intact.
- Carefully orchestrated, monthly check ins, etc.
- Succession plan needed for when elderly parents pass away.

IMPORTANT INFORMATION

This presentation is solely for informational purposes and is not a solicitation or an offer for the sale of any financial product or service. Crestwood Advisors and their staff do not provide, legal, tax or accounting advice.

You should consult with your legal or tax advisor prior to taking any action relating to the subject matter contained in this document. Rules in the areas of law, taxation, and accounting are subject to change and varying interpretations.

The opinions expressed and information contained in this presentation are given in good faith, may be subject to change without notice, and are as of the date issued. All sourced information is believed to be reliable but has not been independently verified. This presentation should not be construed as research, estate planning, tax, or investment advice.

This presentation is meant to offer general information about ideas and strategies and is solely for discussion purposes, as the readiness and efficacy of any strategy are dependent upon everyone's facts and circumstances.

Neither Crestwood Advisors, nor its employees provide tax, accounting, or legal advice. This material was not intended or written to be used, and it cannot be used or relied upon by any recipient, for the purpose of avoiding penalties that may be imposed on the taxpayer under US federal tax laws. Clients should consult with their legal or tax advisor prior to taking any action relating to the subject matter of this presentation.

Crestwood is an SEC registered investment adviser that maintains a principal place of business in the Commonwealth of Massachusetts. The Firm may only transact business in those states in which it is notice filed or qualifies for a corresponding exemption from such requirements. For additional information about Crestwood, please consult the Firm's Form ADV disclosure documents, the most recent versions of which are available on the SEC's Investment Adviser Public Disclosure website at www.adviserinfo.sec.gov.