



DECISION-MAKING

When your child turns 18, he or she is presumed by law to be capable of making his or her own decisions.

<u>Guardianship / Conservatorship</u>	<u>Alternatives</u>
<ul style="list-style-type: none"> • Guardianship – over the person <ul style="list-style-type: none"> ◦ Where to live & medical decisions ◦ Lose right to marry, drive, vote, sign contracts, own firearm ◦ May be limited ◦ Rights to drive and vote can be retained ◦ Rights can be restored ◦ Standby guardians can be appointed • Conservatorship – over finances <ul style="list-style-type: none"> ◦ Pay bills, open accounts ◦ Protect from bad influences ◦ Typically not needed – as Representative Payee, you will control SSI/SSDI ◦ Annual accounts to Commissioner of Accounts (like endless probate) • Both are court proceedings <ul style="list-style-type: none"> ◦ Can be combined • Guardian / Conservator supervised by court <ul style="list-style-type: none"> ◦ Annual/triennial review hearings <ul style="list-style-type: none"> ▪ Court can waive ◦ New visitation requirements ◦ New procedure for restricting visitation ◦ TRAINING REQUIREMENT 7/1/2025 	<ul style="list-style-type: none"> • Medical Power of Attorney <ul style="list-style-type: none"> ◦ Includes a HIPAA release ◦ No loss of rights ◦ Not as certain as guardianship • Durable Power of Attorney (finances) <ul style="list-style-type: none"> ◦ Adult child with capacity ◦ Gives you the right to manage finances ◦ No loss of rights ◦ Can monitor spending, get alerts • Power of Attorney for Education <ul style="list-style-type: none"> ◦ Help make decisions at IEP meetings • Representative Payee <ul style="list-style-type: none"> ◦ For SSI / SSDI payments • Joint accounts <ul style="list-style-type: none"> ◦ But consider asset limitations for benefits • Special Needs Trust <ul style="list-style-type: none"> ◦ Trustee manages money left as inheritance

