

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
- [SSA.gov](https://www.ssa.gov)

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 & Coverage Groups - Financial Eligibility Standards: January 2021

PROGRAMS & TYPES OF COVERAGE	INCOME		ASSETS		MAINTENANCE NEEDS STANDARDS / OTHER								
	Individual	Couple	Individual	Couple									
PROGRAMS MANAGED BY SOCIAL SECURITY (eff 01/01/2021)					Disregards: Standard Disregard = \$20 Earned Income Disregard = \$65 + 1/2 Student Earned Income Disregard = \$1,930 monthly, maximum \$7,770 for calendar year Ineligible Spouse Deeming: ½ FBR = \$397 Child Allocation = \$397/child (Difference between the couple and single FBR) Parent to Disabled Child Deeming: Parent Allocation = \$794 Disability Substantial Gainful Activity (SGA) = \$1,310 non-blind \$2,190 blind Medicare Part B Premium = \$149, Part A free for most or \$471 *Interim figures are calculated based on the 2021 1.3% Cost of Living Adjustment (COLA) until the official Federal Poverty Levels (FPL) are published in the Spring of 2021.**								
Supplemental Security Income (SSI) Federal Benefit Rate (FBR) Cash payment of SSI from SSA; Includes Full Medicaid	\$794 (FBR)	\$1,191 (FBR)	\$2,000	\$3,000									
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 asset limits change annually	\$1,616	\$2,183	\$13,290	\$26,520									
COVERAGE GROUPS FOR PEOPLE 65+ OR DISABLED (Community Medicaid Programs) (interim 01/01/2021) *													
MEDS-AD (MM S) (88% FPL) Full Community Medicaid	\$948	\$1,281	\$5,000	\$6,000									
Medically Needy (No Income Limit) Medically Needy Income Level (MNIL) Full Community Medicaid <u>when</u> Share of Cost is met	Subtract \$180 from gross income	Subtract \$241 from gross income											
PROGRAMS FOR PEOPLE WITH MEDICARE (Medicare Savings Programs/Buy-In) (interim 01/01/2021) *													
QMB (100% FPL) Pays Medicare A & B premiums, coinsurance & deductibles only	\$1,078	\$1,456	\$7,970	\$11,960									
SLMB (120% FPL) Pays for Medicare Part B premium only	\$1,293	\$1,746											
QI1 (135% FPL) Pays for Medicare Part B premium only	\$1,455	\$1,965											
Working Disabled (200% FPL) Qualified Disabled Working Individuals (QDWI) Program Pays for Medicare Part A only . Must have lost SSDI due to employment	\$2,155	\$2,903	\$5,000	\$6,000									
PROGRAMS BASED ON INSTITUTIONAL POLICY – Patient Responsibility and Income Trusts may apply. (eff 01/01/2021)					PERSONAL NEEDS ALLOWANCE <table><tr><th>Individual</th><th>Couple</th></tr><tr><td>\$130</td><td>\$260</td></tr><tr><td>Community \$1,078 NH \$130</td><td>Community \$1,456 NH \$260</td></tr><tr><td colspan="2">PACE /HCBS in ALF: *R&B+ \$215 / \$430 PACE /HCBS @ home: \$2,382/\$4,764 PACE in NH: \$130 / \$260 iBudget: \$2,382 / \$4,764</td></tr></table>	Individual	Couple	\$130	\$260	Community \$1,078 NH \$130	Community \$1,456 NH \$260	PACE /HCBS in ALF: *R&B+ \$215 / \$430 PACE /HCBS @ home: \$2,382/\$4,764 PACE in NH: \$130 / \$260 iBudget: \$2,382 / \$4,764	
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Institutional Care Program (ICP) Pays Nursing Home (NH) room, board & care Pays Medicare A & B premiums, coinsurance & deductibles	\$2,382 (MEDS-AD Institutional Income Limit \$948)	\$4,764 (MEDS-AD Institutional Income Limit (\$1281))	\$2,000 (\$5,000 if MEDS-AD eligible)	\$3,000 (\$6,000 if MEDS-AD eligible)	SSI Individual \$30 only in NH = \$100 (SPS) Transfer of Asset Divisor = \$9,485 (eff 7/1/2019) Community Hospice Allocations: Spouse only = FBR (\$794) Spouse + Dependents or Dependents Only = CNS Standard Spousal Impoverishment: (eff 07/01/2020) MMMNA = \$2,155 Excess shelter = \$647 Standard Utility Allowance = \$370 (eff 10/2020) Maximum Income Allowance = \$3,260 Community Spouse Resource Allowance = \$130,380 Family Members Allowance with Spouse = (MMMNA-income) divided by 3 Dependents with no Spouse = CNS Standard Home Equity Interest Limit = \$603,000								
Hospice Pays Hospice services related to terminal illness Pays Medicare A & B premiums, coinsurance & deductibles													
Home and Community Based Services (HCBS) Waivers or PACE Pays Medicare A & B premiums, coinsurance & deductibles													
STATE FUNDED PROGRAMS (eff 01/01/2021)													
OPTIONAL STATE SUPPLEMENT (OSS) REDESIGN Maximum Payment = \$78.40 single / \$156.80 Couple Assists with paying room & board at alternate living facilities	\$872.40	\$1,744.80	\$2,000	\$3,000	<table><tr><td>\$54 Provider rate \$818.40</td><td>\$108 Provider rate \$1636.80</td></tr><tr><td>\$54 Provider rate \$979</td><td>\$108 Provider rate \$1,958</td></tr><tr><td colspan="2"></td></tr></table>	\$54 Provider rate \$818.40	\$108 Provider rate \$1636.80	\$54 Provider rate \$979	\$108 Provider rate \$1,958				
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PROTECTED OSS (Reference OLM 2040.0822) Maximum Payment = \$239 single / \$478 Couple Assists with paying room & board at alternate living facilities	\$979	\$1958											
HOME CARE FOR DISABLED ADULTS (HCDA) Pays small stipend to caregivers of disabled	\$2,382	\$4,764											

Special Needs Trusts

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

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

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**

Special Needs Trusts: Practical Uses

- **Family Law**
 - **Child Support can be assigned**
 - **Spousal Support can be assigned**
 - **Maximizes SSI and makes Medicaid easier**
- **Personal Injury**
 - **Can maintain SSI and Medicaid programs**
 - **Can keep funds out of guardianship for minors (good and bad)**
 - **Medicare beneficiaries – Medicare Set Aside Accounts (MSA's)**

Special Needs Trusts: Practical Uses

➤ **Veteran's Benefits**

➤ **Survivor's Benefits can be assigned**

- **Must be a first party SNT and must have an Attorney Opinion Letter that the trust qualifies**

➤ **Trusts for Disabled Children**

- **Can transfer assets into a SNT for others – for SSI and for Medicaid LTC**

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

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 under certain circumstances
- Can only have 1 ABLE account

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 - 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

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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