



PLAN|NJ NEWS

THE NEWSLETTER OF PLANNED LIFETIME ASSISTANCE NETWORK OF NEW JERSEY
FUNDED BY THE NEW JERSEY STATE BAR FOUNDATION

SUMMER 2009

Executive Director

Ellen Ball Nalven, M.Ed.

Board of Directors

Michele Wernsing, *President*
Linda Buch, *Vice President*
Milton S. Hall, Jr., *Treasurer*
Elizabeth G. Farishian, *Secretary*
Amy E. Duff, Esq.
Goldie Ellis
Judith A. Giacin, CPA
Susan Goldring, Esq.
Beth C. Manes, Esq.
Sarah W. Mitchell, Esq.
Peter A. Phillips
Barbara Sandstrom

Directors Emeritus

Dorothy W. Avis
Leonard Faupel
Ira M. Fingles, Esq.
John Scagnelli

Advisory Committee

Daniel J. Baker, Ph.D., *Boggs Center on Developmental Disabilities – Clinical Advisor*
Wendy Herbert, Esq.,
Fox Rothschild, LLP – Legal Advisor
Alice Hunnicutt, SPAN – *Parent Advocate Transition Specialist*
Jody Levinson, J&J – *Human Resource Advisor*
Susan K. Sheehan – *Trust Advisor*
Donald H. Wernsing, MD –
Medical Advisor

INSIDE THIS ISSUE:

20th Anniversary Reception	1
Special Needs Parents Need Special Plans	2
Star Employees at PLAN/NJ	3
Because of You . . .	3
Websites Offer Valuable Resources for Families	4

**Who will care for
your loved one
when you are gone?
PLAN NOW!**

Advocate for Disability Rights and Member of Adults with Asperger's to Speak at PLAN/NJ 20th Anniversary Celebration

There are many reasons to mark your calendar for Planned Lifetime Assistance Network of New Jersey's (PLAN/NJ) 20th Anniversary Cocktail Reception scheduled for October 1, 2009. Among these are the opportunity to meet fellow PLAN/NJ families, and to come together with social service professionals, attorneys and financial advisors who support and serve individuals with disabilities. One of the most important draws of the evening, though, will be to hear one of the featured keynote speakers — Christopher Gagliardi. Mr. Gagliardi has been an advocate for people with physical and mental health challenges for 12 years and has accomplished a great deal at his young age of 28. Diagnosed with infantile autism, Gagliardi has spoken for individuals with disabilities at IEP meetings, for a New Jersey Department of Education workshop, at a school board in Maine and most recently at Bergen Community College's second annual Autism Summit. Gagliardi



Christopher Gagliardi

heard stories of mistreatment against individuals with disabilities that initially sparked his personal mission to advocate and change regulations to protect them. "There have been many injustices done to individuals with physical and mental health challenges," he says. "We need to

Save the Date!

PLAN/NJ's 20th Anniversary Cocktail Reception

When: Thursday, October 1, 2009
6 to 8 p.m.

Where: New Jersey Law Center
One Constitution Square
New Brunswick, NJ

make laws tougher to protect them from abuse and neglect."

Gagliardi's latest quest was to run for New Jersey Assembly, which he completed with more than 800 votes (15%) in his district after only two months of campaigning. "Chris conducted his own research and learned that he had to initially obtain 100 signatures in order to be placed on the ballot," says his biggest supporter — his mom, Lynda. "He sent away for the information packet, obtained the 100 signatures and went to Trenton himself," she explains. Gagliardi became interested in politics when his mom discussed with him her own political experiences of working on Robert F. Kennedy's campaign. She says Christopher started to form his own political opinion in his teenage years and became active in high school, serving as student council president.

To learn more about Christopher Gagliardi and to hear his keynote address, join us on October 1st at the New Jersey Law Center in New Brunswick from 6 to 8 p.m. The invitation and additional information will be mailed in the next few weeks. For more information about the event, contact Irene Lieberman at (908) 575-8300, ext. 33, or by email at irene.lieberman@plannj.org.

