

Starting Soon.....

Hi-5 SPORTS WORKSHOP: SPECIAL NEEDS TRUSTS AND ABLE ACCOUNTS

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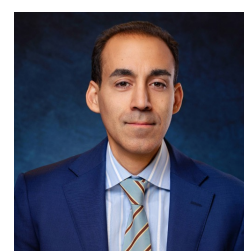
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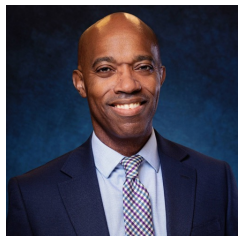
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AGENDA

- 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



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
 - 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

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

GIFTING ASSETS

Most parents and families know that gifting assets directly to a person with a disability = disaster

But 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! THE RISKS OUTWEIGH THE BENEFITS.

Instead...

Provide the benefit via a Supplemental Needs Trust



THE PARENT'S ESTATE PLAN

- Parents should create their own trust
 - Revocable
 - Medicaid Asset Protection Trust
- If incapacitated: trust can support your child
- Upon death: create 3rd party SNT



THE SECURE ACT 2.0: PASSING RETIREMENT ACCOUNTS TO A CHILD

Leave an IRA Directly to a Child

- Generally subject to the 10-year rule
- Can create significant income tax burden

Leave an IRA to a Child Through a Properly Structured Trust

- Eligible Designated Beneficiary → lifetime distribution
- Coordinates retirement assets, gov't benefits, long-term financial security

SUPPLEMENTAL NEEDS TRUST



- 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
- Build the trust to empower the beneficiary to the greatest 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

DISTRIBUTIONS FROM SNTs: SSI AND MEDICAID

- Distributions made at the discretion of the trustee 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
 - Food is no longer treated as in-kind support for SSI; shelter expenses may still reduce SSI benefits.
- 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, parent, grandparent, guardian, or court
- Only the individual's assets may fund the trust, such as:
 - Inheritances
 - Lawsuit settlements
 - Savings following a sudden disability

SELF-SETTLED OR “FIRST-PARTY” SNT (cont.)

- Assets in trust are not counted as resources for eligibility purposes
- At death, remaining trust assets must reimburse the government for Medicaid benefits paid during the beneficiary’s lifetime (the “Payback Provision”)
- 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

THIRD-PARTY SNT

- Created by a third-party 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 fully 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
 - Attorney
 - Advocate
 - Other Trusted Individual
3. Corporate / Professional Trustee (Bank or Trust Company)
 - 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 and funded with income or assets 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
- Any remaining assets pass to the non-profit managing the trust



POOLED TRUSTS FOR INCOME

- Medicaid recipients can deposit monthly income above \$1,856 into the 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 that benefit the beneficiary other than what Medicaid provides

POOLED TRUSTS FOR ASSETS

- Funded with excess assets to create eligibility for governmental benefits- low cost alternative to a 1st party SNT
- Excess funds could be the result of:
 - An inheritance
 - Settlement proceeds (lump sum or structured payments)
 - Retroactive benefit payments (SSI)
 - 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
- Consideration: Remaining assets pass to the charity

ABLE ACCOUNTS

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

- Created tax-advantaged 529A accounts for eligible individuals with disabilities to pay for qualified disability expenses
- Provides a flexible savings option while preserving eligibility for certain means-tested benefits
- Supplements - not replaces - traditional trust planning, including First-Party and Third-Party SNTs



ABLE ACCOUNTS: RULES

- Disability must have begun before age 46 (*formerly age 26*)
- 2026 annual contribution limit: \$20,000
 - Additional contributions may be permitted for eligible working beneficiaries*
- Tax-free growth and qualified withdrawals for disability-related expenses
- Up to \$100,000 excluded for SSI resource purposes
- NY ABLE maximum account balance: \$520,000
- 529-to-ABLE rollovers permitted, subject to annual contribution limits and other requirements
- Medicaid payback may apply at death to remaining ABLE funds



THANK YOU! QUESTIONS?

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