



Special Needs Law in California: Mental Illness

By Jan Cummins
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Introduction

Mental illness in a family member is an overwhelming burden for any family. Finding proper, effective treatment and care for a disabled family member can be challenging, at best. And because mentally ill individuals are often in denial about their own disease, they may not be receptive to a family's efforts to help them.

People with mental illness are often not clearly diagnosed until late adolescence or young adulthood. Families are naturally hopeful that this will be a temporary situation, and sometimes it is, but it can be quite difficult to realistically assess what the future may hold for any individual. Unfortunately, since it's not unusual for mental illness to persist throughout a person's lifetime, it's wise for families to be prepared for the possibility of long term care.

Many families travel this difficult road with no prior experience of mental illness, and no knowledge of the network of systems that may be available to assist them on their journey. It's critical that they learn, early on, everything they can about the various resources for treatment and care, and the possible ways that these potentially very expensive interventions can be funded. Early planning can make an enormous difference in the quality of care received, and can relieve the financial and emotional toll on the entire family.

Whether a family is in the early stages of dealing with a mental illness, or is facing an established chronic condition, knowledge is power. If a family learns all they can, particularly about the unexpected peculiarities of the law and the systems set up to manage mental illness, they will be in a strong position to make the best possible decisions for their loved one, both now and in the future.

Estate Planning for Families with Mentally Ill Adult children

Most people have heard of Special Needs Trusts (SNTs) that are established for disabled adults who may need to take advantage of government benefits. These trusts enable a mentally ill person to remain legally impoverished, but with funds set aside that can supplement any public benefits received. When properly established, such a trust allows

a person to qualify for publicly funded programs and services that may otherwise not be available and that may provide effective treatment for the disabled person's condition.

The quality of the public programs is often superior to anything offered in the private sector. For this reason, even though a family may have the resources to provide long-term care, they may want to establish an SNT specifically for the purpose of gaining access to these special programs and services that are available only through the government. (Later in this article, more detailed information about SNTs is provided.)

Types of Law for the Disabled and Elderly

There are two types of Special Needs law, and there is also Elder law, all of which address the needs of the disabled:

1. **Special Needs Law:** The law for disabled individuals under the age of 65 is divided into two distinct categories:
 - a) Law for the developmentally disabled, whose condition was diagnosed prior to age 18;
 - b) Law for those whose disability was diagnosed between the ages of 19 and 64, and who are thus not categorized as developmentally disabled.
2. **Elder Law:** For disabled people who are 65 or older, there is separate but somewhat similar law, called Elder law, which addresses public program eligibility and benefits for the elderly population. Information about Elder law can be found in our companion article entitled "Elder law" on our website at www.jancummins.com.

Although there are many similarities among the two types of Special Needs law and Elder law, there are also some important differences, and it can be useful for families to become familiar with the particular laws that apply to Special Needs for the mentally ill.

Special Needs Law for the Mentally Ill

The Special Needs Law which applies to people who were not identified as disabled prior to age 19 is the focus of this article. Most of these people are mentally ill, since other types of disability are more likely to have been diagnosed at an earlier age. The law primarily addresses eligibility criteria for public benefits.

There is surprisingly little California law that provides for the care and treatment of the mentally ill population who have been diagnosed with their illness between the ages of 19 and 64. Such law that exists is administered individually by each county in California, and often the practical effects of that administration differ from county to county. Under

this fragmented system, mentally ill transients who move from county to county are often not identified as needing care and receive no treatment at all.

When mentally ill adults are homeless, have not yet established their eligibility for benefits, have become ineligible, won't cooperate with their family or the authorities, or are arrested for criminal behavior, then Special Needs law for the mentally ill comes into play. This area of law is interdisciplinary, and covers criminal law as well as public benefits law. As such, it can be compared to both Immigration law and Elder law. It also has some overlap with Special Needs law for the developmentally disabled.

