

Special Needs Trusts and ABLE Accounts

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Special Needs Trusts

- To benefit individuals with disabilities.
- Maintain eligibility for public assistance programs.
- Enhance quality of life.

Overview of Public Assistance Programs

Incomes

- Social Security Disability Insurance (SSDI)
- Supplemental Security Income (SSI)
- Disabled Adult Child – Childhood Disability Benefits

Overview of Public Assistance Programs

Medical Coverage

- Medicare
- Medicaid
- Medicaid Waiver Programs
- Private Insurance - ACA

Eligibility for SSI and Medicaid Programs

- Level of care (medical need)
- Resource test and cap levels on assets and income
- Penalty periods if you transfer
- Traditional trusts count as an available resource

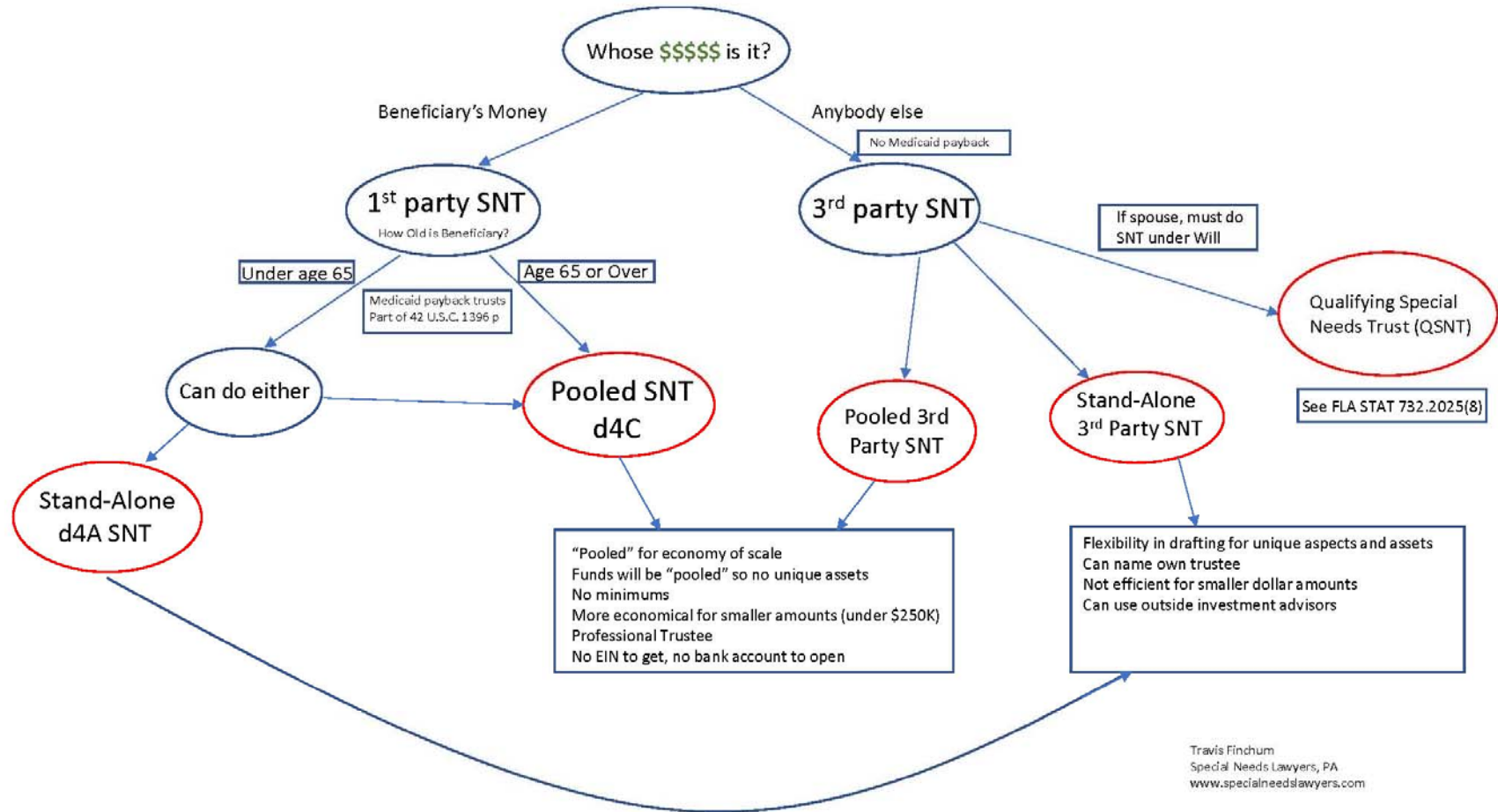
SSI-Related Programs -- Financial Eligibility Standards: January 1, 2018

