SPECIAL NEEDS ALLIANCE

Crowdfunding Should Be Handled with Care

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Crowdfunding, with websites such as GoFundMe, has increasingly been used to raise money on behalf of individuals with disabilities. In such cases, family, friends and members of the general public want to help pay for medical treatments, home renovations or the many other expenses faced by someone with special needs and their caregivers. But without planning, such funds can wreak havoc with the means-tested benefits that are often critical to financial security, health and overall quality of life for someone with serious disabilities.

To maintain eligibility for Supplemental Security Income (SSI), Medicaid, food stamps and Section 8 housing, a beneficiary must have limited financial assets–$2,000 in the case of SSI and Medicaid. Crowdfunding can easily put them over that.

Name on the Check

If the crowdfunding account is established by the person with disabilities, or if the funds are intended to be distributed directly to them, the money will almost certainly be considered unearned income by SSA and other agencies.

Because the Social Security Administration (SSA) hasn't published rules that specifically address crowdfunding, there are gray areas. Even if someone other than the individual with special needs creates and manages the account, the beneficiary's means-tested benefits could be affected. If the beneficiary is a minor, checks received by the child's parents would have the same result.

If the crowdfunding account is set up to benefit multiple individuals, such as an individual and family caregivers—the person receiving public benefits would have their portion of the money counted as a resource.

Avoiding Unintended Consequences

To prevent the reduction or termination of benefits, individuals and their families should consult a special needs attorney about the possibility of using a special needs trust (SNT) or ABLE account to protect both the money raised and qualification for essential programs.

Subject to differing regulations, funds held in either an SNT or ABLE account are not considered when establishing benefit eligibility. The ideal process is for the crowdfunding site to make deposits directly into one of those instruments, so it's best to establish them before launching the campaign. Funds held in SNTs and ABLE accounts should be used for the sole benefit of individuals with disabilities. For that reason, separate campaigns should be established if money is to be raised for caregivers, as well as individuals receiving public benefits.

ABLE accounts won't work for everyone. The onset of the beneficiary's disability must have been prior to their turning 26, and no more than $14,000 can be deposited in the account annually. In addition, if the beneficiary lacks capacity to establish or manage the account, those duties can only be performed by a parent, conservator/ guardian or agent under a valid power of attorney. For example, the sister of a potential ABLE beneficiary lacking capacity would not be able to establish an account for him unless she has a valid power of attorney or is his guardian/conservator.

There are several types of SNT to evaluate. If the beneficiary is establishing their own crowdfunding account and is under the age of 65, they should look at creating a *first party SNT*. If the crowdfunding campaign is established and managed by others, a *third party SNT* might be an appropriate vehicle. If it's anticipated that relatively modest funds will be raised, a *pooled SNT*, which combines many sub-accounts for efficiency, might be a possibility.

An important consideration is that, upon the individual's death, funds remaining in a *first party or pooled SNT*, as well as an *ABLE account*, would be subject to claims by Medicaid for services performed.

Other options

If some of the money being raised is for immediate needs—such as an accessible van—a planned spend down can avoid benefit eligibility problems. But timing must be carefully coordinated. Only funds that are spent in the same month in which they're received won't be counted as resources, though [they could result in a one-month overpayment if the beneficiary is on SSI].

Another workaround is to arrange for the crowdfunding website to make payments directly to a vendor or service provider—with the exception of expenses for food or shelter, which will cause reductions in SSI.

But not all crowdfunding sites have flexible disbursement policies. Even if an SNT or ABLE account has been established beforehand, funds may be payable only to the individual who established the campaign account. So shop around.

Transparency

It's good practice to explain to potential crowdfunding donors how their money will be spent. They should understand that their contributions are not tax deductible, regardless of how their donations are used. They should also be apprised of how remaining funds will be distributed upon the beneficiary's death.

It's unfortunate that good intentions can become so complicated. While successful crowdfunding can profoundly improve someone's quality of life, careful planning is needed to ensure that it doesn't have the opposite effect.
