



BET TZEDEK
JUSTICE FOR ALL

LIMITED CONSERVATORSHIPS

ALTERNATIVES

SSI AND MEDI-CAL

Limited Conservatorship

Limited Conservatorships are designed to support the needs of adults with Intellectual/Developmental Disabilities (IDD) whose disability began before the age of 18, interferes with cognitive development, is substantially handicapping, and is expected to last indefinitely. They may have a psychiatric component, but mental illness by itself is not an IDD.

*

Limited Conservatorship

3

Limited Conservatorships/Adult
Guardianships of the Person

Capacity

Conservator/Guardian

Conservatee/Ward

Court Process

Conservatorship/Guardianship
of the Estate

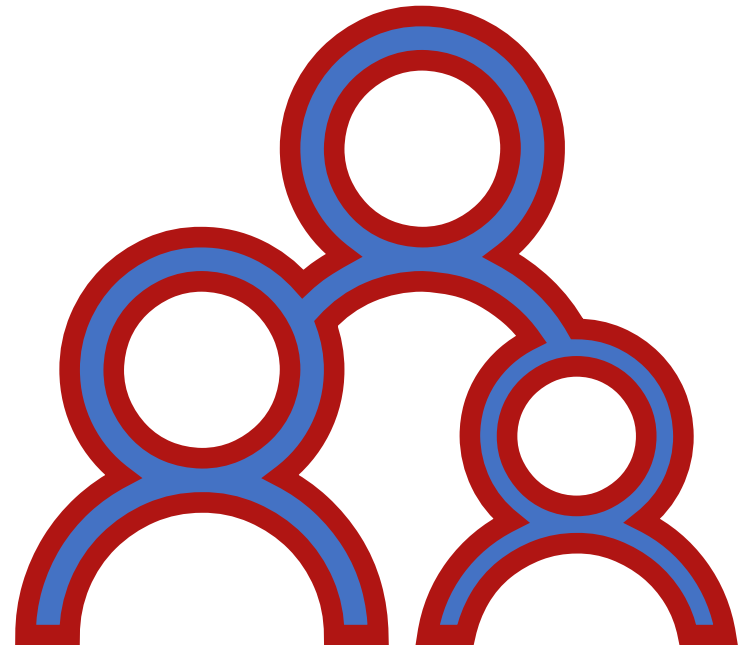
Limited Conservatorship

The person applying for conservatorship may request the following:

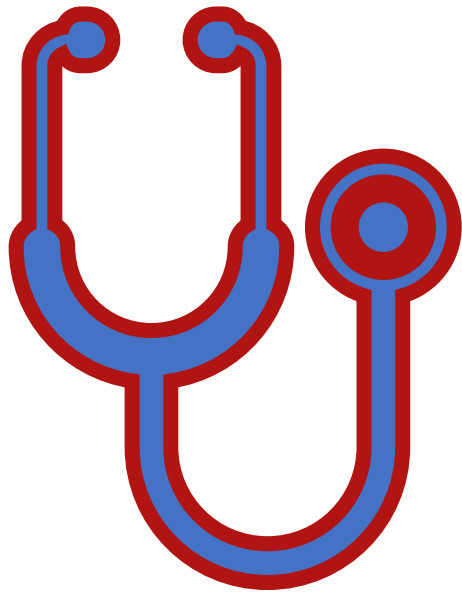
1. The power to decide where the limited Conservatee will **live**;
2. The power to gain **access to the confidential records and papers** of the limited Conservatee;
3. The power to consent or withhold consent to the marriage of, or the entrance into a registered domestic partnership by, the limited Conservatee;

Limited Conservatorship, cont.

- ▶ 4. The power to control the right of the limited Conservatee to contract;
- ▶ 5. The power to provide or withhold consent to medical treatment for the limited Conservatee;
- ▶ 6. The power to control the limited Conservatee's social and sexual contacts and relationships; and;
- ▶ 7. The power to make all decisions regarding the limited Conservatee's education.



The Conservator and Patient Care:



- ▶ The Conservator must arrange for health care: making medical appointments, accepting or declining care, sending and receiving medical records, obtaining and insuring compliance with medications
- ▶ Participation of conservatee in clinical trials or experimental medication requires court permission
- ▶ No authority to sterilize

Alternatives:

Power of Attorney for
Finances/Representative Payee

Power of Attorney for Health
Care (Advanced Directives)

Supported Decision Making

Education Authorization

Medical Authorization

SSI

What is SSI?

How do I
qualify?

How do I
apply?

Difference
between SSI
and SSDI

Eligibility for
Medi-
Cal/Medicaid

Representative
Payee

MEDI- CAL/MEDICAID

In most states anyone receiving SSI automatically gets Medi-Cal

Medical insurance program for low-income individuals, families, seniors and the disabled

Pays for hospitalization, medical visits, medical equipment and supplies and prescription drugs,

therapeutic services

Eligibility: income on the disabled adult is counted separately from the rest of the family

Pays for home care through the In-Home Supportive Services (IHSS) program

Medi-care: federal medical insurance program for those 65 and over or disabled

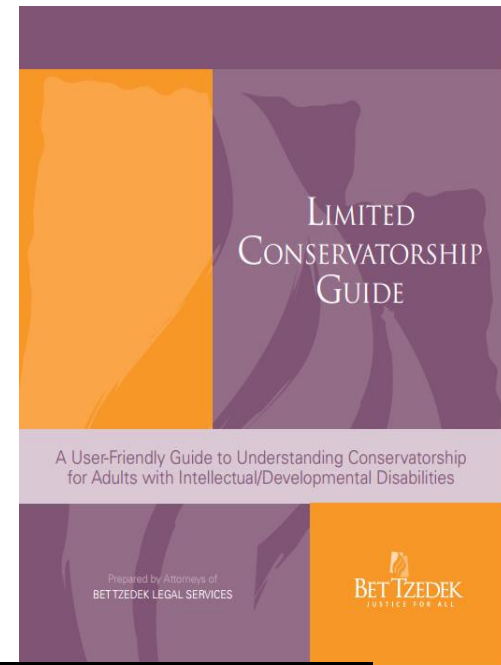
Some people qualify for both (medi/medi)

