
Welcome
NAMI San Mateo County
General Meeting &
Speaker Event featuring, Ellen Cookman, Esq.
November 19, 2025

Call Meeting to Order

Lisa Fuchs, NAMI SMC, Board President

Roll Call



Agenda

6:40 PM – 7:00 PM General Meeting

7:00 PM – 8:00 PM Ellen Cookman, Esq, Cookman Law, Presentation

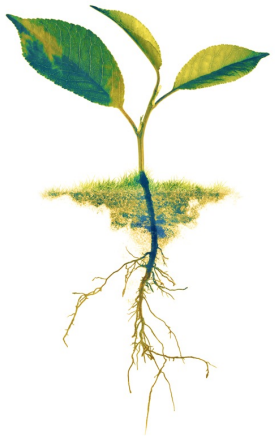
Our North Star

Vision:

We envision a stigma-free world where individuals, peers, and families affected by mental illness and addictive disorders experience healing, recovery, and empowerment, enabling everyone to thrive.

Mission:

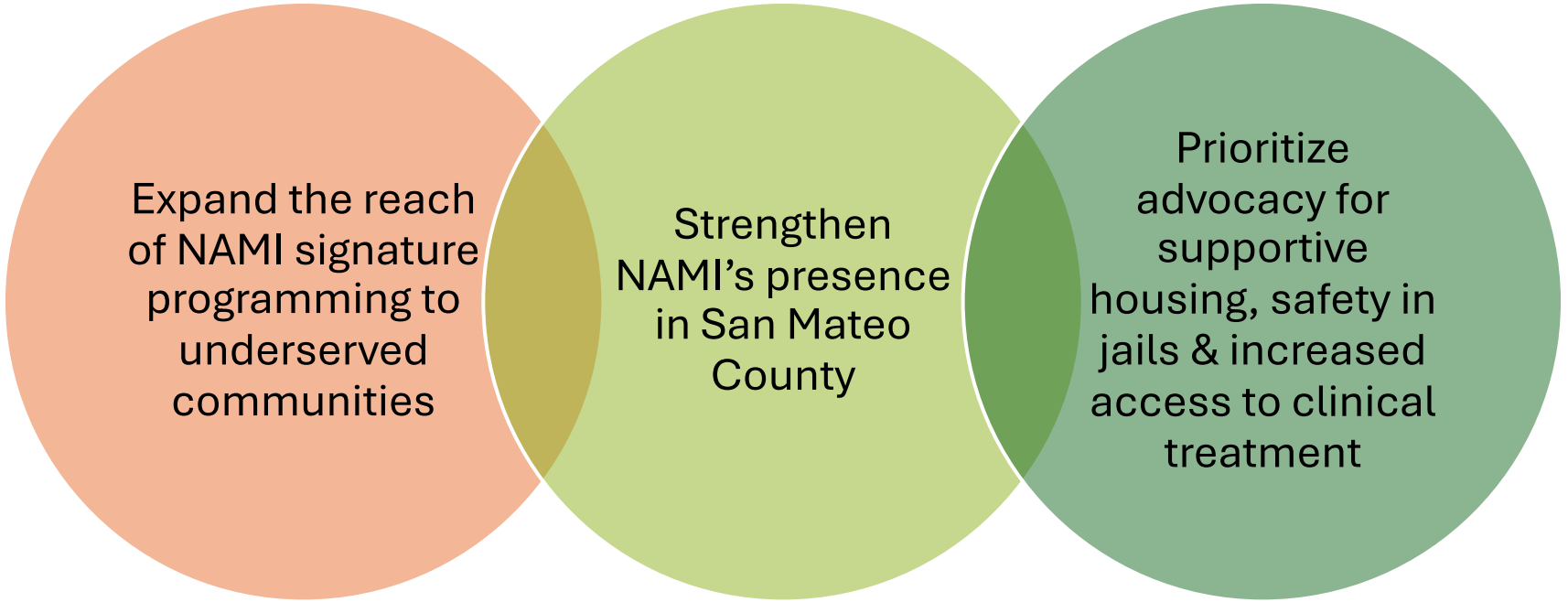
We provide compassionate support, education, and advocacy to enhance the quality of life for individuals and families affected by mental illness.



