



**Special to this issue:**

**Planning:** *Mike Walther shows how to create a niche practice and make a huge difference in the lives of his clients. .... page 7*

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# Special Needs Specialist

**Synopsis:** *Here is the perfect niche practice: offering expert advice and navigation to special needs families, making a huge difference in their lives.*

**Takeaways:** *First qualify for Social Security benefits. Make sure the special needs person doesn't have more than \$2,000 in his/her own name using an ABLÉ account and a*

Early in his career, Mike Walther, of Oak Wealth Advisors (<https://oakwealth.com/>; multiple offices) faced down a stiff wind in his face—a wind that every advisor has to push through if they want to work with a specialized clientele that they have an affinity or passion about.

“At the larger firm that I was working with, I wanted to create a planning service that specialized in special needs situations, with all the resources and structure to support it,” he says. The potential niche is not small; by some estimates, one in ten families have a family member with intellectual and/or developmental disabilities. There are support structures in place that can help these family members lead productive lives, but in order to qualify, the families have to navigate a very complicated (sometimes haphazard) system that involves interlocking qualifications at state and federal governments and local resource providers.

If the ideal niche requires specialized expertise and a large

potential client base, then special needs planning certainly qualifies.

Walther came from one such family; his brother was born with a mild variant of autism known as Asperger's Syndrome, and he has remained close with his

***Walther's parents ignored the advice of 'experts.' Walther followed their example in his professional career.***

brother from childhood. “When my brother was first born and diagnosed,” he says, “the advice from the professionals at the time was: *put him in an institution. He is going to be a burden to your family. He is never going to amount to anything; there is no opportunity. He's going to be expensive and he's going to ruin your life.* Thank god,” Walther adds, “they didn't listen to that advice.”

Today, at age 53, the brother is happily (and productively) working at a local library. “He's

worked there for 20 years,” says Walther, “and he loves his job. He's gotten multiple raises, and has been employee of the month several times.”

So the experts were wrong back when Walther's brother was coming into the world—very wrong. What advice did Walther get from the larger advisory firm about creating a specialty in special-needs planning?

“They wanted me to work with high-net-worth clients instead,” Walther recalls. “They said, *We have bigger things to do. There is not enough bandwidth to create a practice focusing on special needs.* And most other people were telling me: *No, you have to focus on high-net-worth families, which is where the money is, and that is where people have the real needs. If you work for special needs folks, they are all poor, they are going to have lots and lots of stuff to complain about, you will never have time to get any work done, and you won't have the resources to support that work.*”

Walther's parents ignored the advice of experts and things turned out pretty nicely, all things considered. Walther, in his career choice, decided to ignore the advice he was getting from experts in his own field. He left the larger firm to create a planning firm that would help families navigate those complicated resource structures, a niche that his firm—in the planning profession, at least—has pretty much all to itself in the U.S. marketplace.

Once again, the ‘experts’ underestimated the opportunity.

“None of what they were telling me turned out to be true,” says Walther. His firm now has a main office in Northbrook, IL, and additional offices in Madison, WI, Sioux Falls, SD and South Jordan, UT. There are currently 140 client engagements plus a range of one-off engagements where a planning

for the financial planning part of their annual program,” Walther says. “It was the first time they had ever offered CFP education credits at their annual conference, and my firm sponsored that.”

Since then, Walther has given presentations at the AICPA ENGAGE conference, several

### *Enhancing lives*

Chances are, pretty much every advisor reading this has a special needs situation hidden somewhere in the client families they serve. And the odds are pretty high that those families are at best befuddled by the complexities of getting help and support from the organizations that were created to help their special needs person live a comfortable and productive life. They live in a society that still has a bit of that original attitude that Walther’s parents encountered half a century ago.

So what are the basics of helping these families?

Walther says that the key to pretty much everything in the support network is to qualify for Social Security benefits, specifically, in most cases, means-tested benefits for individuals who are medically-disabled and poor. Local charitable programs that are designed to help and support (and enhance the lives of) special needs children typically allow in only people who the Social Security Administration has determined will qualify for those benefits.

This, right off the bat, is a challenge that often requires a professional to navigate. “When they apply for benefits, two-thirds of all families get denied,” says Walther.