Resources

Limited Conservatorship Guide

The Full Benefit, Too

A user-friendly guide to understanding SSI for adults with intellectual/developmental disabilities



Financial Planning and Preserving Benefits

Kelly Piacenti,
ChSNC Head of
SpecialCare

Important Disclosures

The information provided is not written or intended as specific tax or legal advice. MassMutual, its subsidiaries, employees and representatives are not authorized to give tax or legal advice. Individuals are encouraged to seek advice from their own tax or legal counsel. Individuals involved in the estate planning process should work with an estate planning team, including their own personal legal or tax counsel.

Government Benefits

Entitlement Benefit vs. Public Assistance

Entitlement Benefit

- Social Security Retirement Income
- Social Security Disability Insurance (SSDI)
- Family Benefits
- Spouse and Survivor Benefits
- Children's Disability Benefit
- Medicare

Public Assistance

- Supplemental Security Income (SSI)
- Medicaid
- Public Supports:
 - Supplemental Nutrition Assistance Program (SNAP)
 - Temporary Assistance for Needy Families (TANF)
 - Children's Health Insurance Program (CHIP)

Note: Benefits may vary by state and jurisdiction.

Special Needs Trusts (SNT)

Third Party SNT

- Commonly used by persons planning in advance for a loved one with special needs
- Does not have to be irrevocable in order to preserve eligibility of the SNT beneficiary for means-tested public benefits. However, if the SNT beneficiary has the power to revoke the SNT, the SNT assets would be considered an available resource for Supplemental Security Income (SSI) and Medicaid purposes

First Party SNT

- Most often used when the person with a disability inherits money or property outright, or receives a court settlement
- Must specify that after the beneficiary's death, all amounts remaining in the SNT, up to an amount equal to the total lifetime medical assistance benefits paid on behalf of the beneficiary by the Medicaid program(s) of any state(s), are first repaid to those state Medicaid program(s), even to the extent of fully exhausting the remaining SNT assets. Only after this Medicaid payback may any balance be distributed to other remainder beneficiaries

Special Needs Trusts - *continued*

Pooled SNT

- Can be First Party or Third Party
- Pooled SNTs are established and administered by a non-profit association for the benefit of multiple beneficiaries

Special Needs Trust Fairness Act

- Passed in December 2016, persons with a disability who nevertheless retain mental capacity can establish their own first-party SNTs

Importance of Beneficiary Arrangements and Titling

- Gifting assets (such as CDs, stocks, bonds or cash) can knock individuals off valuable government benefits by taking them over the \$2,000 resource limit
- It is important to check all beneficiary arrangements
- Have beneficiaries, ownership, TOD or POD point to the SNT and not the individual

ABLE (Achieving a Better Life Experience) Account

- Allows eligible individuals with disabilities that **manifested before age 26** to have a tax-free savings account; modeled after 529-accounts.
- **Funds can be used on qualified disability-related expenses.** Can include education, housing, transportation, health, prevention and wellness, financial management, administrative services, legal fees, personal support services, employment training, etc.
- **“Non-qualified” expenses** will be subject to federal income tax and a 10% penalty.
- Only **one ABLE account permitted** per eligible individual
- **If age criteria is met AND individual is already receiving SSI and/or SSDI benefits = automatically eligible.**
- **If age criteria is met AND individual is NOT receiving SSI and/or SSDI benefits:**
 - **Must meet Social Security’s definition of disability, and**
 - **provide a letter certifying their disability** from a licensed physician, a doctor of medicine (M.D.) or doctor of osteopathic medicine (D.O.)

ABLE (Achieving a Better Life Experience) Account - *continued*

- **Maximum annual contribution is \$15,000** (as of 2021)
- **Transfers from 529 accounts** into ABLE accounts are allowed and count towards the annual contribution limit
- **Working account owners who do NOT participate in an employer-sponsored retirement plan may be eligible to contribute above the annual ABLE contribution limit** (\$12,760 as of 2021)
- The **total limit over time that could be made to an ABLE account is subject to the individual state and their limit for education-related 529 savings accounts** (state ABLE limits range from \$235,000 to \$529,000)
- Most states offer **online applications** for ABLE accounts.
- An ABLE account can be opened in any state, **regardless of where the qualified ABLE account owner lives, as long as the state's ABLE program allows for out-of-state residents.**

For the most current information and states that offer an ABLE account, please visit www.ablenrc.org



For some people there is a benefit to having both a Special Needs Trust and an ABLÉ Account.

An SNT is permitted to contribute to an ABLÉ account.

So, using a Special Needs Trust together with an ABLÉ account can be a good way to pay shelter expenses.

Letter of Intent

- Not a legal document, but considered by court
- Current situation, as well as hopes and dreams
- Updated regularly

WHY – To leave explicit and specific instructions that would familiarize anyone with the individual

WHEN – This is a working document; it should be completed ASAP and updated regularly. At least once per year or as needed

HOW – Templates are available, but don't be afraid to go beyond what is asked and provide more information

WHO – Input from everyone, especially the caregivers, and the dependent, if applicable.





Thank you!

Questions?

Kelly Piacenti

KPiacenti@MassMutual.com