NAMI San Mateo County
National Alliance on Mental Illness

Three-Year Strategic Plan

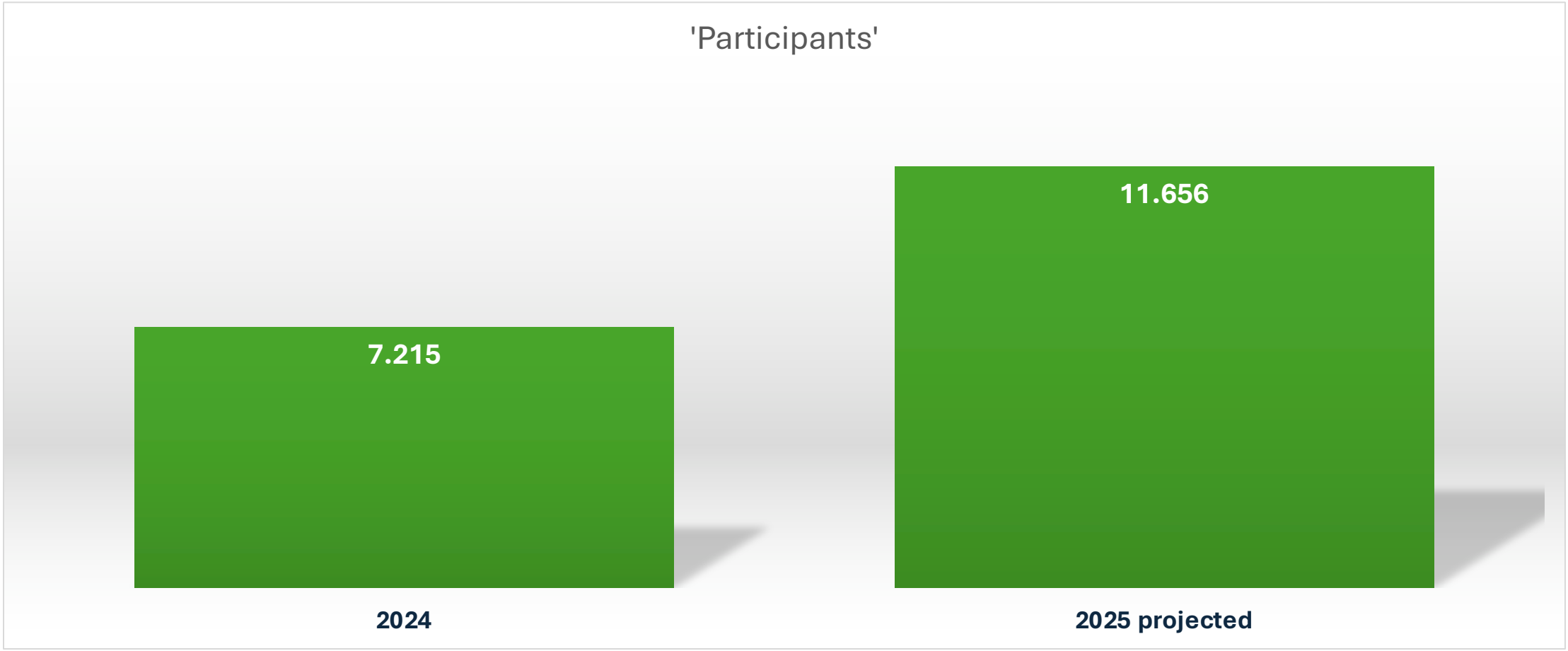
Strategies



Enabling Capabilities

- **Strengthen community partnerships to improve services**
- **Improve financial stability through revenue diversification and fiscal discipline**
- **Improve organizational stability through a collaborative culture, and increase stability**
- **Increase volunteer engagement by actively recruiting**

