



PLAN | NJ NEWS

THE NEWSLETTER OF PLAN/NJ

Winter 2006/2007

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

Plan now!

SPOTLIGHT ON GRANTS: \$41,760.00 RECEIVED FROM THE IOLTA FUND OF THE BAR OF NEW JERSEY

We are pleased to acknowledge approval of a grant in the amount of \$41,760, from the IOLTA Fund of the Bar of New Jersey. These funds will assist us in improving the administration of justice to those of our clients who are poor and/or disadvantaged. During 2006, PLAN/NJ provided pertinent outreach and education to nearly 800 people comprised of individuals with developmental disabilities and/or mental illness, their family members, and human services professionals. Seminars were conducted in eight counties throughout New Jersey, which provided participants with important knowledge about the availability of advocacy, guardianship, and monitoring services from non-profit agencies such as PLAN/NJ. Specifically, vital information was given about the benefits of determining guardianship and advocacy needs prior to a crisis. Critical facts were disclosed about special needs trusts, which can be established and funded prior to resource availability, while still protecting necessary government benefits. Key factors such as awareness of the inherent risks of improper estate planning and related legal issues were offered, as well as a list of resources for appropriate legal representation.

Our semi-annual newsletter, PLAN/NJ News, was distributed to 1,000 individuals with disabilities, families, non-profit agencies, and professionals throughout New Jersey, which provided updated information regarding future planning, special needs trusts, guardianship, and a list of upcoming seminars. The result of these efforts has been a 40% increase in the number of individuals served in 2006. PLAN/NJ also hired six new staff members to make support services more available throughout New Jersey. With the generous support of The IOLTA Fund of the Bar of New Jersey, we can continue to offer assistance, support and solace to many of our constituency.

This is the second year in a row that IOLTA has chosen to support the mission of PLAN/NJ and we are indeed honored by and grateful for their ongoing support. We wish to especially thank Ms. Ellen D. Ferrise, Executive Director of IOLTA, for her unwavering support, input, and encouragement.

SPOTLIGHT ON GRANTS: \$24,165.00 RECEIVED FROM NJSBF

We are pleased to announce the approval of a grant from the New Jersey State Bar Foundation (NJSBF) in the amount of \$24,165.00. These funds will assist us in covering costs associated with educating and informing those at or below the poverty level of the need for legal and estate planning for the future care of people with developmental or psychiatric disabilities.

Many are surprised to learn that the family who struggles with poverty and has a loved one with a severe disability or mental illness may be the family most in need of education regarding their legal options. They are often unaware of the rights of people with disabilities, the resources to resolve potential legal problems, or the knowledge of and capability to access government funded services to which they may be entitled.

The funds provided by NJSBF will support our educational outreach program throughout the State of New Jersey through the coming year. We are especially grateful to Ms. Angela C. Scheck, Executive Director, and Ms. Cynthia A. Pellegrino, Director of Grant Programs and Administration, who shepherded us through the grant process. We look forward to a long and fruitful association with NJSBF.

THREE TYPES OF TRUSTS

By:

HERBERT D. HINKLE, ESQ. and IRA M. FINGLES, ESQ.

A person with a significant lifelong disability who receives or is likely to receive assets either through personal injury litigation, or from an inheritance will lose eligibility for programs and services which employ an economic means test. Additionally, those assets will be vulnerable to state claims for reimbursement for certain services rendered. These problems can be overcome with one of three types of a special needs trust ("SNT"):

SNT #1. This is a trust used to hold assets belonging to anyone other than the person with a disability. Typically the parents will create such a trust and fund it when they die, either through their Wills, by making it the beneficiary of a life insurance policy or by other similar means. This trust will specify that upon the death of the person with a disability the remaining assets will go to other family members, charities or anywhere that the parents might specify. The person with a disability cannot put his/her assets into this trust. As with the other two types of SNTs, the trust must specify that the trust will not duplicate existing services and assets will be spent in accordance with the eligibility rules of key programs.

SNT #2. (Sometimes called an OBRA Trust.) This trust is used to hold assets which belong to a person with a disability, such as the proceeds from personal injury litigation. Such trusts must be created by a parent, grandparent, guardian or court, must specify that upon the beneficiary's death, government will be repaid, at least for the medical assistance (Medicaid) provided, and must be irrevocable. State regulations add the requirement of an annual report and notice of an expenditure in excess of \$5000.

SNT #3. (Sometimes called a Miller Trust.) This trust is available for use in a very limited number of cases involving people who are on the Traumatic Brain Injury Medicaid Waiver Program ("TBI Waiver").

The TBI Waiver does not allow a potential client to spend down income in order to qualify. Thus, a person receiving, for instance, \$2,000 a month in Social Security and other disability benefits would be ineligible even if his or her care exceeds \$10,000 a month. With a Miller Trust income can be paid to the trust and accumulated for the person's benefit. Assets will go to reimburse the government at the end of the person's lifetime. The Miller Trust gets its name from a court case— Miller v. Ibarra.

Space does not permit a detailed explanation of why such trusts are necessary. A larger version of this Article is available on the authors' website, www.hinklel.com.

