

SPECIAL NEEDS TRUSTS FOR PEOPLE WITH DISABILITIES

What is a Special Needs Trust?

A special needs trust is a unique trust that holds assets for the benefit of a person with a disability while maintaining the person's eligibility for Medicaid and Social Security S.S.I. benefits. Special needs trusts have only been authorized since 1993, so a lot of people are unaware of the benefits of a special needs trust. Now, we can leave an inheritance to a person with disabilities. As long as a special needs trust is used, eligibility for public entitlement benefits is preserved.

There are two types of Special Needs Trusts:

- 1) A "self-settled" or "first party" special needs trust is one funded with assets already owned or received by the person with a disability, and
- 2) A "third party" special needs trusts is one funded with assets of another person for the benefit of the person with a disability.

What to Know about Medicaid's "Pay Back" Rules for Special Needs Trusts:

A self-settled special needs trust must "pay back" the state Medicaid agency at the death of the person with a disability, whereas the third party special needs trust is not required to "pay back" Medicaid.

What are the Benefits of a Special Needs Trust?

A special needs trust allows a person with a disability to receive a source of funds to supplement the basic needs provided by Medicaid and S.S.I.

A special needs trust also allows you to appoint the trustee who will be responsible for managing money or other assets given to the person with a disability.

What about the Age Restriction for Special Needs Trusts?

Until recently, a special needs trust could only be established by four people: (1) a parent; (2) a grandparent; (3) a court; or (4) a guardian.

Now, the individual with disabilities may establish his own trust but must do so before turning age 65.