Impact is on track to increase 62% 2025 vs 2025



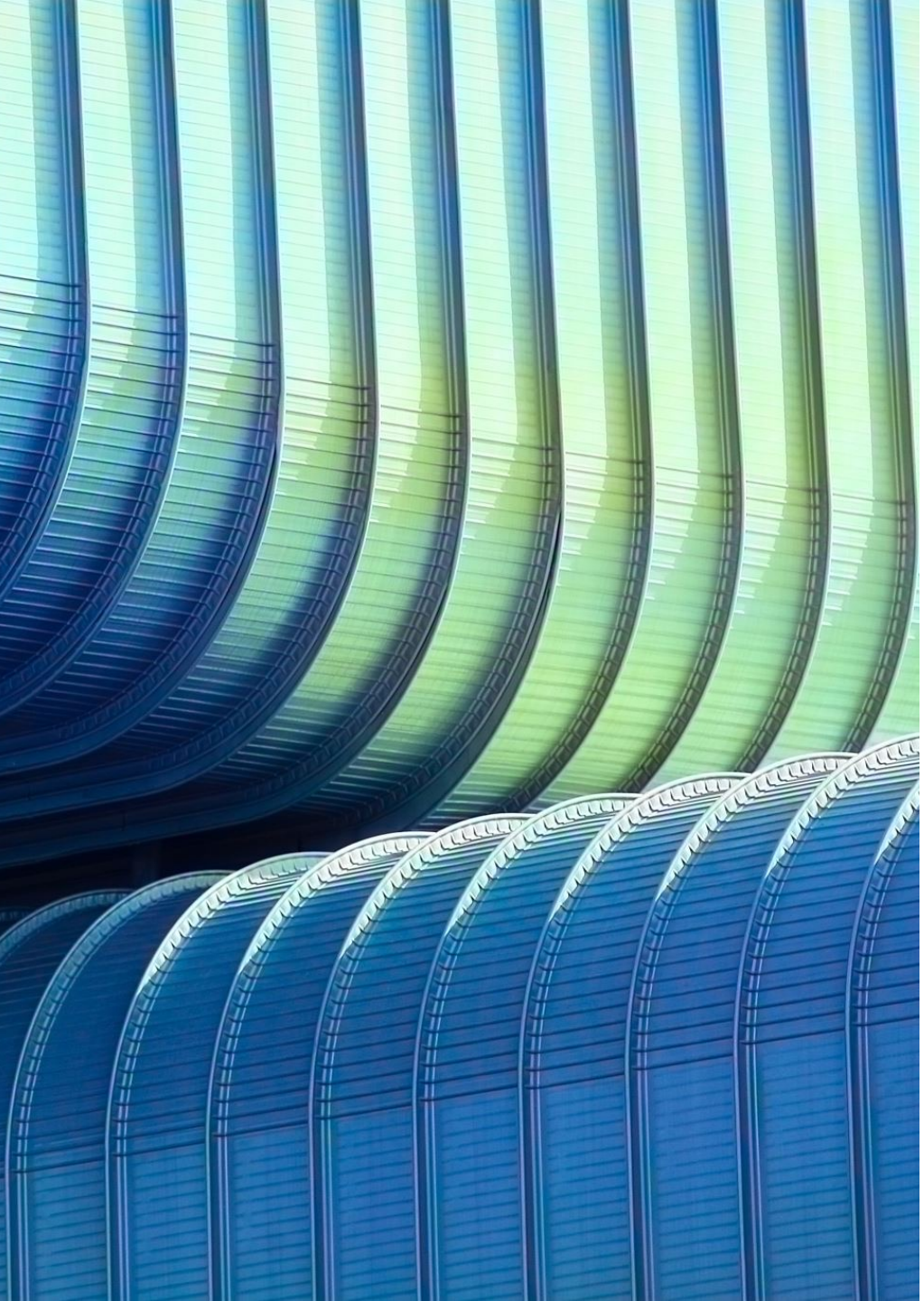
Programs/events: 297

Programs/events: 447

List of Volunteer and Advocacy Opportunities

Each volunteer helps us reach more people, make a deeper impact and build community!

- Family to Family Facilitators
- MH 101 Presenters
- In Our Own Voice Presenters
- Teen Uplift Facilitators
- Ending the Silence Presenters (Adult & Youth)
- Newsletter Distribution & Mailing Volunteers
- Virtual Meeting Producers
- NAMIWalks Volunteers
- Advocates (We can train)



Board of Directors

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Meeting Adjourned

NAMI San Mateo County
National Alliance on Mental Illness

SPEAKER SERIES & ANNUAL GENERAL MEETING

Estate Planning for Families with Mental Health Challenges



Wednesday, November 19 | 6:30-8:00pm
Hybrid

Ellen Cookman

SPECIAL NEEDS PLANNING FOR MENTAL HEALTH CHALLENGES

NAMI San Mateo County
National Alliance on Mental Illness

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ELLEN S. COOKMAN, ESQ.