Special Needs Parents Need Special Plans

Copyright 2009 by Lawrence A. Friedman and reprinted by PLAN/NJ with permission

CONGRATULATIONS! By contacting PLAN/NJ you've taken the first step to providing for your loved one with disabilities, but do you really have to do more now with times so tough? Although estate planning documents aren't needed until you become disabled or die, waiting to get your legal affairs in order can forfeit opportunities to preserve important disability benefits like Medicaid, supplemental government programs, and protect savings against taxes or government liens for aid previously provided to loved ones with disabilities.

Why do I Need Special Needs Planning?

People with serious disabilities may qualify for government programs that provide cash assistance, health care, rent subsidies, group homes, and other housing. However, most programs are limited to individuals with only nominal savings and incomes. While parents and grandparents are living, these financial limits rarely impact people who can't work, but ordinary wills and trusts and insurance and retirement beneficiary designations can jeopardize Medicaid and other government aid. Inheritances, insurance, 401(k)s, IRAs, and other amounts could even be claimed by government agencies to repay prior benefits like Division of Developmental Disabilities (DDD) housing. Special needs planning lets families rest easy knowing their hard earned savings, insurance, and retirement funds will supplement rather than replace government benefits like Medicaid, cash assistance, and housing.

What Is Special Needs Planning?

Special needs planning supplements rather than replaces government aid for a person with disabilities. People who receive government benefits may lose eligibility or even have to repay prior aid when they receive amounts outright or gain a legal right to access them for support. Basic special needs planning gives nothing to a disabled loved one directly but instead funds an SNT to supplement government programs. [SNT means "special" or "supplemental needs trust," terms lawyers use interchangeably.] Special needs lawyers typically draw will and beneficiary forms to pay insurance, IRA, 401(k) and other retirement funds into an SNT rather than to a person with disabilities directly.

As an example: If a widow with a \$300,000 house and \$200,000 in savings

dies with no will or a will that creates an ordinary trust for children, but the widow is survived by a son with autism and a daughter without disabilities, each child would receive \$250,000. The inheritance would disqualify the son with autism for Medicaid and other benefits. DDD could also assess the inheritance to repay the son's costs to be in a group home, supervised apartment, or other residential placement. If the widow's will instead left the son's share in an SNT, the son would maintain benefits and DDD would not be entitled to the money. Meanwhile, the funds in the SNT could improve the son's life.

What Differentiates an SNT from an Ordinary Trust?

Typical trusts (especially common estate planning trusts) disqualify beneficiaries for government programs and may be subject to liens for prior benefits because they mandate distributions and are designed to fund support. In contrast, SNTs grant trustees broad discretion over distributions. Because the beneficiary doesn't have a legal right to force SNT distributions, the SNT isn't disqualifying and shouldn't trigger liens for prior benefits. Thus, amounts left in an SNT can supplement government benefits instead of supplanting them.

To qualify as an SNT, a trust must meet technical requirements beyond the purview of most lay people and many lawyers. When parents haven't worked with a special needs lawyer, their death usually disqualifies a child with disabilities for government programs and can lead to recapture of prior benefits. Because even a well-drafted SNT can prove disqualifying when it isn't administered properly, it is important that both the lawyer and trustee are familiar with government aid rules. For this reason, PLAN/NJ can be an excellent choice for trustee.

SNTs that contain litigation recoveries and certain other amounts must meet additional detailed requirements. Because these SNTs have to repay Medicaid when the beneficiary dies, third party money normally shouldn't be added to these trusts, and instead separate SNTs should be drawn.

What Documents Do I Need Besides an SNT?

Everyone should have a will, which is the principal means to minimize estate tax, name guardians for minor and disabled

children, and fund an SNT. Without tax planning wills, a couple worth as little as \$675,000 may trigger New Jersey estate tax whereas substantial tax can be saved with simple tax planning wills. Health care directives and powers of attorney also are important to ensure your wishes are carried out and to protect amounts against long term care costs. For instance, comprehensive power of attorney may let you set aside for a disabled loved one funds that otherwise would be lost on your own nursing home care.