PROGRAMS & TYPES OF COVERAGE	INCOME		ASSETS		MAINTENANCE NEEDS STANDARDS / OTHER									
	Individual	Couple	Individual	Couple										
PROGRAMS MANAGED BY SOCIAL SECURITY					Disregards: *Standard Disregard = \$20 *Earned Income Disregard = \$65 + 1/2 Student Earned Income Disregard = \$1,820 monthly, maximum \$7,350 for calendar year Ineligible Spouse Deeming: 1/2 FBR = \$375 Child Allocation = \$375/child (Difference between the couple and single FBR) Parent to Disabled Child Deeming: Parent Allocation = \$750 Disability Substantial Gainful Activity (SGA) = \$1,180 non-blind \$1,970 blind Medicare Part B Premium = \$134.00, Part A free for most or \$422 <i>* A \$20 General Income Disregard applies to these programs. \$20 will be subtracted from the total of all income, not based on need before comparing the income to the income limit. In addition, \$65 is subtracted from the total of all earned income, and 1/2 the remainder is subtracted before comparing the income to the income limit.</i>									
*Supplemental Security Income (SSI) Federal Benefit Rate (FBR) Cash payment of SSI from SSA; Includes Full Medicaid														
*Low Income Subsidy (LIS) or Extra Help (150% FPL) Helps with costs associated with Medicare Prescription Drug Plans Automatic with full Medicaid or Medicare Savings Programs (QMB, SLMB, QI1). Income limits change yearly														
PROGRAMS FOR PEOPLE 65+ OR DISABLED (Community Medicaid Programs)														
*MEDS-AD (MM S) (88% FPL) Full Community Medicaid														
*Medically Needy (No Income Limit) Medically Needy Income Level (MNIL) Full Community Medicaid when Share of Cost is met														
PROGRAMS FOR PEOPLE WITH MEDICARE (Medicare Savings Programs/Buy-In)														
*QMB (100% FPL) Pays Medicare A & B premiums, coinsurance & deductibles only														
*SLMB (120% FPL) Pays for Medicare Part B premium only (PBMO)														
*QI1 (135% FPL) PBMO														
*Working Disabled (200% FPL) Qualified Disabled Working Individuals (ODWI) Program Pays for Medicare Part A only. Must have lost SSDI due to employment														
PROGRAMS BASED ON INSTITUTIONAL POLICY – Patient Responsibility and Income Trusts may apply.					PERSONAL NEEDS ALLOWANCE <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">Individual</th> <th style="width: 50%;">Couple</th> </tr> <tr> <td style="text-align: center;">\$105</td> <td style="text-align: center;">\$210</td> </tr> <tr> <td style="font-size: small;">Community \$1,005 NH \$105</td> <td style="font-size: small;">Community \$1,354 NH \$210</td> </tr> <tr> <td colspan="2" style="font-size: x-small;">PACE / SMMC-LTC in ALF: R&B+ \$201 / \$402 PACE / SMMC-LTC at home: \$2,250 / \$4,500 PACE in NH: \$105 / \$210 iBudget : \$2,250 / \$4,500 References: 2640.0117.01 & 2640.0118</td> </tr> </table> SSI Individual \$30 only in NH = \$75 (SPS) Transfer of Asset Divisor = \$8,944 (eff 6/1/2017) Community Hospice Allocations: Spouse only = FBR (\$750) Spouse + Dependents or Dependents Only = CNS Standard Spousal Impoverishment: MMMNA = \$2,030 Excess shelter = \$609 Standard Utility Allowance = \$347 Maximum Income Allowance = \$3,090 Community Spouse Resource Allowance = \$123,600 Family Members Allowance with Spouse = (MMMNA-income) divided by 3 Dependents with no Spouse = CNS Standard Home Equity Interest Limit = \$572,000		Individual	Couple	\$105	\$210	Community \$1,005 NH \$105	Community \$1,354 NH \$210	PACE / SMMC-LTC in ALF: R&B+ \$201 / \$402 PACE / SMMC-LTC at home: \$2,250 / \$4,500 PACE in NH: \$105 / \$210 iBudget : \$2,250 / \$4,500 References: 2640.0117.01 & 2640.0118	
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Institutional Care Program (ICP) Pays Nursing Home (NH) room, board & care Pays Medicare A & B premiums, coinsurance & deductibles														
Hospice Pays Hospice services related to terminal illness Pays Medicare A & B premiums, coinsurance & deductibles														
Home and Community Based Services (HCBS) or Waivers Pays Medicare A & B premiums, coinsurance & deductibles														
STATE FUNDED PROGRAMS														
OPTIONAL STATE SUPPLEMENT (OSS) REDESIGN Maximum Payment = \$78.40 single / \$156.80 Couple Assists with paying room & board at alternate living facilities														
PROTECTED OSS Maximum Payment = \$239 single / \$478 Couple Assists with paying room & board at alternate living facilities														
HOME CARE FOR DISABLED ADULTS (HCDA) Pays small stipend to caregivers of disabled														