- Certified Specialist, Estate Planning, Trust and Probate Law, The State Bar of California Board of Legal Specialization
- Principal at Cookman Law, PC
- J.D., UC Berkeley School of Law
- LL.M. in Estate Planning, Trust and Probate, Golden Gate University
- Law Clerk, Chief Judge Anthony J. Scirica, Third Circuit Court of Appeals (Philadelphia, PA)
- California State bar No. 227833
- Parent of child with special needs



SPECIAL NEEDS PLANNING GOALS

one	Maximize quality of life
two	Protect the child/sibling
three	Maximize independence
four	Maximize public benefits
five	Name “surrogate parents”
six	Avoid court system

WHY SPECIAL NEEDS PLANNING MATTERS

Mental health conditions can create inconsistent capacity and financial vulnerability

Risk of overspending, exploitation, or losing essential benefits

Planning allows families to provide support *without* compromising independence

PUBLIC BENEFITS



WHICH PUBLIC BENEFITS DOES CHILD RECEIVE?

Income Stream

Health Insurance

Needs Based

Supplemental Security Income (SSI)

Monthly Income limit: $1,971/mo
Resource Limit: $2000
Max. Monthly Payment: $1,206.94/mo

Earned income decreases SSI 50¢/every $1 of income; unearned income decreases SSI $1/every $1 of income

$1

Medi-Cal (and IHSS)

Monthly Income limit: $1,799.75/mo
Resource Limit: None in 2024; $130,000 starting 1/1/26

Includes *earned* and *unearned* income

Needs Based

Entitlement Based

Social Security Disability Insurance (SSDI)/Child Disability Benefits (CDB)

