

Special Needs Trusts

What is it, who needs it, how do I have one done?

A Special Needs Trust is a type of trust document (a right of property held by one person for the benefit of another) intended to allow financial resources to remain available to help a disabled person under the age of 65 who receives, or may receive in the future, Medical Assistance (MA) or Supplemental Security Income (SSI).

In most cases, for someone to be eligible for MA or SSI, he or she is limited to owning no more than \$2,000 in assets. If the disabled person is about to receive substantial funds from a personal injury lawsuit, inheritance, gift, life insurance proceeds, divorce settlement or workers compensation lump sum settlement, etc., and you want the person to remain eligible for MA or SSI, it will be necessary to have those funds placed in a Special Needs Trust, properly drafted by an attorney and approved by the Department of Public Welfare, the Social Security Office and the court.

As in other types of trusts, the Special Needs Trust requires that a trustee be named. Depending on the size of the trust, a corporate fiduciary (bank) or a responsible individual may be named as trustee to manage the trust assets. Also, contingent or alternate beneficiaries must be named in the event of the primary beneficiary's death. Finally, there are restrictions on disbursements from the trust.

There are three types of Special Needs Trusts: 1) Common Law Special Needs Trust; 2) Payback Trust; and, 3) Pooled Trust. For the purposes of this handout, there is no need to define the differences between the types of trusts, suffice to say that the services of an attorney will be required to evaluate each situation and draft the appropriate type of trust to maximize benefits to the disabled individual, or carry out the wishes of all relevant parties. Payments from the trust generally cannot be made for food or shelter, but can be used for "extras" to enhance the quality of life for the disabled beneficiary. Those extras may include modification to the home to allow greater accessibility; transportation needs including specially modified vehicles; care, feeding and veterinary services for pets; lawn maintenance and snow removal; housecleaning and laundry—just to name some of the things the trust may be used for.

We have attempted to insure the accuracy of the information in this pamphlet at the time it was created or revised. However, the law does change, sometimes quickly and unexpectedly. Therefore, you should consult an attorney before taking or refraining from any action based on the information in this pamphlet.



**For Service Call NWLS 1-800-665-6957; In Erie 452-6957
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