A major resource in helping families navigate the complexities of mental illness law is the National Alliance for the Mentally Ill (NAMI). NAMI operates chapters throughout the United States. There are also a variety of local and regional agencies that provide information and services for the mentally ill, but these vary from county to county within California and cannot be addressed here in a general way.

The History of Special Needs Law for the Mentally Ill in California

In California, the most important law regarding mental illness is the Lanterman-Petris-Short ("LPS") Act of 1967, enacted in 1972. This California law effectively closed all public mental hospitals for the mentally ill. The law was based on the community model of treatment for mental illness first developed in California in the Short-Doyle Act of 1957 that established community based mental health care. However, under Short-Doyle, the demand for mental health services in the community quickly overwhelmed the available resources.

This may have led to the stipulation in the LPS Act that no one could qualify for community based mental health treatment unless they were a danger to themselves, a danger to others, or were gravely disabled as a result of a mental disorder as determined by a public official. Family members cannot be involved in that determination other than to provide evidence.

Therefore, with some notable exceptions, mentally ill adults cannot be treated involuntarily in California. And unfortunately, one of the symptoms of serious mental illness is anosognosia, a condition that causes people who are mentally ill to deny the existence of that illness, making voluntary treatment unlikely for many people who need help.

The Current Situation for the Mentally Ill in California

Mental illness treatment programs are a work in progress in California, and are not always accessible to everyone who needs them. There was good reason to get rid of the old warehousing system for the mentally ill. But while we have done away with the mental hospitals that were "out of sight and out of mind," we have not replaced them

with anything that is effective for protecting mentally ill adults, their families, or the general public from the ravages of mental illness.

The standard used by public officials for determining mental disability is very high, probably due to the combination of civil rights challenges from mentally ill individuals who resist being constrained and the lack of public resources for caring for them. The effect of the LPS law almost 50 years later is that involuntary mental health services for protection of the community that had formerly been provided by the government are for all practical effects eliminated and have not been replaced.

The situation for the mentally ill and for our communities is slowly improving, as public awareness of the issue evolves and stigma is addressed and eliminated. Most notable for families of the mentally ill, the California legislature enacted AB 1421, “Laura’s Law,” in 2002 and renewed it in 2012. It will expire in 2018, unless again renewed. This law provides the opportunity for families to petition the court for involuntary treatment that could help their mentally ill family members, without having to persuade a public official that such help was needed. The standard for authorizing treatment is also less stringent than is the case with the old LPS law.

This law could be a great boon for families of the mentally ill, but has not to date made much impact. This is because participation in the law is voluntary for each county in California and only one county, Nevada County, has fully enacted it so far, though Los Angeles County has maintained a successful pilot program for some years. The two major obstacles to its enactment are a lack of funding and a civil rights concern about protecting the right of anyone to be free from restraint by another person unless a crime has been committed. As such, families and friends have no way to try to prevent suicide or violence against others until it is too late, even if they see it coming.

Public money is available to the counties in California for mental health services. Each county in California is now receiving funds from the Mental Health tax on millionaires’ incomes that was enacted by a successful ballot initiative, Proposition 63, in 2004. Nevada County and Los Angeles County are using these funds to fund their “Laura’s Law” Assisted Outpatient Programs (AOT) under the AB 1421 legislation. Other counties are using these funds for other worthwhile programs for the mentally ill. The available programs vary from county to county, and are accessible only to residents of a county who meet that county’s eligibility requirements for each particular program.

Currently, in most counties, families have very little input into the program in which their family member is placed, or whether their family member is placed in a program at all. Full implementation of Laura’s Law throughout California could change that.

Even with such drawbacks for families, public programs are still important treatment options for mentally ill adults, even for those whose families can afford to pay for services. This is because there is very little quality long term care in the private sector for seriously mentally ill adults. There simply isn’t enough demand for it and the people who are diagnosed with a mental illness are often very hard to control. This makes it

prohibitively expensive. Also, the reality of mental illness is that the vast majority of mentally ill people are impoverished and cannot afford private mental health care. Even if mentally ill adults have medical insurance, it usually will not cover housing or long term day or residential programs that are often essential to stability or recovery.