Monthly Income Limit: $1,550/mo
Resource Limit: None

Only *earned* income interferes

2 years

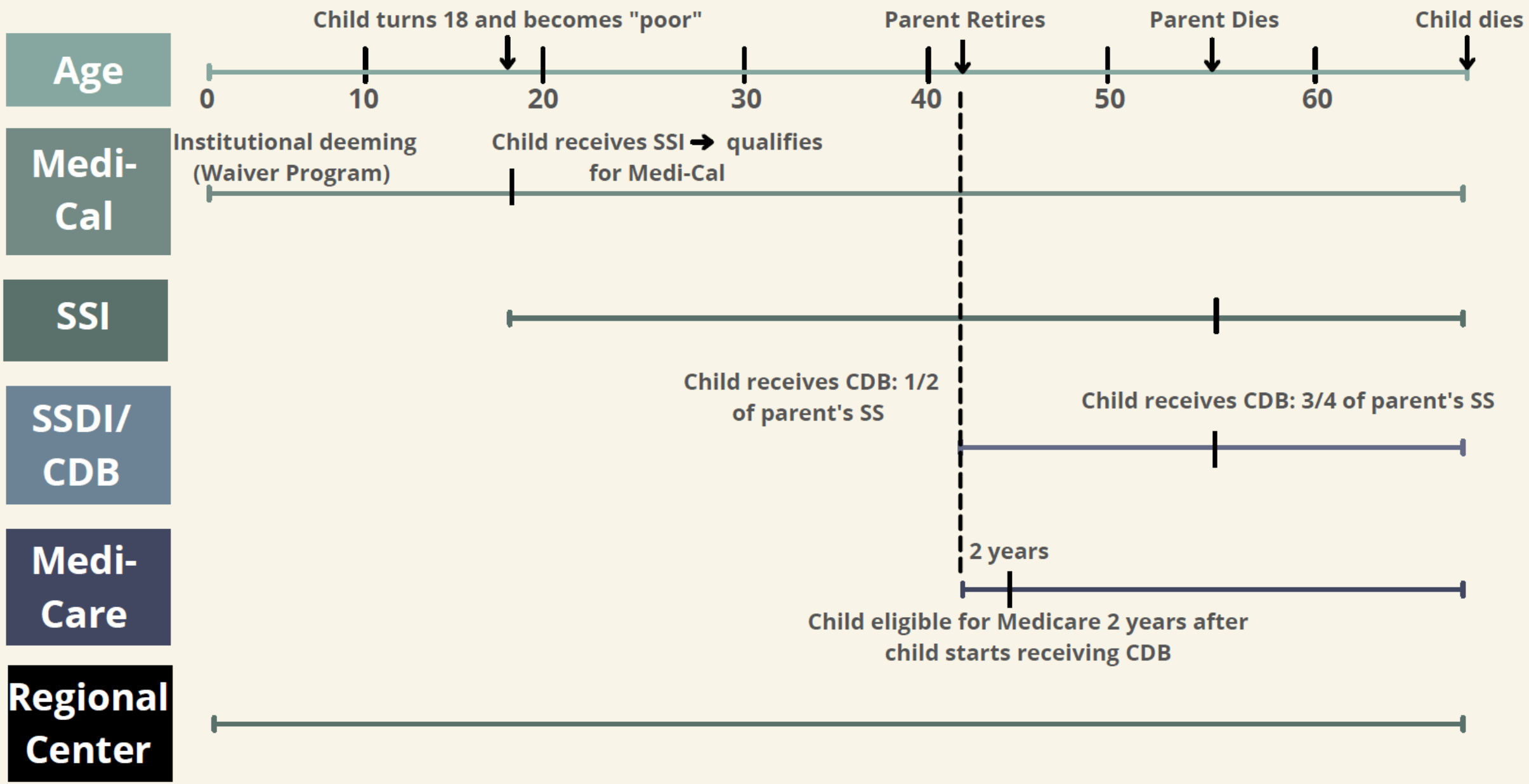
Medicare

Monthly Income Limit: None
Resource Limit: None

Note: higher income --> higher adjustment amount

Entitlement Based

Public Benefits Timeline



SPECIAL NEEDS TRUSTS



WHAT IS A SPECIAL NEEDS TRUST?

- Irrevocable trust
- Holds assets for disabled person's benefit
- DOES NOT interfere with public benefits
- Beneficiary cannot manage the trust
- Like a safety net!

WHAT CAN A SNT PAY FOR?

Just about anything!

" **'Special needs'** then encompasses the very broad range of everything else a human being needs in order to live, thrive, and realize his or her potential in life."

McGee vs. State of Department of Health Care Services (2023)

ANY SNT RESTRICTIONS?

If beneficiary receives SSI benefits, the following count as In-Kind Support and Maintenance (ISM): Mortgage, property taxes, rent, gas, electricity, water, garbage, heating fuel, etc.

Trustee must not distribute cash if beneficiary is receiving public benefits

Some SNTs (improperly) write in further restrictions

What about individuals who do not qualify for needs-based public benefits?

A SNT can still be appropriate if they:

- Need protection from financial predators
- Cannot/should not manage the trust money themselves
- Might qualify for public benefits in the future

A SNT might not be needed if they:

- Someday might be able to manage the trust funds themselves
- Will never qualify for public benefits

*Note: you can remove the "special needs" stigma and call it a "Supplemental Trust" instead

ALTERNATIVE: DYNASTY TRUST

- For neurotypical children, or for children receiving SSDI and/or Medicare only
- Beneficiary OR someone else can act as trustee
- Irrevocable, Non-Grantor Trust
- Protection from spouses, creditors
- Estate tax savings to next generation





Third Party SNT



First Party SNT

WHICH TYPE OF SNT TO ESTABLISH?

3 TYPES OF SPECIAL NEEDS TRUSTS

Type of SNT	Source of Funds	Who Establishes	Distribution on Death
Third Party SNT	Anyone except beneficiary's funds	Anyone except beneficiary	Grantor's wishes
First Party (d)(4)(A) SNT	Disabled beneficiary's funds before age 65	Beneficiary, parent, grandparent, Guardian, Court	Medi-Cal payback; then remainder beneficiaries
(d)(4)(C) Pooled SNT	Disabled beneficiary's funds	Beneficiary, parent, grandparent, Guardian, Court	Non-profit Trustee; or, Medi-Cal payback, then remainder beneficiaries

STANDALONE VS. TESTAMENTARY

Standalone Special Needs Trust

- Can accept gifts during settlors' lifetimes
- Easier for SSA and DHCS to review

OR

Revocable Trust

Article 6 Testamentary Special Needs Trust

- Easier to draft
- Useful if SNT may not be funded

CHOICE OF TRUSTEE

- Family member
- Friend
- Private Professional Fiduciary
- Bank or Trust Company
- Nonprofit
- Pooled Trust
- Combination





WHAT CAN TRUSTEES HELP WITH?

