

Starting Soon...

Medicaid and Special Needs: Preserving Benefits. Protecting the Future.

June 8, 2026

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Welcome

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- ▶ **Type Questions in the Q&A Section at the Bottom of Your Screen**
- ▶ **Presentation is Posted: Pierrolaw.com/Resources Under Medicaid Planning**
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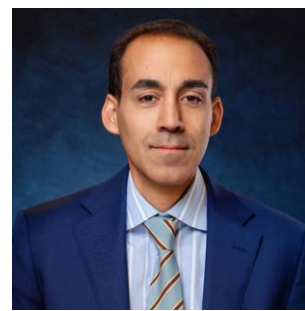
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WATCH 2026 MEDICAID MONDAY VIDEOS:

January	Let's Do the Numbers
February	Medicaid Trust Planning
March	Aging Well in NY w/o Medicaid – Becky Preve, Guest
April	CDPAP after Transitions – Valerie Bogart, Guest
May	Hot Topics at the 31 st Annual Elder Law Forum

<https://www.pierrolaw.com/medicaid-planning-videos/>

Agenda

- New York State Medicaid Income and Resource Allowances
- Fundamentals of Planning for individuals with disabilities
- Rule changes ahead
- Types of Special Needs Trusts
- Pooled Trusts
- ABLE Accounts



NY MEDICAID INCOME & ASSET LIMITS

INCOME / MTH

ASSET LIMIT

YEAR	SINGLES	COUPLES	SINGLES	COUPLES
2026	\$1,856	\$2,509	\$33,038	\$44,796

- Community Spouse Income Allowance: \$4,066.50
- Same income limit will be used for younger people under Affordable Care Act and for Age 65+, blind & disabled

Institutionalized Individual Income Allowance remains the same: \$50

Fundamentals of Special Needs Planning

- **Techniques are permitted** by federal and state law to maximize available resources
- **Government benefits available** regardless of means (in some cases)
- **Personal Resources = Secondary Support**
- **Federal & NY law favor community-based care** over institutions



Federal Benefits Not Based on Financial Need

- SSDI (Social Security Disability Insurance)
 - For adults with work history
 - Benefits based on parents' work history
- Medicare (Disability + 2 years)
- Disabled Adult Child or "DAC" benefits
- Other benefits
 - e.g. special education, housing, real estate tax abatement



Federal Benefits: Need-Based

Supplemental Security Income (SSI)

- Benefits are up slightly (about **2.8%** for inflation)
- Federal Maximums: **\$994 (individual) / \$1,491 (couple)**
 - NY Maximums: **\$1,081 (individual) / \$1,595 (couple)**
- Final benefit still depends heavily on **income and living arrangements**
- Resource Limit: **\$2,000** for single individuals and **\$3,000** for couples

New York Medicaid

- Income \$1,856
- Resources \$33,038 individual + certain exempt assets

Changes Ahead?

30-month lookback for asset transfers for Community Medicaid were supposed to be phased in starting October 2020.



No action from the NYS Dept. of Health on when.

Upside: Window of opportunity now for legal planning.

Gifts Assets Directly to Person with a Disability – Disaster

What if you.... Gift or Bequeath assets to another family member (usually a sibling) to hold for the benefit of the individual with a disability?

DON'T DO IT!

Instead...

Provide the benefit via a Supplemental Needs Trust



Supplemental Needs Trusts

- Supports quality of life by providing a supplemental source of funds
- Ensures eligibility for government benefits that have income and resource tests, such as SSI and Medicaid



Designing the Trust



- Beneficiary's physical and cognitive abilities are key
- May allow for participation of the person with the disability to the maximum extent possible

Types of Special Needs Trusts

- Self-settled or "First-Party" SNT
- Third-party SNT – The Best!!
- Pooled SNT



Parties to the SNT



- **Settlor/Grantor** - creates the Trust
- **Beneficiary** - receives the benefit of the Trust
- **Trustee** - Controls the Trust
 - Trustee is a Fiduciary responsible for financial decisions and the type and amount of distributions
- Possible additional parties
 - Health Advocate or Care Manager
 - Trust Advisor or Trust Protector

SNTs, SSI and Medicaid

- Distributions made at discretion of the trustee
- Distributions made directly to providers of goods and services **for the benefit of the beneficiary**
- Money paid to beneficiary is counted by SSI and considered income by Medicaid - **BEWARE**
 - Determines recipient's required contribution to his or her case
- The Trust must be **purely discretionary**, not a support trust in order to protect benefit eligibility.