Potential Pitfalls in Maintaining Benefits

Once public benefits have been established, a family needs to take care that those benefits are not inadvertently interrupted or entirely lost. To ensure that government benefits are not jeopardized, the disabled adult's personal funds must never rise above a specified, very low level. Overseeing the mentally ill person's finances to keep this from happening can be time-consuming and difficult. But the family must be careful and vigilant, because government agencies will monitor bank accounts. One breach can result in the loss of all benefits, and there is no assurance that they will ever be restored.

The most common problems occur as a result of:

- 1. Supplemental Gifts Outside the Special Needs Trust.** Families may wish to supplement government benefits with private money that is not in an SNT. This is possible, but any such gifts must be provided carefully and with guidance from someone who is knowledgeable about using and preserving government benefits. Otherwise, well-meaning family members may jeopardize important benefits through accident or miscalculation.
- 2. Actions by the Mentally Ill Adult.** Unfortunately, families cannot control the often bizarre actions of the mentally ill person. Few mentally ill adults are locked up, unless they are in prison or are under a Lanterman–Petris–Short (LPS) conservatorship in a locked mental health facility. They can look just like anyone else and can earn money and establish bank accounts that their family does not know about, resulting in the loss of their benefits. They can run away to another county or state that can refuse to take care of them, while at the same time their home county or state discharges them because they are no longer “domiciled” in that jurisdiction. They can be arrested anywhere they go for disturbing the peace, and worse. Mentally ill people can be their own worst enemy when it comes to preserving their own freedom and welfare. Families will want to make every effort to carefully monitor the disabled person's activities, but sometimes even the most carefully watched individuals do things that remain undetected.

Possibilities for Improvement and Recovery

Recovery is a term that is frequently used in relation to mentally ill adults. It can be misleading, however, because recovery for the mentally ill is relative to each individual. Some people can recover to the point where they can hold responsible jobs and have

families of their own. Many mentally ill people, if not most, cannot recover to that level. But that doesn't mean they can't enjoy some level of recovery, perhaps limited to being able to lead stable lives that don't interfere negatively with the lives of others, and that bring them a level of serenity. Such a lifestyle may not include work or study of any kind. It may be all a seriously mentally ill person can do to behave normally and maintain good manners with others while the voices that are constantly plaguing them rage on, even when they are heavily medicated.

And, there is always a big risk that a mentally ill family member will end up in prison, especially if that person is male. With luck and hard work on the part of families, their family member may be diverted from jail to a community care facility when arrested. But that is not the current norm. Forensic mental health facilities in California are a growing industry. All of the mental hospitals in California are now prisons, or serve a majority of prisoners in their populations. And new forensic mental health facilities are still being built.

Many of the prisoners who may soon have to be released into their local communities as a result of the federal court order that California must reduce its prison population are seriously mentally ill. Without an involuntary treatment option like Laura's Law, those mentally ill adults could well commit more crimes like the ones that landed them in prison in the first place. They don't commit these crimes because they are bad people. Usually they are very good and well-meaning people. But they are often paranoid and/or they hear compelling voices that tell them to do bad things for good reasons. All of these mentally ill prisoners have families, and the families often care about them and are anguished at their being in prison where their paranoia and voices often get worse. But under the current LPS law family members are helpless to protect the mentally ill person, themselves or others from the difficulties caused by their loved one's mental illness.

Current Options in California for Families of Mentally Ill Adults

Families dealing with a mentally ill relative will have different priorities and options to consider depending on several factors:

1. Is your family member cooperative and amenable to treatment?

- a) If the family member is cooperative, the family is very fortunate. This is a key factor in securing treatment.
- b) If not, the family's options are limited, since no one over the age of 18 can be involuntarily held for treatment unless he or she is considered to present an immediate danger to themselves or others. The current realistic path for these families is probably to do nothing to help your child with money or support.