Special Needs Trusts

- Self-Settled – with beneficiary's own funds
- Third Party – someone other than the beneficiary or spouse

SNT (Special Needs Trust) Analysis



Trusts

Basic Parties in all Trusts:

- Settlor (Grantor)
- Trustee (manager)
- Beneficiary

Third Party Special Needs Trusts

- **Set up by a family member or friend for a person with disabilities**
- **Can be done by a spouse if done in a Will (only after death)**
- **Generally a specific trust for each beneficiary**
- **No Medicaid pay-back – can go to other family members**

Third Party Special Needs Trusts

- **Can set up the trust and fund it now**
- **Can have trust funded later**
- **Can write SNT within Will or it can be within a Revocable Living Trust**
- **Can direct funds into a Pooled Trust later**

Self Settled Special Needs Trusts

Must be Irrevocable

Must be the funds of the person
with a disability

- Inheritance
- Personal Injury Award
- Earnings and Savings

Self Settled Special Needs Trusts

42 U.S.C. §1396 p(d)(4) (Social Security Act)

(d)(4)(A) – Under Age 65 Disability SNT

(d)(4)(B) – Qualified Income SNT

(d)(4)(C) – Pooled SNT

Self-Settled SNT (d4A)

- **As of 12/13/16 can be established by the beneficiary directly (and therefore his or her Agent)**
- **Still can be established by parent, grandparent, legal guardian or by court order**
- **Still MUST have mandatory Medicaid payback on death of the beneficiary before residual beneficiaries**

Pooled Trusts

- **By combining funds with others similarly situated (pooling), costs can be lowered and “minimum fees” can be avoided**
- **Some pooled trusts have one-time enrollment fees as low as \$500**
- **Many pooled trusts do not have minimum monthly or annual fees**
- **Non-profit organizations also administer trusts**
- **Guardian Pooled Trust – Guardiantrusts.org**

Special Needs Trusts: Advantages and Disadvantages of Self-Settled SNT's

➤ **Advantages**

- **Maintain governmental benefits**
- **Keep your money**
- **Provide for supplemental needs**

➤ **Disadvantages**

- **Trust assets may be restricted**
- **Challenges related to selecting a trustee**
- **Trust assets subject to state claim on death**

ABLE Accounts

- Achieving a Better Life Experience
- 529A
- Signed by President in Dec 2014
- Started in Florida July 1, 2016
- Florida's ABLE is ABLE United
- Administered under FL Prepaid College Board
- Waiving all admin fees (small investment fee)

ABLE Accounts

- Annual contributions limited to annual gift tax excl. (\$15,000)
- Opened on-line at AbleUnited.com
- Exempted for SSI, Medicaid, Food Assistance, Housing
- Grows Tax-Free if used for QDE – Qualified Disability Expenses

ABLE Accounts

- SSI limit is \$100K then excess counts
- Medicaid limit is \$418K (529 FL limit)
- Beneficiary's disability must have occurred prior age 26
- Medicaid payback on death of bene
- Can only have 1 ABLE account

ABLE Accounts - QDE

- ▶ Education;
- ▶ Housing;
- ▶ Transportation;
- ▶ Employment training and support;
- ▶ Assistive technology and related services;
- ▶ Health;
- ▶ Prevention and wellness;
- ▶ Financial management and administrative services;
- ▶ Legal fees;
- ▶ Expenses for ABLE account oversight and monitoring;
- ▶ Funeral and burial; and,
- ▶ Basic living expenses

ABLE Accounts Recent Changes

- ▶ Upped the annual contributions with annual gift tax exclusion - \$15,000/year
- ▶ Allows rollovers from 529 plans to 529A's
- ▶ Allows additional contributions for earned income up to FPL - \$12,060 per year (if don't have DBP) and may be able for Federal Tax Savers Credit (26 USC 25B)
- ▶ Florida has waived Medicaid recovery from ABLE accounts and remaining funds will go to Estate of Beneficiary. Still Estate Recovery?

Trait	ABLE	d4A	d4C	Third Party SNT
Can be Established by Beneficiary Directly	yes	yes	yes	no
No Limited annual Contributions	no	yes	yes	yes
No Medicaid Payback on Death	maybe	no	no	yes
Can pay for food and shelter for SSI recipient without impacting benefits	yes	no	no	no
Grows Tax free	yes	no	no	no
No Lifetime Limits on account size	no	yes	yes	yes
Exempt from Creditors Claims	yes	maybe not	maybe not	yes
Allows for some disbursements after death	yes	no	no	yes
Low fees	yes	no	maybe	maybe
Distribution standard broader than just sole benefit of beneficiary	yes	no	no	yes
Can be controlled by the beneficiary directly	yes	no	no	no

yes
 no
 maybe

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Thank You!

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