- Budgeting & bill payments
- Medical and therapeutic expenses
- Housing support
- Education & employment support
- Transportation & personal needs
- Coordinating with care providers



OVERSIGHT FOR SNTS?

- Typically no court involvement
- Trust Protector
- Co-Trustees
- Advisory Committee

Trust Protector

Monitors the trustee's actions to ensure proper trust management

- Main Trust Protector powers:
  - Remove and replace trustee
  - Review/approve accountings
  - Modify trust provisions to adapt to changes in laws or unforeseen changes to the beneficiary's circumstances - avoids court!
- Facilitates communication between the beneficiary and trustee, but does not participate in day-to-day trustee decisions
- Named in irrevocable trust
- Generally, no fiduciary duty





MEMORANDUM OF INTENT

This is a separate document from the special needs trust.

Informal letter from parent:

- What makes child happy/sad?
- Food restrictions?
- Housing preferences
- Favorite activities



Cash Accounts



Investment Accounts



Real Estate



Inheritances and other gifts



Settlements



Retirement Accounts



Life Insurance

FUNDING SPECIAL NEEDS TRUSTS

What types of assets can a special needs trust hold?

WHAT HAPPENS WHEN THE BENEFICIARY DIES?

SNT ends when the beneficiary dies.

- Any remaining funds ("the remainder") must then be distributed according to the SNT's terms.

Common "remainder" options:

- To siblings or other family members.
- Split among multiple beneficiaries (family + charitable causes).
- Can be a percentage gift (e.g., 10%) or a fixed amount from the remainder.



COORDINATING WITH OTHER PROFESSIONALS

- **Attorney:** Drafts trust and advises on trust terms, amendments, court petitions
- **CPA:** Prepares and files trust tax returns (e.g. Fiduciary Tax Return - IRS Form 1041); maintains records of trust income, expenses, and distributions; tax planning to minimize tax burdens
- **Financial advisor:** Opens and manages trust account; conducts financial review of assets; manages investments; prepares financial projections to determine how much each child should inherit

ABLE ACCOUNTS:

RULES AND BENEFITS



WHAT IS AN ABLE ACCOUNT AND WHY USE ONE?

ABLE (Achieving a Better Life Experience)

Accounts are tax-advantaged savings accounts for individuals with disabilities and their families.

- Save for disability-related expenses (no Medi-Cal payback requirement when using CalABLE account);
- Earned income grows tax-free and qualified withdrawals are tax-free;
- Does not interfere with public benefits (with limitations); and
- Contribution limits of $19,000 per year from all sources (increasing to $20,000/yr in 2026).

ABLE ACCOUNT: RULES

- To be used only for "qualified disability expenses"
- To be eligible, disability must have manifested before age 26 (increasing to age 46 in 2026)
- Eligible individuals can open the account for themselves, or an authorized individual (parent, legal guardian/conservator or power of attorney) can open an account on their behalf.
- Beneficiary or Authorized Legal Representative (ALR) can manage the account
- Anyone can make contributions directly to an ABLE account
- Only one ABLE account can be established per disabled individual

ABLE ACCOUNT & PUBLIC BENEFITS

- SSI suspended if total amount in account exceeds $100,000, but can continue to receive Medi-Cal
- California residents using CalABLE accounts won't have a Medi-Cal reimbursement claim upon their death; ABLE accounts established in other states (as of 1/23) WILL be subject to reimbursement claim

WHAT IS A QUALIFIED DISABILITY EXPENSE?