Should I be Concerned with Guardianship?

It surprises many parents to learn that they do not have legal rights over a child with serious disabilities after age 18 unless they become legal guardians. Guardianship is appropriate only when a child can't make important decisions, but parents should apply to the courts for guardianship when a child's capacity is very limited. Application typically is made by a lawyer, and requires support of a physician, psychiatrist, and/or DDD.

Planning and PLAN/NJ

Now that you know what to do, it's time to see a special needs lawyer to draw a will, SNT, power of attorney, and health care directive and perhaps, consider tax planning and guardianship.

Lawrence A. Friedman, Esq., practices law in Bridgewater. He chaired the New Jersey State Bar Association Elder and Disabilities Law Section. Friedman was also a founding member of the PLAN/NJ Board of Directors when the organization was originally the Arc of NJ Community Trust Project and served for several years thereafter when PLAN/NJ became independent. He has been Certified as an Elder Law Attorney by the A.B.A.-approved National Elder Law Foundation and frequently lectures and writes for lawyers and lay people on special needs, elder law, wills, estates, trusts, government benefits, guardianships, and tax law. Friedman received the New Jersey State Bar Association's Distinguished Legislative Service Award for writing legislation to further special needs trusts in New Jersey. He received his LL.M. in Taxation and J.D. from New York University School of Law. Friedman can be reached at (908) 704-1900. Additional information about special needs planning can also be found on his website — specialneeds-nj.com.

Star Employees at PLAN/NJ

Thanks to Tim Wiemer and Jim Lehman, the newsletter that you are holding was collated, addressed, affixed with postage through the use of a postage meter and prepared for mailing to PLAN/NJ's growing mailing list of 1,500 in a timely and efficient manner. Tim and Jim have been working for PLAN/NJ for the past year and handle many office responsibilities, including assembling life planning workbooks, preparing information packets, shredding documents to maintain confidentiality, arranging the mailing of the newsletter, assisting with preparations for educational seminars, as well as various housekeeping duties. They both have an easy commute to the office since they attend The LifeSkills Resource Center, Inc., which is located in the same building as PLAN/NJ. Tim and Jim have been attending LifeSkills for more than ten years, a program that helps individuals with differing abilities to improve their self-sufficiency and independence. "We are so thankful to have Tim and Jim as



Tim Wiemer (left) and Jim Lehman

employees," says PLAN/NJ executive director Ellen Ball Nalven, M.Ed. "They are extremely thorough, keep us on schedule and are a joy to work with." Tim and Jim also work closely with PLAN/NJ staff, especially controller Pat Johnstone and office manager Roberta Lee, to establish their work schedule, responsibilities and maintain their timesheets. "Tim and Jim are terrific employees, extremely conscientious and eager to work," says Pat Johnstone. "Their enthusiasm and shared sense of humor make working with them a pleasure."

One of Tim and Jim's responsibilities — assembling PLAN/NJ's life planning workbooks (which are graciously funded through a grant from the New Jersey State Bar Foundation) — assist families with disabilities in preparing for their loved one's future. Tim and Jim assemble each comprehensive guide into a three-ring binder, insert section dividers and affix the binder with labels. Additionally, PLAN/NJ frequently receives requests for information that Tim and Jim prepare for mailing with a system they developed themselves. They assemble the packets with brochures and flyers, insert business cards and arrange for mailing.

Tim and Jim work at PLAN/NJ two to three days per week and enjoy earning a paycheck. Since they are both sports fans and music enthusiasts, they love treating themselves to sports clothes and CD's with a portion of the money they earn. Thank you, Tim and Jim, for your contribution to the PLAN/NJ team and for a job well done!

BECAUSE OF YOU . . .

