

Impact the Affordable Care Act (ACA) Will Have on Special Needs Planning

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The ACA has a potential positive impact in giving estate planners another option to offer clients.

The ACA protects the rights of persons with long term physical and mental disabilities.

Persons who were unable to work and pay into SSA, were often unable to earn sufficient credits to qualify for Medicare. Due to pre-existing condition restrictions, they often were unable to purchase health insurance even if they were able to afford the premiums. They were forced to pauperize oneself in order to qualify for Medicaid which was the only insurance many persons with cognitive and physical disabilities with no work record could qualify for. The ACA will allow persons with pre existing conditions to purchase health insurance. Even if a person has an income, s/he will be eligible for a reduced premium if s/he earns less than \$47,080 per year as of 2016.

The ACA expands access to Medicaid for persons who have disabilities to up to 133% of the federal poverty level (\$15,654 for an individual in 2016). There is no resource limitation for this new expanded Medicaid program.

Important to note that the ACA does not cover long term skilled nursing care nor payments for in home supports. In order to receive coverage for long term care or in home supports, a person will need to qualify for 'standard' Medicaid.

ACA provides an option to special needs planning for those persons who are only concerned with medical expenses and have no need for long term care or in home supports.

Special needs planning will still be needed for the majority of persons whose medical needs are far more extensive and whose families want to protect their eligibility for life time care and supports.

Special needs Planner will need to work with clients to determine if someone who receives a windfall should transfer this money to a self settled trust or retain control of his/her funds and rely on ACA to purchase health insurance.

Issues to be discussed include:

- if the person has the legal capacity to manage his/her own funds
- if the person has sufficient funds to care for self over his/her lifetime
- if person is likely to need in home supports or long term skilled nursing care in the future

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WE HAVE ANSWERS

To learn how we can assist, contact our Special Needs Practice Group Leader Frederick M. Misilo, Jr. at 508.459.8059 or fmisilo@fletchertilton.com.

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