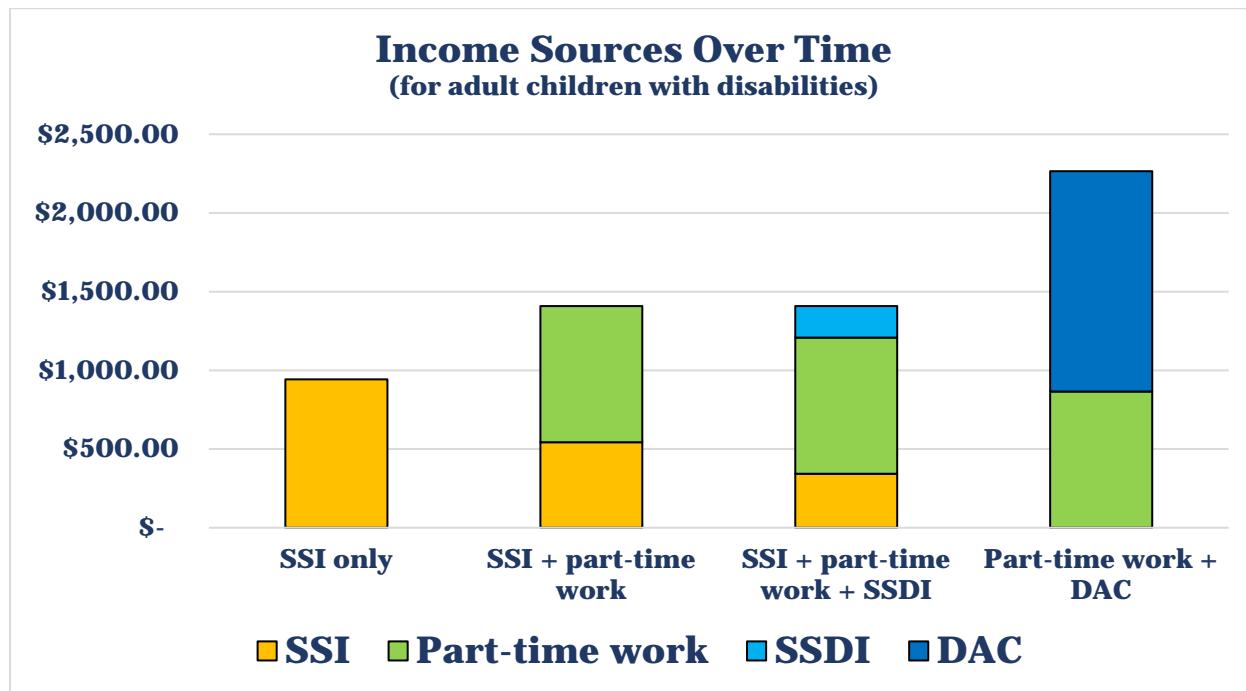
TO LIVE AS INDEPENDENTLY AS POSSIBLE

Although these topics are not part of my presentation, I list them here as other parts of special needs planning that are important considerations.

<u>Medicaid Waiver Services</u>	<u>Continuing Education</u>
<ul style="list-style-type: none"> • Get on the waiting list • Key to independent living after you are gone • NOTE: same \$2,000 asset limit applies here as with SSI and Medicaid 	<ul style="list-style-type: none"> • ACE-IT at VCU • PAVE at J. Sergeant Reynolds • Mason LIFE - GMU • Longwood Life
<u>Employment Training and Supports</u>	<u>Long-Term Living Arrangements</u>
<ul style="list-style-type: none"> • Northstar Career Center • WWRC • DARS & job coaches • Consider self-employment 	<ul style="list-style-type: none"> • Perhaps the most difficult issue • Think in terms of a long-term transition plan • Third-Party Trusts can own homes and condos

INCOME SOURCES

<p><u>Supplemental Security Income (SSI)</u></p> <ul style="list-style-type: none"> • Disabled, blind or age 65 and over • Low income (< \$1,690 per mo. for 2026) • Countable resources < \$2,000 • Parental income and assets deemed to be child's <ul style="list-style-type: none"> ◦ Deeming ends at age 18 • Maximum monthly benefit of \$994 (2026) • Meant to pay for living arrangements <ul style="list-style-type: none"> ◦ Charge fair share to avoid SSI reduction • Unearned income reduces benefit \$ for \$ <ul style="list-style-type: none"> ◦ Unexpected inheritance can = ineligibility 	<p><u>Part-Time Work</u></p> <ul style="list-style-type: none"> • Earned income reduces SSI benefit • BUT exclusions apply to reduce effect <ul style="list-style-type: none"> ◦ - \$ 65 earned income exclusion ◦ Then only ½ remainder applies • Result: always make more per month <ul style="list-style-type: none"> ◦ See column 2 below • Other work incentive may also apply <ul style="list-style-type: none"> ◦ Impairment Related Work Expenses ◦ Subsidies and Special Conditions ◦ Plan to Achieve Self-Support ◦ Student Earned Income Exclusion
<p><u>Social Security Disability Insurance (SSDI)</u></p> <ul style="list-style-type: none"> • Same disability criteria as SSI • Have to be working and paying payroll taxes • Eligibility based on work history and credits <ul style="list-style-type: none"> ◦ Annual income of \$7,560 to max credits (4) ◦ Typically eligible after 2-3 years of p/t work • Benefit based on adult child's work record • Considered unearned income for SSI purposes <ul style="list-style-type: none"> ◦ \$ for \$ reduction in SSI benefit ◦ BUT no reduction in overall income ◦ See column 3 below 	<p><u>Disabled Adult Child Benefits (DAC)</u></p> <ul style="list-style-type: none"> • Formerly known as childhood disability benefit • Disabled before the age of 22 • Unmarried • Parent becomes disabled, retires or dies • Benefit based on parent's work record • Considered unearned income for SSI purposes <ul style="list-style-type: none"> ◦ Typically displaces SSI benefit ◦ BUT total income increases ◦ See column 4 below