Why? “Let’s say you’re my father, and I’m an individual with special needs,” Walther proposes. “We go to an interview with Social Security about getting benefits for me. If I’m having a really good day, if I’ve had a great week with

***The attorneys at the Academy of Special Needs Planners initially didn't welcome special needs planners. Then Walther created the content for the planning part of their program***

firm will have a client family that needs special needs planning, and will outsource to Walther’s expertise and have his firm draw up a plan.

Walther’s firm is nearly unique in the planning profession. There does happen to be a broad range of attorneys who specialize in the special needs area, which Walther views as valued partners in the enterprise—though they didn’t always reciprocate this sentiment. “The Academy of Special Needs Planners is the leading organization for attorneys who want to work with those with special needs,” says Walther, “and it was attorneys-only until about ten years ago. I banged on their door and said, *look, we work with the same people you do.*”

The organization eventually opened the door to the CPA/PFS, CFP, CFA advisor who was banging on their door, and eventually put him to work. “I had the opportunity to create the content

NAPFA national conferences and the Insider’s Forum annual meeting—and his schedule is full of online educational engagements for advisors and attorneys. The Oak Wealth website is currently the only place where advisors and attorneys can compare the 46 state-sponsored ABLE plans side by side. NAPFA has sponsored a special-needs mix group (study group) that Walther founded and presents at.

“I believe that everything financial planners are doing for good reasons as fiduciaries will benefit their clients a great deal,” Walther says. “But I would also argue that in the area of special needs planning, the families that we work with need the kind of advice that is typically more important than anything financial in their lives. And,” he says, “they have a hard time finding a professional who will address those with them.”

my therapist, if I've been taking my medications, and I appear during the interview, temporarily, to be a highly-functioning individual, we'll be denied benefits.

"Two weeks later," Walther continues, "I might forget my meds. I might say something at work that gets me fired. It might take me two years to get another job, and I go into a really dark place. I'm so frustrated that I don't leave my room for two months. That person," he adds, "has no income, no assets, and is receiving no benefits, because on the day he met with Social Security, he seemed fine."

That person will be turned down for any state and local (charitable) programs that train, support and even entertain special-needs individuals.

Walther adds that it is not uncommon for the family to be upbeat when asked about their special needs children, because they are accustomed to encouraging and supporting them. "They'll get denied, not because they are not entitled, but because they answer questions incorrectly," he says. "Because they tend to overlay the level of skills and abilities, instead of being honest about them. And then they're denied, and they have to go through a really prolonged process trying to chase the benefits back after they've been denied."

The solution is consulting and education, with advice which most lay advisors are not really equipped to offer.

"We have to coach families about not providing an unrealistically optimistic view of their

special needs person when they apply for benefits," he says. "We tell them that we want to give that Social Security interview person a realistic look at the situation. We

won't tell them not to take medications before they go for the interview, but we do say that if that person is going to have a bad day, it would be wonderful to have that bad day during the interview, so they can see these children at their worst, not at their best."

The average monthly benefit for Social Security's means-tested program is \$914, which is supposed to cover housing and other living expenses. If the family is providing the housing, then the benefit is reduced to \$609.

The special-needs person can also qualify for SNAP (Supplemental Nutrition Assistance Program) benefits worth approximately \$200 a month for groceries. And those who qualify are also put on Medicaid coverage. "People overlook that," says Walther. "Sometimes they'll tell us, *I have private health insurance, so I don't need that coverage.* But I tell them that Medicaid is the gateway to other support and benefits: vocational training, therapies, things like that. If you aren't eligible for Medicaid, you can't access those other things."

### *Protecting benefits*

'Means-tested' means that, in addition to passing the interview, the benefits recipient must

### ***Special needs families might make the mistake of being too optimistic when applying for their child's Social Security benefits.***

fall below certain financial thresholds—and here again, things can get tricky for the unwary family. "To qualify, you have to have less than \$2,000 in assets in your own name, not counting a house and a car," says Walther. This requires a certain amount of vigilance, and the help of a special needs attorney.

Why? Consider the case of a doting aunt, who decides, on the special-needs person's birthday, to give him or her a \$500 gift. That money hits the person's account, pushing it to \$2,005. Oops! The special needs person is now disqualified from the Social Security benefits, Medicaid, SNAP and whatever local training or enhancement programs that he or she was enrolled in.

