

# 2024 · WHAT ISSUES SHOULD I CONSIDER FOR MY CHILD WITH SPECIAL NEEDS?



CASH FLOW ISSUES	YES	NO
<p><b>Do you need to determine whether your child is eligible for Supplemental Security Income (SSI) benefits?</b> If so, consider the following:</p> <ul style="list-style-type: none"> <li>■ If your child is under age 18, they may be eligible for SSI benefits if your income and resources are below the applicable limits.</li> <li>■ If your child is age 18 or older, they may be eligible for SSI benefits if their income and resources are below the applicable limits.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Do you need to determine whether your child is eligible for Social Security Disability Insurance (SSDI) benefits?</b> If so, consider the following:</p> <ul style="list-style-type: none"> <li>■ First, your child must meet Social Security's definition of "disabled" (note the unique factors that apply if your child is blind).</li> <li>■ If your child's disability began before age 22, and you are receiving Social Security benefits due to retirement or disability, your child may be eligible for SSDI on your earnings record.</li> <li>■ Your child may be eligible for SSDI on their own earnings record if they pass the relevant work tests. See the "Do I Qualify For Social Security Disability Benefits?" flowchart.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Do you need to determine whether your child is eligible for Medicaid?</b> If so, consider the following:</p> <ul style="list-style-type: none"> <li>■ If your child is receiving SSI, they may be eligible automatically.</li> <li>■ There may be other Medicaid coverage pathways allowed by your state (e.g., based on your income and assets, on your child's own merits, etc.).</li> <li>■ A "spend-down" strategy may be necessary to qualify.</li> <li>■ Review your state's Medicaid payback and estate recovery rules.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Do you need to research additional benefits or programs offered by your state?</b> If so, review your state's CHIP eligibility standards and other support that your state may offer for your child.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>If your child is not eligible for public benefits, do you need to update your financial plan in order to provide support?</b> If so, consider the following:</p> <ul style="list-style-type: none"> <li>■ Review your cash flow and savings strategies.</li> <li>■ Consider insurance strategies to protect and fund your goals (e.g., disability and life).</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Are there other private sources of financial support for your child (e.g., grandparents)?</b> If so, ensure that any transfers to your child are structured and managed to optimize their financial position.</p>	<input type="checkbox"/>	<input type="checkbox"/>

SUPPLEMENTAL SUPPORT	YES	NO
<p><b>Does your child receive (or expect to receive) public benefits?</b> If so, consider the strategies below to provide your child with supplemental support, without disqualifying them from such benefits.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Do you need to determine whether your child is eligible for an ABLÉ account (aka 529A)?</b> If so, note that the onset of their disability must have preceded their 26th birthday, and they must either (1.) be receiving SSI or SSDI or (2.) meet the disability criteria and obtain and file a proper certification of disability.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Do you need to determine how an ABLÉ account could benefit your child?</b> If so, consider the following:</p> <ul style="list-style-type: none"> <li>■ Similar to 529 accounts, ABLÉ accounts are tax-advantaged savings vehicles, but with an expanded definition of qualified expenses related to a beneficiary's disability (e.g., health care, education, housing, transportation, job training, legal fees, basic living expenses, etc.).</li> <li>■ In general, an ABLÉ account's contributions, earnings, and qualified distributions are disregarded for means-tested program eligibility (e.g., Medicaid). However, for SSI purposes, distributions for housing costs aren't disregarded, and any balance in excess of \$100,000 is counted as a resource, risking a suspension of SSI eligibility.</li> <li>■ Different state programs offer different tax benefits, account features (e.g., a debit card), and investment options.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Do you need to weigh the potential limitations of an ABLÉ account?</b> If so, consider the following:</p> <ul style="list-style-type: none"> <li>■ Total annual contributions can't exceed \$18,000 (plus an additional amount, if your child has earned income, subject to restrictions), and plans impose a maximum balance cap (varies state by state).</li> <li>■ Contributions aren't federal income tax-deductible (states may allow a deduction or a credit) and non-qualified withdrawals are subject to income tax on earnings (determined pro rata), plus a 10% penalty.</li> <li>■ Depending upon the circumstances and applicable state laws, ABLÉ account funds might be subject to Medicaid payback, estate recovery, etc. after the death of your child.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Does your child have assets of their own?</b> If so, consider the following:</p> <ul style="list-style-type: none"> <li>■ You/your child can establish a first-party (self-settled) special needs trust (SNT) for their benefit, and your child can convey their assets to the trust. (continue on next page)</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>