While it seems harsh to abandon your adult child to the mercies of the community hoping that the police respond to put him or her in a mental health

facility rather than take him or her to jail, it is usually your best option for obtaining good mental health care. As frightening and dangerous as this sounds, it can often be the first step toward getting the person into a treatment program.

Once in the hospital and stabilized with medication, talk therapy, and group activities, the threat of prison or another period of time on the streets as alternatives can be powerful motivators in persuading the mentally ill family member to agree to voluntary treatment. And while mental hospitals of all kinds, even emergency facilities, are disappearing, new options do appear. Like so many other things in our rapidly changing world, you just have to be nimble enough to be able to take advantage of the new opportunities.

If you do make the decision to withdraw your personal support from your family member, it is important to stay in touch with the available public options as best you can. The best way to do this is to first alert your local police to the activities of your mentally ill family member and ask them to let you know if they receive word of his or her movements.

If there is a clear diagnosis of mental illness, the police are usually willing to do what they can to help families stay aware of their whereabouts. Then also do what you can to develop and maintain an information network of people who work in the public mental health arena who will agree to keep you informed. For this latter option to work, you will need to have a signed release from your family member. It is a good idea to have a release prepared and ready to sign when he or she is in a good mood so it will be available when you need it.

2. What are the available financial resources?

- a) If there are sufficient funds to provide for treatment and care, possibly for an extended period or even for the mentally ill individual's lifetime, then private care is an option if it is available. Unfortunately, private long-term mental health programs are scarce throughout the U.S., and their programs typically are not as comprehensive as are the public programs.
- b) If funds are limited, then the family needs to know all the possibilities, and all the complicated rules, for public funding. In most situations, a Special Needs law attorney can help ensure that finances are structured to ensure stable long-term continuing care.

3. What should a family do to prepare for the possibility that long term mental health care will be needed?

- a) The first and most obvious solution is to set up a Special Needs Trust (SNT). Such a trust is designed specifically to provide funds that will supplement

public benefits. When your family member is ready to seek help, he or she will probably be best served in the public system, because that is where the best help is. To be in the public system, your family member must not have much in the way of money or property and must remain legally impoverished for life, according to government program rules. An SNT, if properly administered, can provide a way to ensure eligibility for government benefits while preserving private money for the “extras” that often make the difference between survival and comfort.

- b) Second, if the mentally ill individual will be receiving public benefits or might be receiving them in the future, ensure that all family members and close friends are aware of the restrictions on assets and income that affect eligibility for public programs. An inheritance or an accident award can destroy a care system that has been carefully designed. You don’t want to discover, too late, that some well-meaning friend or relative has given your family member a gift or left an inheritance that will cut off all public benefits.
- c) Third, educate yourself about all facets of care for the mentally ill. Your local chapter of the National Alliance on Mentally Illness (NAMI) is the best place to start. Their website is at www.nami.org
- d) Finally, be sure to consult with a Special Needs law attorney to make sure you have everything in place to ensure that your family member will be cared for adequately if you can’t be there, or even if you are there. It is very easy to jeopardize public benefits unwittingly. Every family’s situation is different, and individualized planning is essential.

Types of Services for the Mentally Ill

There are many services from which the mentally ill can benefit. Some examples are social workers, medical care (including psychiatry), housing, and day programs which may include occupational therapy, group therapy, education, job training, job placement, exercise, field trips, social time, and classes in grooming and hygiene. There are both public services for which the disabled person must meet eligibility requirements, and private services which can be obtained for a fee. A combination of both public and private services is often the best arrangement.

1. Public Services

The mental health system in California is set up on a county by county basis. Each county operates its own system within the law set up by the state and supported largely by state funds. Some counties operate their own mental health agencies and others contract for services from private agencies, usually non-profits specializing in care for the mentally ill. Because county systems are set up to serve only their own residents, a mentally ill person who is benefiting from

public services will have to start all over again if he or she moves from one county to another. This can cause a wait of several days to several months before services are available, making a move from one county to another impractical in almost all instances.