A **Qualified Disability Expense** is ANY expense that is incurred as a result of living with a disability and is intended to improve quality of life. Qualified expenses include, but are not limited to:

- Education
- Health and wellness
- Housing (should be spent in same month as withdrawn from ABLE account)
- Transportation
- Legal Fees
- Financial Management
- Employment training and support
- Assistive Technology
- Personal support services
- Oversight and monitoring
- Funeral and burial expenses

CONTRIBUTION LIMITS

- **$19,000** annual contribution cap (for 2025);
  - This is increasing to **$20,000** in 2026!
- **$100,000** total cap for SSI recipients (contributions + earnings)
- **$529,000** total contribution cap for ABLE account (in California)

Note: every state has its own total contribution cap



GIFTING

- Set up a "Gifting" page and share the link with friends and family.
- Gift contributions do not count as the beneficiary's income
- Gift contributions count toward the beneficiary's annual contribution limit of $19,000 (in 2025).
    - *Note: gift tax annual exclusion remains at $19,000/yr in 2026*



SAVINGS AND INVESTMENT OPTIONS

Investment options vary across ABLE plans, but most plans offer multiple portfolio options based on risk tolerance and investment goals:

- **Long-term savings:** Beneficiary might consider a diversified portfolio to maximize growth potential over time.
- **Short-term use of qualified expenses:** The FDIC-Insured Portfolio offers protection against short-term market fluctuations, ensuring funds are readily available when needed.
- **Long-term savings and short-term use of funds:** Beneficiary might consider spreading the funds among several portfolios.





ABLE TO WORK

- Beneficiaries earning income from employment can contribute more than $19,000 annual cap, up to the Federal Poverty Level, currently $15,060 for a single person, if not participating in employer's retirement plan.
- Potential maximum contribution is **$34,060** per year.

ROLL OVER TO 529 PLAN

- You can roll over funds between 529 College Savings Plans and CalABLE accounts for the beneficiary and their siblings, as long as the total rolled over amount is within the annual CalABLE contribution limit ($19,000 in 2025).
- *Note*: this federal rule was set to expire in 2026, but the OBBBA made this rollover option permanent.



SETTING UP A CalABLE ACCOUNT

Bank Account

Set up checking or savings account at favorite bank

CalABLE Website

Set up an account on CalABLE website:

https://www.calable.ca.gov/

Required Information

- Beneficiary's SSN;
- Authorized legal representative's SSN; and
- Bank account information

Access to Funds

Reloadable, prepaid Visa debit card is now available

ABLE VS. 3RD PARTY SNT VS. 1ST PARTY SNT

Issues	ABLE Account	3rd Party SNT	1st Party SNT
Who can use?	Only persons disabled before age 26 (increases to age 46 in 2026)	Any person with a disability	A person with disability under age 65
Who can fund?	Anyone, including person with disability	Anyone, except person with disability (must use 1st Party SNT)	The person with a disability, conservator, guardian, agent, court
How many can a person have?	One	Unlimited	Unlimited
Who can control?	Person with a disability, guardian, Conservator, or agent	Anyone except the person with a disability and their spouse	Anyone except the person with a disability and their spouse
Medi-Cal Payback	No (if using CalABLE account)	No	Yes
Who can inherit on the death of person with disability	Estate of disabled person	Whomever is named in the document	Whomever is named in the document

ABLE vs. 3RD PARTY SNT vs. 1ST PARTY SNT

Issues	ABLE Account	3rd Party SNT	1st Party SNT
How much can be funded in a year?	$19,000 (or annual gift exemption)	Unlimited	Unlimited
Is funding gift tax-free?	Yes	No	No
Is there a cap on how much can be in an account?	Yes, currently $100,000 limitation for SSI recipients and up to state 529 plan limits for Medicaid only recipients ($529,000 in CA)	No	No
How is income taxed?	No income tax	Tax as non-grantor trust as highest marginal tax rate	Tax as a grantor trust at beneficiary's rate
What type of distributions can be made?	Qualified disability expenses	No limitation except for certain disbursements may reduce for eliminate SSI or Medicaid eligibility	Primary Benefit of beneficiary

SUPPORTED DECISION MAKING



WHAT IS SUPPORTED DECISION-MAKING?

1

Helps people with disabilities make their own decisions about their lives with the support of people they trust

2

People with disabilities retain their legal rights

3

Less restrictive alternative to conservatorship

4

Note:
SDM describes how many people already make decisions!

WHY IS SDM SO POWERFUL?