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SUPPLEMENTAL SUPPORT (CONTINUED)	YES	NO
<ul style="list-style-type: none"> <li>■ Drafted properly, this SNT can supplement your child's needs without disqualifying them from public benefits. A corporate trustee may be advisable, to ensure compliance with the complex rules.</li> <li>■ A first-party SNT must contain a payback provision, making the trust subject to possible claims for reimbursement by Medicaid after your child's death.</li> </ul>		
<p><b>Do you want to give assets to your child, either now or at your death?</b> If so, consider the following:</p> <ul style="list-style-type: none"> <li>■ You can create a third-party SNT, funded with your assets.</li> <li>■ Drafted properly, this SNT can supplement your child's needs without disqualifying them from public benefits. The trust can also direct the disposition of assets remaining after your child's death.</li> <li>■ Lifetime transfers that do not qualify for the annual gift tax exclusion are subject to gift tax. After transfers to the SNT are complete, the assets are owned by the trust and taxed accordingly.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Do you need to confirm that the right trustee is appointed to administer an SNT?</b> If so, consider the following:</p> <ul style="list-style-type: none"> <li>■ It is important that the trustee understands your child's needs, is a capable investor, can maintain accurate records, and will comply with the rules of any applicable public benefits programs.</li> <li>■ Co-trustees (a relative and a professional) can be beneficial.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Are you seeking professional oversight and ease of administration?</b> If so, consider whether a pooled trust, administered by a non-profit organization, might suit your child's needs.</p>	<input type="checkbox"/>	<input type="checkbox"/>

TAX ISSUES	YES	NO
<p><b>Did you or your child withdraw funds from their ABLE account?</b></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Do you have an HSA and/or FSA?</b> If so, consider using these tax-advantaged accounts to fund medical expenses.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Did you adopt your child with special needs?</b> If so, you may be eligible for the Adoption Tax Credit, which is worth up to \$16,810 (subject to MAGI phaseouts).</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Is your child under age 17?</b> If so, you may be eligible for the Child Tax Credit (subject to MAGI phaseouts). See the "What Issues Should I Consider When Having (Or Adopting) A Child?" flowchart. (continue on next column)</p>	<input type="checkbox"/>	<input type="checkbox"/>

TAX ISSUES (CONTINUED)	YES	NO
<p><b>Do you have child care expenses that were required in order for you (and your spouse, if applicable) to work or search for work?</b> If your child is under age 13, you may be eligible for the Child and Dependent Care Tax Credit.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Was your child reimbursed for any medical expenses this year?</b> If so, the expense should not be deducted. If the expense was incurred in a prior year and was previously deducted, the reimbursement should be included in income (in whole or in part).</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Did your child incur medical expenses that were not reimbursed?</b> If so, consider the following:</p> <ul style="list-style-type: none"> <li>■ Expenses exceeding 7.5% of AGI can be deducted (including health care premiums, prescription drug costs, payments to health care providers, costs of therapy or treatment facilities, etc.).</li> <li>■ Special education can qualify as a deductible medical expense, as well as certain costs for medical conferences and seminars.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Does your child have a job, and were expenses incurred in order for them to do their work?</b> If so, they may be able to take a business deduction for "impairment-related work expenses" (not subject to the 7.5% AGI floor applied to medical expenses).</p>	<input type="checkbox"/>	<input type="checkbox"/>

MISCELLANEOUS ISSUES	YES	NO
<p><b>Do you need to create or update a Letter of Intent regarding your wishes for your child?</b></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Does your estate plan need to be updated?</b></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Will your child need a guardian/conservator after reaching age 18?</b></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Will your child need an estate plan, including Powers of Attorney, upon reaching the age of majority?</b></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Does your child need an advocate and/or attorney, now or after your death?</b></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Does your child need residential care, now or after your death?</b></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>Do you need to build partnerships with your child's care network?</b> If so, consider consulting and partnering with a case manager, doctors, specialists, teachers, parents of children with similar needs, etc. to enhance your knowledge and align your network.</p>	<input type="checkbox"/>	<input type="checkbox"/>