Information about public services is often not easily available to families who are looking for options. A “need to know” policy is the rule in most counties, where eligibility is a prerequisite for gathering formation. Consulting with other families in your local NAMI affiliate (www.nami.org) is often the best route to knowledge about available programs. The Treatment Advocacy Center (www.treatmentadvocacycenter.org), based in the Washington, D.C. area, may also be helpful.

2. Private Services

There are private mental health agencies, both non-profit and for-profit, which provide services to the mentally ill, and families can contract directly with them for services. A family may use them to provide all-inclusive care or, more commonly, they are used for specialized services that supplement publicly provided benefits. Some ways that private funds can complement public benefits are through providing private caseworkers or day programs. Caseworkers can be very useful in helping families manage symptoms of mental illness that may not be visible to family members or that the families don’t understand.

If an individual who is on SSI lives in a boarding home or a board and care facility, families can pay for extra services that are not included in the cost of basic room and board. But such expenditures must be undertaken with great care so as not to jeopardize eligibility for public funding, thus destroying the basic underlying level of care.

One great advantage of private services is that they are not restricted to county residents. You can access services for your mentally ill family member in an adjacent county if such services better suit the needs of your situation.

Information about private services should be readily available online.

Funding for Care of the Mentally Ill

1. Government benefits

There are a number of potential government resources that provide funds for mentally ill adults who are neither developmentally disabled nor elderly. However, it is important to understand the eligibility requirements for each. Programs with “Resource Limits” allow the recipient to have only limited financial assets. Those with “Income Limits” allow only a specified amount of

monthly income. These rules are often tightly controlled and audited, so a family must be very vigilant to ensure that the rules are consistently followed.

a) Social Security Disability Insurance (SSDI). Income for a person who is both:

- i) disabled according to Social Security Disability criteria, and
- ii) eligible for Social Security benefits either from that person's own work record or that of a parent or spouse who qualifies for Social Security benefits or is deceased.

Resource Restrictions: None

Income Restrictions: None

Potential Benefits: Provides income as an entitlement that is not needs-based. Provides Medicare health insurance regardless of age after two years of uninterrupted eligibility. The only requirement for continued benefits is that the disability continues, according to Social Security rules.

b) Supplemental Security Income (SSI). Income and Medi Cal coverage for disabled adults who meet SSI standards for impoverishment and who are not eligible for SSDI based on a worker's contributions.

Resource Restrictions: Stringent requirements. The applicant must not have more than \$2000 in assets at any time, though certain assets will be exempt and will not be counted.

Income Restrictions: Adjusted each year, income must be less than the SSI monthly payment for an individual, which varies from state to state.

Potential Benefits: Provides basic income and Medi Cal health insurance.

c) Medi Cal (California version of the federal Medicaid program). Community Medi Cal, available for persons who have incomes above the SSI cutoff level but are still impoverished as defined by Medi Cal rules.

Resource Restrictions: Vary, depending on the category of the applicant.

Income Restrictions: Adjusted each year, income restrictions vary and are based on various factors, but may not affect eligibility. A “share of cost” may apply to individuals with income well above the poverty level.

Potential Benefits: Provides health insurance coverage for those who could not otherwise afford to pay for it.

d) Veteran’s Benefits (VA). Relatively generous pensions (up to \$2000+ per month) for elderly and disabled veterans and their spouses; aid and attendance home health care for elderly and disabled veterans and their spouses.

Resource Restrictions: Can be as high as \$80,000, with adjustments and exemptions. Eligibility is based on a combination of at least 90 days of active service, at least one day of which is during a period of wartime as defined in the VA regulations. Exemptions are flexible and income requirements are variable; income must be “below what is reasonable.” The objective of the Veterans’ pension and aid and attendance is to maintain those who have served their country in a lifestyle that is above the poverty level in the area where they live.