Thank you to our funders for making our organization a success! Your support enables us to serve more than 350 individuals with disabilities each year. Our sincere appreciation goes out to the following organizations:

The IOLTA Fund of the Bar of New Jersey: This support has been instrumental in assisting families with disabilities to navigate through the legal system. By funding PLAN/NJ's life planning consultation, no-fee Life PLANs, guardianship consultation services and representative payee services, we are able to help families identify resources and establish care for their loved one with a disability when they no longer can. We assist with legal matters, especially guidance with the Pro Se guardianship process and referrals to appropriate legal services. Thanks to the IOLTA Fund of the Bar of New Jersey's support, families without the ability to pay receive no charge consultations and counseling on matters such as disability rights, establishing guardianship, future life planning, residential and employment issues and government benefits and services.

The New Jersey State Bar Foundation: For educating and informing families about the need for independent

living, legal and estate planning and for the future care of people with disabilities, and for funding this newsletter and the PLAN/NJ website — www.plannj.org. Many parents need to be informed about the necessity of early planning. Thanks to funding from the New Jersey State Bar Foundation, we are able to provide free educational seminars for families about guardianship, adult and residential services and how to access them, life care planning and establishing special needs trusts.

The Fred C. Rummel Foundation: for supporting our representative payee services so individuals with disabilities can maintain the basic requirements needed to live, participate in the community and have an advocate looking out for their best interest.

The Hyde and Watson Foundation: For supporting PLAN/NJ's technical and transportation needs. This funding has allowed us to upgrade our computer network, install new desktops with business software and printers, as well as upgrade our telephone and voicemail system. All of these technical upgrades enable PLAN/NJ to better serve our clients. In addition, The Hyde and Watson Foundation's generous support has offered us the

opportunity to purchase a company vehicle to transport clients to necessary appointments and outings.

The New Jersey Department of Children and Families: For supporting individuals with disabilities exiting the DYFS program. Since 2006, 330 families have been helped through the PLAN/NJ Monitoring and Advocacy for Prevention Services (MAPS) program. The MAPS program assists and counsels families on managing their disabilities so they can address everyday challenges and live healthy, productive lives.

The New Jersey Division of Developmental Disabilities: For supporting all aspects of PLAN/NJ's work on behalf of people with developmental disabilities, including guardianship, educating families about life planning, representative payee for social security benefits, lifetime case management and special needs trust administration.

The Westfield Service League: For funding educational seminars and life planning consultation services for Union County families with disabilities. This support allows us to expand our services to Union County, which as of 2008 has nearly 12,000 children with disabilities between the age of 3 and 21 years of age.



***Lifetime Advocacy for
People with Differing Abilities***

Loeser Avenue, P.O. Box 547
Somerville, NJ 08876-0547

Phone: (908) 575-8300

Fax: (908) 927-9010

info@plannj.org

We're on the Web!

Visit us at:

www.plannj.org

For more information about PLAN/NJ, to schedule a presentation for your group or for help with planning for your relative's future, call: (908) 575-8300.

Websites Offer Valuable Resources for Families with Disabilities

www.familysupportclearinghouse.org

The Family Support Center on Disabilities' website offers a wealth of information for families pertaining to all areas of disabilities. It features an online forum for families to network with others and a knowledge page for individuals to better understand important issues, policies and services related to the needs of individuals with a disability.

www.going-to-college.org

Teens with disabilities now have a resource if they are interested or planning on attending college. Virginia Commonwealth University, in conjunction with their Rehabilitation Research and Training Center, developed this site that provides video clips, activities, information and resources to help students get ahead in their planning for higher education.

A Time to Give

YES! I want to support Planned Lifetime Assistance Network of New Jersey (PLAN/NJ): help us to be here for the lifetime of our clients.

Please print:

Name _____

Address _____

City _____ State _____ Zip Code _____

Enclosed is my tax-deductable donation of:

\$150 \$100 \$50 \$35 Other: _____

*Please make checks payable to **PLAN/NJ**
P.O. Box 547, Loeser Avenue, Somerville, NJ 08876-0547*