Walther says that this \$2,000 trigger has not been indexed to inflation over the past 30 years, making it increasingly a hair trigger. But... Can a person really live on \$914 (or \$609) a month plus SNAP at the grocery store? And what if, as is commonly the case, the special needs person is employed and earning an income? How do you stay under

that threshold at all times?

This is where the technical planning comes in. “You have to plan around not having too much money in the child’s name, in order to qualify for these benefits and some of the programs,” says

Walther. Start with that checking account that cannot exceed \$2,000. “If I’m your child, you, as my representative payee, will collect my salary check, and put it into an account with my Social Security number on it,” says Walther. “You’re watching that account to make sure it doesn’t exceed \$2,000.”

***Advisors and families have to be careful that somebody doesn't write a check to the special needs child pushing him/her over the \$2,000 threshold.***

Walther.

But what about that \$500 check from Aunt Agnes? “There are two solutions,” says Walther. “For smaller amounts, to avoid that end-of-the-month balance being over \$2,000 we use an ABLE account, which is a tax-free savings account.”

ABLE accounts look a lot like 529 plans, in that they are administered by the state (46 states currently offer them), compound on a tax-free basis until the assets are distributed, and, depending on the state, there are different features, different expenses and different investment options. Most states allow non-residents to use their ABLE accounts (Wyoming, Utah, Vermont, West Vir-

ginia, Florida, Arizona, Kentucky, Maine, Louisiana, Georgia, New Hampshire, Missouri, New York, Oklahoma, Tennessee, South Carolina, Texas and New Mexico are the exceptions). Some offer state tax benefits for contributions (Utah and Wisconsin), and there is even a broker-sold option by American Funds, which pays a 5.75% commission on contributions. The maximum allowable account balances are all different, ranging from a low of \$235,000 (Mississippi) to a high of \$529,900 (California); there are a number of state ABLE accounts that outsiders can participate in with limits at or above \$500,000.

But despite these seemingly-high thresholds, ABLE accounts can only accept \$17,000 in contributions each year. And there is another big limitation that most lay advisors wouldn’t know about. “If I am receiving the means-tested benefits from Medicaid,” says Walther, “then the minute that account goes over \$100,000, the excess becomes a countable resource. The first dollar over \$100,000,” he explains, “counts against my \$2,000 limit. As a practical matter, we like to keep those accounts below \$80,000, because we don’t know what the market is going to do.”

The other thing to understand about ABLE accounts is that,

in most states, when the special needs person dies, the state has the power to claw back whatever is left in that account, to compensate the state for the services it has provided.

But... What if the special needs person receives a large inheritance, above that \$100,000 limit? That’s where the supplemental needs trust (sometimes called the special needs trust; the acronym is the same: SNT) comes in, and typically where the attorneys get involved.

So how does all this work together? The less-than-\$2,000 account has no restrictions on what it can buy on behalf of the person receiving benefits. “The supplemental needs trust is prohibited from paying for the things that the Social Security program is theoretically covering: shelter, rent, basic utilities, basic medicines and groceries,” says Walther. “The ABLE account money can be spent on anything.”

This is where it gets complicated. The SNT can pay for all the other things that make life interesting for the special needs person: the trip to Disneyland, the new iPad, the cellphone contract, dinner at a restaurant. The money must be spent on the special needs person, but there is some flexibility.

“If my situation is such that I need 24/7 care, if I want to go to Disney World, the trust can pay for that,” says Walther. “It will pay for at least one caregiver, if needed. I might need two caregivers if I have low-functioning autism and epilepsy—which are

not uncommon together—because I would need 24/7 care in case I have a seizure. In that case,” he adds, “the trust could pay for three people, legitimately. I cannot take the family of six, but I can pay for me and two people out of the monies of the trust.”

Going back to the government housing and food subsidies, what if that amount is insufficient to pay for the living arrangements and meals that the family wants for the special needs person? (And, Walther implies, it pretty much always is; skeptical readers are encouraged to try living on \$914 a month plus \$200 a month for food for a year to confirm this.) “In those cases,” Walther explains, “we take the trust, which might have hundreds of thousands of dollars in it, and we make a distribution from the trust to the ABLE account, and the ABLE account pays that expense, because it is allowed to.”