Income Restrictions: Variable, but higher than for Medi Cal and SSI.

Potential Benefits: Provides veterans benefits that are more generous than Social Security benefits and may include free health care through the Veterans Administration. Medi Cal may still be needed, however, depending on the availability of VA health care locally.

2. Private Funding Sources for Care of the Mentally Ill

a) Payments Made by Families

Families can pay a provider directly with no penalty in terms of the disabled person’s public benefits, so long as the payment is for services, objects or personal supplies other than food and lodging or if the payment is a supplement to the SSI recipient’s own payments for food and lodging. SSI requires that the SSI recipient’s own funds be used for food and lodging. If any other money is applied for that purpose, it may render the recipient ineligible for SSI for the period of that assistance.

When the mentally ill person lives with a family member, it is called “in home support (IHS),” and the SSI income of the disabled person is reduced by 1/3. SSI is still valuable to such families, because the most important feature of SSI is often the Medi Cal coverage that accompanies SSI without which the disabled adult probably would not have access to treatment for his or her disability.

b) Special Needs Trusts

The purpose of a Special Needs Trust is to provide funds only as a supplement to public benefits and to protect such funds so that public benefits are not endangered. It must be carefully drafted to facilitate that goal. The beneficiary of an SNT must be its sole beneficiary during the SNT beneficiary’s lifetime.

i) First Party Special Needs Trusts

A First Party SNT holds property that belongs to the beneficiary (in this case, the mentally ill adult.) It can be set up with permission of a court to supplement government benefits for the beneficiary’s lifetime and it will protect public benefits. But after the beneficiary’s death, a First Party SNT is fully recoverable by the government to pay for Medi Cal expenses. This type of trust may still be a good option when public services and healthcare benefits are essential for the disabled person’s care, and the disabled person has personal resources that restrict eligibility for public benefits.

ii) Third Party Special Needs Trusts (SNT)

The best way to ensure that family funds will be available for the disabled person’s lifetime care is to set up a Third Party SNT, which is funded with money and property that does not belong to the disabled person. This trust will ensure that funds continue to be available, without jeopardizing public benefits, if family members are deceased or cannot pay for care. It is important to work with a Special Needs Law attorney when drafting such a trust to be sure that it meets the requirements for preserving the property held by the trust for the disabled person. Other family members (contingent beneficiaries) can receive the funds of a Third Party SNT during the mentally ill beneficiary’s lifetime if provisions are included that allow the SNT to be dissolved during that person’s lifetime. The remaining property of the SNT can be distributed to family members upon the mentally ill beneficiary’s death if the SNT so stipulates.

Property held in a Third Party SNT that is established before the beneficiary reaches the age of 55 is currently not recoverable by Medi Cal at the beneficiary’s death. It only needs to be established by that time; it

can be funded at a later date. That means that all of the property left in that trust at the beneficiary's death, no matter what age he or she is at that time or what age he or she was when the property was given to the SNT, will go to the designated contingent beneficiaries of the trust and not to the government to repay Medi Cal expenses. If a Third Party SNT is established after the beneficiary is 55, its funds are recoverable by the government at the beneficiary's death in the same manner as if it were a First Party SNT.

iii) Pooled Trusts

A Pooled Trust includes funds belonging to either the beneficiary or to a third party, which are held with the funds of others to maximize investment potential but also to benefit an individual beneficiary. Essentially, the individual beneficiary's portion of the pooled trust is a "donor advised fund" to benefit the beneficiary in a way that will not jeopardize public benefits during the lifetime of the beneficiary. Under California law, all funds held in Pooled Trusts are recoverable by the State at the death of the beneficiary in the same manner as is true for First Party SNTs. This may not be true in all states.

c) Discretionary Trusts

Where there is no need for public benefits care, which is sometimes the case with disabled people from wealthy families, a simple discretionary trust, where the beneficiary's creditors cannot reach the property, can provide funds for the support of the disabled person. This type of trust might be sufficient to protect eligibility for public benefits, but also might not, as the laws governing public benefits are subject to frequent change and interpretation. An SNT is set up to be amended or terminated if its terms prevent eligibility for public benefits. That is not true with a simple discretionary trust.

