

**PRESENTED AT**

18<sup>th</sup> Annual Changes and Trends Affecting  
Special Needs Trusts

February 10-11, 2022

Austin, Texas

**Financial Projections for Quality of Life  
Possible When Factoring In  
Public and Private Resources**

**Stephen W. Dale**

The Dale Law Firm, PC  
Pacheco, CA

**Robert B. Fleming**

Fleming & Curti, PLC  
Tucson, AZ

**Thomas Foley**

National Disability Institute  
Washington DC

**Renée C. Lovelace**

The Lovelace Law Firm, PC  
Austin, TX

# Financial Projections for Quality of Life Possible When Factoring In Public and Private Resources

## Panel Presentation

Stephen W. Dale, Robert B. Fleming, Thomas Foley, Renée C. Lovelace

**Introduction:** The panel will focus on the importance of financial projections, factoring in public and private resources that are expected to be available, when the goal is to maintain a high quality of life for a trust beneficiary. In many cases resources are limited and hard choices must be made, especially when it becomes apparent that a special needs trust will not last for the rest of the beneficiary's life unless the rate of expenditures is limited.

**Key Concepts:** The panel will begin by introducing some key concepts, followed by a series of scenarios to illustrate common issues and challenges.

*See the power point slides – Attachment “A”*

\*\*

- **Defining the Challenge – Stephen W. Dale:**
  - When someone is asked to explain the purpose of a special needs trust, the typical answer is “to protect entitlement to public benefits.” That fails to address the big picture. The true objective of a special needs trust should be to optimize quality of life for the beneficiary. Most of the families we work with are dedicated advocates for their loved ones. Their overall goal is to provide the best quality of life possible, and maintaining benefits eligibility is merely one tool available for pursuing that broader goal.
  - Addressing the “Magic Document” concept.
  - Public benefits can change over time, circumstances will definitely change over time, and there is never enough money.
- **Using Trust Resources Too Fast or Too Slow – Robert Fleming:**
  - The problem of holding onto trust resources that could be used to improve the beneficiary's quality of life.
    - See *Matter of JP Morgan Chase Bank N.A. (Marie H.) 2012 NY Slip Op 22387* – Attachment “B”
  - The problem of running out of money before the end of the beneficiary's lifetime by distributing too much too fast.

- The trust accounting dilemma: principal vs. interest and five centuries of legal focus on preserving principal as the highest goal.
- Recognizing the “spend down” trust and acting accordingly.
- **Self Determination and Employment as Self-Funding Factors – Tom Foley**
  - Review options for working while keeping public benefits (goods and services) that enable the beneficiary to keep working.
  - Consider the American Dream Employment Network (ADEN).
  - **ADEN** is a division of NDI and an approved national service provider by the Social Security Administration’s Ticket to Work program.
    - **\$17.48** → the average hourly wage of an ADEN participant
    - **31** → hours worked by an average ADEN participant
    - **\$26,000** → average yearly salary of an ADEN participant
  - **QUESTION:** *How would \$26,000 a year change **your** beneficiary’s life?*
  - **See:**
    - [www.AmericanDreamEN.org](http://www.AmericanDreamEN.org)
    - Information on the power point slides
    - Attachment “C” has Quick Links from the National Disability Institute Website <https://www.nationaldisabilityinstitute.org/resources/quick-links/>
- **Financial Calculators and Making *Informal* Projections – Renée Lovelace**
  - Start with the basic A-B-C formulas:

<p>Total Funds Available  <i>divided by</i>  # of Years to Cover  =  Annual Distribution Amount</p>
---------------------------------------------------------------------------------------------------------------------

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Financial Projections for Quality of Life Possible When Factoring in Public and Private Resources

Also available as part of the eCourse

[2022 Special Needs Trusts eConference](#)

First appeared as part of the conference materials for the  
18<sup>th</sup> Annual Changes and Trends Affecting Special Needs Trusts session  
"Financial Projections for Quality of Life Possible When Factoring in Public and Private  
Resources"