If the parents have retired and are collecting retirement Social Security income benefits, then the developmentally disabled child can apply for Social Security disability income and, two years later, Medicare benefits. If the parents were to become disabled and start collecting disability benefits from Social Security, the special needs child can apply for disability benefits and Medicare two years later. “Those are typically higher payment amounts,” says Walther. “And Medicare is better medical coverage than Medicaid. But if they qualified previously for Medicaid, then it would be an add-on; that is, they can keep Medic-

aid, which can help with long-term care expenses, and they have Medicare, which does not cover long-term care.”

This requires a certain amount of expertise as well. “For a disabled child of someone who has reached full retirement age,” Walther explains, “that individual

ning advice, and many readers are probably feeling a mild sense of nausea at all the various things they would have to know to successfully help a special needs family navigate the benefits gamut. But if you aren’t motivated to learn the ins and outs of special needs planning, there is still a way

***To pay for living expenses, the family can make distributions from the supplemental needs trust to the ABLE account.***

can get 50% of the Social Security benefits the parents are receiving. But,” he adds, the maximum amount per family is 1.75 times the higher wage earner. We find that sometimes the spouse would be better off taking his or her own benefit, even if it is less than half the benefit of the higher wage-earner, so the kid can get 50% of the benefits of the higher-earning spouse. There can,” Walther says, be tons of work around maximizing Social Security benefits.”

Of course, you can always use your planning software to make these calculations, right?

“Right now,” says Walther, “there is no software that adequately deals with disability calculations. We’re trying to educate two software companies, saying this is something that would be really nice to have.” Stay tuned.

#### *Outsource Expertise*

This is obviously a very highly-specialized area of plan-

to help the special needs families in your client base.

“If another advisory firm has an issue with a client they want to help, we can come in and do a specialized consultative agreement with them,” says Walther. The engagement includes information-gathering a 90-minute personalized session to explain the next steps, and an action plan for the family to implement with the advisor or on their own. Cost: \$3,000.

How confident is Walther that an advisor with no special-needs expertise will be able to help the family follow one of his plans?

“If the advisor and client are working through the action plan, then we’re pretty confident,” he says. “Most of the procedural stuff is not rocket science; it’s a matter of following that path correctly and implementing all the steps. And,” he adds, “if they partner with a local attorney who is an expert at drafting the documents and helping them find the local

resources, because they are connected to the special needs community in their town, that can be a wonderful way to go.”

Walther will do a search and recommend local attorneys, but advisors can find their own through the Academy of Special

Planners, and I’m hoping that the trend will continue to grow. Whenever people want to do this work with us, we would love to partner with them, because I think having a fiduciary doing this is very important.”

More directly, Walther’s

of Oak Wealth. Two younger advisors were looking for opportunities to help special needs families, and found McGuire—and through him, Walther. One of them, Bryce Anderson, currently runs Oak Wealth’s Sioux Falls, SD office, and has presented on special needs issues at Dakota State University. The other, Tony Schneider, joined the Northbrook office and, despite dealing with right spastic hemiplegia cerebral palsy, he moonlights as a stand-up comedian.

***If an advisor or family is looking for a special needs attorney, the key question is: 'How many clients do you have who are receiving means-tested benefits?'***

Needs Planners or the Special Needs Alliance. “The key question to ask the attorneys,” says Walther, “is: how many clients do you have who are receiving means-tested benefits? How many of them use your documents?”

Why those particular questions? “The government is going to ask to see that trust,” says Walther. “If they don’t like the way it is written, that person is not getting benefits. If the attorney’s clients ARE getting benefits, that means the trusts have passed muster with Social Security, and at the end of the day, that is the most important issue: to get the person qualified to obtain and maintain the benefits.”

Interestingly, as Walther speaks at industry conferences and shares his expertise, he has seen an uptick in interest in these often-hidden special needs issues. “We’re seeing more advisors being aware of the fact that these special needs issues are something to think about with their clients,” he says. “I’m encouraged by the fact that more advisors are inter-

ested in this area, and I’m hoping that the trend will continue to grow. Whenever people want to do this work with us, we would love to partner with them, because I think having a fiduciary doing this is very important.”