d) Irrevocable Donee Trusts

When a disabled adult has property of his or her own and needs to establish eligibility for government services that require him or her to be impoverished, that property can be given to a family member or another trusted individual or individuals (donee) by the disabled person (donor) or his or her attorney-in-fact. The property must be dispersed in sufficiently small daily amounts to each donee so that the 30 to 60 month look-back period for Medi Cal or SSI eligibility is not triggered.

These gifts are known as "stacked gifts" for the purpose of establishing Medi Cal eligibility. When a trust is desirable to preserve the property for the benefit of the disabled person during his or her lifetime, the donee or donees are then expected to use the gifts received from the donor to fund the trust for the benefit of the

donor during his or her life, with the remainder of the trust to be distributed to the beneficiaries of the donor at the donor's death in the same manner as applies to a Third Party SNT.

These two-stage gifts are necessary to avoid the look-back period for eligibility and also to avoid recovery of the property by the government at the death of the donor. The look-back period is important when the person who needs government benefits has sufficient property that would disqualify him or her for such benefits. Without the "stacked gifts" technique, that person would have to wait either 2 1/2 years or 5 years before applying for Medi Cal after giving the gifts, depending on the law in effect at the time of application for Medi Cal. (Currently the look-back law is 2 1/2 years in California, but will change at some point in the future to 5 years to conform to federal law.)

Donee Trusts are usually not useful for disabled adults who have little or no property of their own. Family property does not count against eligibility for public benefits unless and until it is legally received or inherited by the disabled person. The definition of legal receipt is complicated and will usually have to be analyzed in any given situation by an attorney. SNTs, on the other hand, can be used to bypass any legal receipt of property by the beneficiary, but they must be carefully structured and coordinated with the estate plans of all family members who might leave property to the beneficiary, to ensure that all rules are followed.

Conclusion

Mentally ill people live on the margins of life as a rule, as a consequence of their illness and through no fault of their own. Our public benefits system in the U.S. is erratic in its recognition of this fact. Unfortunately, it is all too easy to destroy a good public benefits funded care situation by trying to spend money on it to make it better. Nevertheless, money very carefully and intelligently applied can make a big difference in the lives of the mentally ill.

In the United States we are becoming increasingly aware of the destruction that can be wrought on our society by untreated mental illness. But there is potential, as communities, for us to work together to ensure that the proper services are readily available for the mentally ill, whether they be public or private, voluntary or involuntary.

Community begins with the family. It is very difficult for families to stand united behind their mentally ill family members. But for those who can find the will and the resources to do it, they can be agents of social change for the mentally ill, and also for everyone who values serenity and security in daily life.

Families can be a potent economic force for the care of their particular loved one, through the use of Special Needs Trusts and/or family awareness efforts. A Special Needs law attorney can be a big help to such families by assisting them in understanding how each

member of the family can make a difference and how they can structure their own estate plans to facilitate the optimum level of care for their mentally ill family member.

Understanding how to access services and how to establish a Special Needs Trust are only the beginning. There are family support groups for most types of disabilities, and mental illness is no exception. NAMI (www.nami.org), in particular, maintains a variety of support groups for families of the adult mentally ill. Families would do well to find out about the group that best fits their situation and participate in it to become educated, as other families can often be the best source of unbiased and realistic information.

Mentally ill people are human, and have hearts just like the rest of us. In fact, they are usually very gentle people who are super sensitive to both good and bad treatment. They can't help but react with fear to the rejection they all too often receive from others. And fear leads to lashing out and violence. Accepting them as they are, suggesting change when their behavior or appearance is annoying or unacceptable, and hearing what they have to say as fellow human beings will go a long way towards helping them sustain a healing path to their highest level of recovery.

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