HEALTHCARE SOURCES

<p><u>Parents' Employer Provided Healthcare</u></p> <ul style="list-style-type: none"> • Until age 26 by law • After age 26 for adult children with disabilities <ul style="list-style-type: none"> ◦ Depends on policy, check with HR • Always primary payor 	<p><u>Medicaid</u></p> <ul style="list-style-type: none"> • Disabled, blind or over age 65 • Considered disabled if receiving SSI or SSDI • Low income • Countable assets < \$2,000 <ul style="list-style-type: none"> ◦ 5 year look back period for transfers ◦ Transfers for < full value may = period of ineligibility up to 36 months • Always payor of last resort
<p><u>Medicare</u></p> <ul style="list-style-type: none"> • Automatically eligible after 2 years of SSDI • Automatically eligible with DAC • Four parts: A, B, C, and D • Secondary payor to private insurance • Primary payor to Medicaid • NOTE: Medicare does NOT pay for long-term nursing care, <u>Medicaid</u> does. 	<p><u>TRICARE (military families)</u></p> <ul style="list-style-type: none"> • Incapacitated child over 21 <ul style="list-style-type: none"> ◦ Disabled before 21 (23 if full-time student) • Depends on you for > 50% of support • Adult-child can have Medicare, Medicaid and TRICARE at the same time • Medicare typically pays first <ul style="list-style-type: none"> ◦ TRICARE can pay co-pays, deductibles • TRICARE pays if services are from a military hospital

NOTES:

SPECIAL NEEDS ESTATE PLANNING

Planning for federal estate and gift tax avoidance is no longer necessary for most people because the individual exemption (unified credit) is \$15 million (2026) per person.

<u>Non-Probate Assets</u>	<u>Probate Assets</u>
<ul style="list-style-type: none"> • Investments with beneficiary designations <ul style="list-style-type: none"> ◦ Life insurance policies ◦ Retirement accounts ◦ Annuities ◦ Pensions ◦ Brokerage accounts ◦ Stocks / Bonds • Beneficiary designation takes precedence <ul style="list-style-type: none"> ◦ <u>Assets transfer automatically</u> upon death ◦ Disruption to SSI/Medicaid eligibility if paid directly to beneficiary • Name Special Needs Trust as beneficiary <ul style="list-style-type: none"> ◦ Instead of person with disability 	<ul style="list-style-type: none"> • Personal property • Accounts without beneficiary designations <ul style="list-style-type: none"> ◦ Checking, banking etc. • Real estate (if solely owned) • Vehicles • <u>Assets pass by Last Will & Testament</u> <ul style="list-style-type: none"> ◦ Make arrangements to pay final debts, taxes ◦ Leave inheritance to adult-child with SSI/Medicaid recipient by naming special needs trust as beneficiary instead • If no Will, then assets pass by state law <ul style="list-style-type: none"> ◦ Problem for SSI/Medicaid eligibility
<u>Third-Party Special Needs Trust¹</u>	<p style="text-align: center;"><u>Pooled Third-Party Special Needs Trust</u></p> <ul style="list-style-type: none"> • Trust Administrators in VA: <ul style="list-style-type: none"> ◦ Commonwealth Community Trust (CCT) ◦ The ARC of Northern Virginia • Each has hired a professional trust co. to manage funds • Initial set up fee, annual fees, management fees <p style="text-align: center;"><u>ABLE Account</u></p> <ul style="list-style-type: none"> • Not counted as an asset for SSI/Medicaid <ul style="list-style-type: none"> ◦ \$20,000 (2026) max each yr., all sources ◦ \$100,000 max exclusion • Similar to 529(b) college savings plans • <u>Payback provision</u>, so best used as a savings vehicle for SSI/Medicaid beneficiary's money
<u>Military Survivor Benefit Plan (SBP)</u>	<ul style="list-style-type: none"> • Service members can elect to provide eligible beneficiaries a percentage of their retirement • Paid as a monthly annuity; if paid directly to adult-child with a disability, problem for SSI/Medicaid Waiver Services <ul style="list-style-type: none"> ◦ Patient Pay • Can now direct payment to First-Party Special Needs Trust <ul style="list-style-type: none"> ◦ Doesn't count as income or assets for eligibility purposes

NOTES:

¹ As opposed to a First-Party Special Needs Trust, which is funded by the SSI/Medicaid beneficiary's money.