Self-Settled or “First-Party” SNT

- Created for sole benefit of individual with a disability under age 65 *with his or her own funds*
- Must be Irrevocable
- May be created by the individual with a disability **or** by a parent, grandparent, guardian, or by a court
- The individual who is disabled can fund the trust and only that individual's assets go into this trust
- Typically used when individual receives a lump sum, including an inheritance or the proceeds from a lawsuit or settlement

Self-Settled or “First-Party” SNT (cont.)

- Assets in trust are not counted as resources for eligibility purposes
- Upon death, money or assets remaining in the trust must be used to **reimburse the government** for Medicaid benefits paid during the beneficiary’s lifetime
- Most states require notice to local Medicaid offices when the SNT is created or funded and when the beneficiary dies
 - Local benefits office may require annual accountings
- Some types of distributions have been limited by recent changes in rules that have been liberalized by modification of federal P.O.M.S.

Third-Party SNT

- Created by a third-party (not the individual with the disability) and funded with that person's money
 - Typically a parent, grandparent, sibling or child of individual with a disability
- Beneficiary does not need to be under age 65
- Trust assets may be used as the Trust directs at the discretion of the Trustee – flexible, easy to administer
- Should also be a discretionary trust, not a support trust
- **Biggest advantage – NO PAYBACK PROVISIONS**



Selecting a Trustee

Judgement, Experience, Relationship with Beneficiary and Integrity are key.

1. Family Member
2. Third Party
 - Financial Advisor / Professional Trust Company
 - Attorney
 - Advocate
 - Other Trusted Individual
3. Corporate / Professional Trustee
 - Long-term need for trustee based on individual's life expectancy

Pooled Trusts

- Statutory trust established by and managed by a nonprofit organization
- Can be created by the individual with disability for himself/herself
- Can be used by an individual to deposit excess income or “spend- down” amount when receiving Medicaid benefits OR
- Used to create eligibility for benefits (like Medicaid and SSI) if the individual has excess assets



Pooled Trusts for Income

- Monthly income above \$1,856 is deposited into pooled trust account
- Used for expenses of the beneficiary at the discretion of the pooled trust Trustee.
 - Examples:
 - Rent
 - Utilities
 - Taxes
 - Additional home care hours
 - Any expenses which benefits the

Pooled Trusts for Assets

- Typically funded with excess assets to create eligibility for governmental benefits
- Excess funds could be the result of:
 - An inheritance
 - Settlement proceeds (lump sum or structured payments)
 - Retroactive benefit payments
 - Child support or alimony payments
- Benefits of an asset pooled trust
 - Managed by a professional trustee
 - Someone who knows the rules of Medicaid and/or SSI
 - Can be set up for a beneficiary over the age of 65

ABLE Accounts

Achieve a Better Life Experience (ABLE) Act (2014)

- Federal act authorized 529A accounts for individuals with disabilities to cover disability related expenses
- ABLE plans do not replace traditional trust planning, but provide a useful supplement to prudent planning



ABLE Accounts - Rules

- For individuals who had a disability before age 46 (was age 26 prior to 2026)
- Earnings in the account are not taxed
- May receive up to \$20,000 per beneficiary for their care per year
- First \$100,000 is excluded for SSI eligibility purposes
- In New York ABLE Account is exempt for Medicaid purposes up to \$520,000
- Can now roll over 529 Plan assets into ABLE Plan accounts, subject to annual contribution limit
- Disadvantage- has payback provision for Medicaid (not the case with custodian accounts or 3rd Party SNTs)

NEXT MEDICAID MONDAY

12-12:30pm, July 13, 2026

Medicaid Planning for
Solo Seniors

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PRESENTED BY



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