- Disabled people are allowed to retain their legal capacity while selecting others to support them in their decision-making
- People's choices, preferences and decisions are respected
- Helps build a circle of support
- Studies show that people with self-determination experience better life outcomes
  - Overbroad conservatorship has a "significant negative impact on…physical and mental health, longevity, ability to function, and reports of subjective well-being" (Wright, 2010)



Supported Decision-Making Agreement

This agreement must be read out loud or otherwise communicated to all parties to the agreement in the presence of either a notary or two witnesses. The form of communication shall be appropriate to the needs and preferences of the person with a disability.

My name is: _____.

I want to have people I trust help me make decisions. The people who will help me are called **supporters.**

My supporters are not allowed to make choices for me. I will make my own choices, with support. I am called the **decider**.

This agreement can be changed at any time. I can change it by crossing out words and writing my initials next to the changes. Or I can change it by writing new information on another piece of paper, signing that paper, and attaching it to this agreement.

Signature of Decider

I am signing this supported decision-making agreement because I want people to help me make choices. I know that I do not have to sign this agreement. I know that I can change this agreement at any time.

My printed name: _____

My address: _____

My phone number: _____

My email address: _____

Today's date is: _____

*Wait to sign your name until a **notary** or **two witnesses** are there to watch you sign.*

My signature: _____

Supporters

Supporter #1

Name: _____ Address: _____

Phone Number: _____ Email address: _____

I want this person to help me with these choices: (*check as many boxes as you want*)

Personal Care:

- ☐ Making choices about food
- ☐ Making choices about clothing
- ☐ Taking care of personal hygiene (showering, bathing)
- ☐ Remembering to take medicine

Staying Safe:

- ☐ Making safe choices around the house (for example, fire alarms, turning stove off)
- ☐ Understanding and getting help if I am being treated badly (abused)
- ☐ Making choices about alcohol and drugs

Home, Work, and Friends:

- ☐ Making choices about where I live and who I live with
- ☐ Making choices about where to work or what activities to go to
- ☐ Choosing what to do in my free time
- ☐ Finding support services, hiring and firing staff

Health Choices:

- ☐ Choosing when to go to the doctor or dentist
- ☐ Making medical choices for everyday things (for example, check-up, small injury, taking aspirin)
- ☐ Making choices about major medical care (for example, big injuries, surgery)
- ☐ Making choices about medical care in emergencies

Partners:

- ☐ Making choices about dating, sex, birth control, and pregnancy
- ☐ Making choices about marriage

Money:

- ☐ Paying the bills on time and keeping a budget
- ☐ Keeping track of my money and making sure no one steals my money
- ☐ Making big decisions about money (for example, opening a bank account, signing a lease)

Other: (*write any other areas where you want support*):

- ☐ _____.

WHAT DOES MY DISABLED CHILD NEED WHEN THEY TURN 18?



DURABLE POWER OF ATTORNEY ("DPA")

- Principal gives someone the ability to sign financial documents

- Can allow parent to:
  - Attend IEPs, access principal's bank accounts, talk with public benefits programs

- Forms are available online, but are often incomplete.
  - Some powers must be spelled out (i.e. gifting powers)

- Problems:
  - Principal can revoke the DPA
  - Banks often don't accept forms
  - Substitute decision-making – not empowering for the individual

ADVANCE HEALTH CARE DIRECTIVE ("AHCD")

- Names someone to advocate on principal's behalf if unconscious in the hospital.
- Access medical records
- Spell out decisions:
  - "Keep me alive"/"let me go?"
  - Organ donations?
  - Burial/cremation/green burial?
- Again, revocable by principal

SUGGESTED NEXT STEPS…

1. Look over your own estate planning documents and see if they're up to date.
2. Reach out to our office if you have questions on how your documents work or if you need updates.
3. Share the information you learned with others who can benefit.



ABOUT COOKMAN LAW

- Palo Alto law firm serving all of California
- 3 attorneys, 10 support staff
- We charge a flat fee for estate planning, special needs planning and trust administration
- We do not assist with applications for public benefits
- Now launching our Trust Maintenance Program!



THANK YOU FOR YOUR ATTENTION!

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www.cookmanlaw.com

We will make a $300 donation to NAMI San Mateo Co. for each new flat fee client

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Ellen Cookman - Special Needs Trust Attorney

Cookman Law

Ellen Cookman, JD, LL.M