More directly, Walther’s awareness initiative is beginning to attract like-minded advisors who have asked to join his firm and do the same special needs planning work—without any need on his part to recruit motivated advisors. The lead advisor in Oak Wealth’s Madison, WI office was a partner in a large accounting firm, and reached out to see if he could come to Northbrook to focus on serving special needs clients.

“I told him: you’re comfortable in Madison,” says Walther. “You have a network and family there; that’s where you’re happiest. Why would you want to move to Illinois?” Ryan McGuire is now testifying before the Wisconsin legislature about creating a state ABLE plan, and is a member of ARC, an organization that fosters services for the developmentally disabled. He is former chair of Wispact, Inc., a pooled special needs trust administrator.

An advisor in Walther’s study group decided to join the firm. Neil Mahoney now manages the South Jordan, UT office

### *GPS for special needs*

Walther says that his planning process focuses on taming the complexity for client families by giving them as-needed guidance from the action plans he creates. “I think of us like the GPS,” he says. “You tell me your preferred destination, your goals for the person and the process you want to follow. And then we will give you the information you need on an as-needed basis. We’ll tell you, *there’s a turn half a mile aheads. Now turn right. As opposed to: here are the 4,000 steps between Chicago and California; here are all the things you need to know to get things set up with the trusts and Social Security and everything else.* If we keep telling you the next steps, and circle back with you periodically,” he adds, “then we can get everything done.”

In those initial meetings, Walther will make that same \$3,000 offer: just the plan, no ongoing work. “If a client is not sure they want to commit to an ongoing relationship,” says Walther, “then

we'll do the plan first and then rebate the entire fee against the on-going fees if they decide to engage us at the end of the process. Some will talk with us, and get a plan," he continues, "and come back to us years later and say, *we really do need your services. You gave us a plan three years ago*—and their fee back then will cover the first two quarters of our service."

Of course, there is a traditional financial planning engagement built into the traditional on-going service, and clients will get advice on their portfolios and their 401(k) accounts etc. as well. But Walther has learned that the special needs part of the consultation quickly becomes the biggest part of the professional relationship.

"Often, we are the first people they have ever talked to about these challenges they are facing," he says. "There is all the other stuff that financial advisors commonly talk about, but their overarching challenge is: *what the heck is going to happen when we die?*"

This is why Walther has boxes of tissues strategically placed all over the office. "When we start to solve these issues, they will often start crying," he says. "We'll listen to them, and understand their concerns, and give them some of the tools, and help them provide for their loved ones when they're gone, and give them a way to access the local resources in their communities. We end up needing those tissues," he says. "My only goal," Walther adds, "is to help them be more successful in their journey." ■

## Assessing The Conversion

**Synopsis:** *Contrary to what you might have read, the TDA to Schwab conversion did not go totally smoothly.*

**Takeaways:** *Many client settings were not ported over, clients were directed to get help from Schwab Alliance rather than their advisor, withholdings on distributions were scrambled and there's a strange \$25,000 threshold on the ability to see money movements from/to client accounts.*

The day after the over-the-weekend TDA-to-Schwab conversion took place, on September 5, the Schwab PR team did a kind of victory dance, telling our credulous trade media outlets that the transition was an

*Some advisors who experienced the conversion think that the victory dance might have been a bit premature.*

enormous success, with virtually no problems. I'm sure you read how "*Schwab executives are saying the transition went spectacularly,*" and Tom Bradley, managing director of Schwab Advisor Services, told the press "*today we can absolutely declare victory.*"

Financial Planning magazine described the conversion process as a 'snoozefest.'

Victory? That same day, this publication was hearing from advisors who were suggesting that that the victory dance might have been a tad premature. They

reached out to us asking if they were the only ones experiencing problems—and described their conversion experience in less-than-glowing terms:

*"Despite our best efforts to... raise awareness on what issues would arise post-conversion," said one, "it would have been hard to predict this level of disappointment."*

*"My overall team is stressed out," wrote another. "And it is hard for us to service our clients."*

*"The arrogance of their victory lap nauseates me," another wrote, "as I know I am not the only advisor at TDA that didn't like the merger or forced migration."*

Were those first advisors to reach out the only ones having issues with the conversion? I sent a quick message to the Inside Information community, asking whether some of the problems I'd been hearing about were limited to a small number of malcontents and incompetents, or whether they, too, were experiencing problems with the conversion of client data