*Herbert D. Hinkle, his partner, Ira M. Fingles, and their colleague, S. Paul Prior and Valerie A. Powers Smith, maintain a multi-state law practice with offices in Lawrenceville, Marlton, and Florham Park, New Jersey, and Plymouth Meeting and Yardley, Pennsylvania. They lecture and write frequently on topics of law, aging, disability, health care and estate planning and are available to speak to groups in New Jersey and Pennsylvania at no charge. Comments and suggestions for future articles should be mailed to: **HINKLE & FINGLES, Attorneys at Law, 2651 Main Street, Suite A, Lawrenceville, New Jersey 08648. You can also browse their Website at: WWW.HINKLEI.COM.***

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Mrs. Dorothy “Tot” Avis to Retire from PLAN/NJ Board of Directors

PLAN/NJ regretfully has accepted the resignation of Mrs. Dorothy “Tot” Avis from our board of directors. She has served on the Board of **PLAN/NJ** since 1991. During those many years she held the offices of secretary and chairman of program services. Tot came to **PLAN/NJ** at the invitation of Elizabeth Boggs who was a board member at the time.

Tot received a B.A. from George Washington University and Master's Degree in Social Work from Rutgers University. She has had a long and meaningful career in the field of Human Services. In the span of over forty years she was involved with and influenced statewide policy and program development as regards community services for those with disabilities. She also provided years of consulting service to UMDNJ.

Her desire to be part of an organization such as **PLAN/NJ** came after years of experience in the field of serving those with disabilities. It was primarily a result of her seeing firsthand the frustration that parents experience when they are suddenly faced with critical decisions regarding the care of their loved one with disabilities. Tot had been employed in two institutional settings that were in the process of closing; one in New York State and another in Connecticut. The dilemmas facing these clients and the lack of appropriate supports made a profound impression upon her. She gained a great deal of respect for parents going through these challenging life stages. Her appreciation for their struggles was enhanced by the fact that she has a son with a developmental disability.

Later, Tot would have the opportunity to offer support to challenged families while she was involved with the closing of the North Princeton Developmental Center. There, she helped families with the transition process.

While many challenges still face the caretakers of those with disabilities, Tot believes that the supports offered to families today are much more thoughtful than in the past. She sees the largest remaining impediments as financial considerations, long waiting lists, and the staff inadequacies that are sometimes present in group homes and other settings which create an aura of uncertainty.

When asked her opinion of where **PLAN** is at the moment, Tot stated that she felt **PLAN/NJ** has grown and matured. She believes we have kept up with the times and she views her tenure with us as a series of adventures in changing times where all had an opportunity for growth. Her greatest wish is that all families would have an organization like **PLAN/NJ** to assist them. She particularly wished to note and praise the obvious level of devotion and commitment exhibited by all of those associated with **PLAN/NJ**.

Mrs. Avis' retirement comes at a time when **PLAN/NJ** is in the middle of spectacular and unprecedented growth. In the past year and a half we have seen tremendous financial success. As this newsletter goes to print we have just been awarded \$24,165 from the New Jersey State Bar Foundation and \$41,760 from the IOLTA fund of the Bar of New Jersey.

Through these successes, hundreds of additional families will be reached. The ripple effect will expand exponentially. **PLAN/NJ** is experiencing many blessings and all of us have a great deal for which to be grateful.

Tot joins us in celebration of these times, and while she laments her departure she is very happy to be leaving us while we are clearly on the rise. We wish her well on her journey. We will miss her.



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WITH SPECIAL NEEDS

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WE'RE ON THE WEB!
WWW.PLANNJ.ORG

THE **PLAN/NJ** MISSION is to answer the question, "Who will care for my loved one when I am gone?" **PLAN/NJ** provides practical solutions to families and their loved ones with significant disabilities or mental illness, thus lessening the fear and anxiety families experience when planning for the future.

*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.*

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

Plan now!

GOT FILE CABINETS? WE NEED THEM!

PLAN/NJ is in desperate need of 4 file cabinets.

If you, your employer, or someone you know has new or used (in good condition) file cabinets to donate, please contact our offices at 908-575-8300. Any such donation must be delivered to us as we have no means of pick up.

Monetary contributions toward the purchase of new cabinets would also be gratefully accepted.

Thank you for all that you do to make **PLAN/NJ** the outstanding organization that it is.

Looking for a specialist in Estate or Financial Planning for Individuals with Disabilities?

Inside you'll find a convenient pull out that lists the names and phone numbers of dozens of our Professional Sponsors who are attorneys or financial advisors. Whether you use it now or place it with your important papers for later use, you'll be glad to have it.

CHANGE SOMEONE'S LIFE DONATE TO PLAN/NJ!

By making a monthly donation to **PLAN/NJ** you are making a commitment to assist families in planning for the future of their loved one with disabilities. While we're working hard to obtain significant grants, we have an ongoing need for support from individuals. You can assure that those who need our services, but cannot afford them, will have the peace of mind we all want.

\$50 \$25 \$20 Other: \$ _____