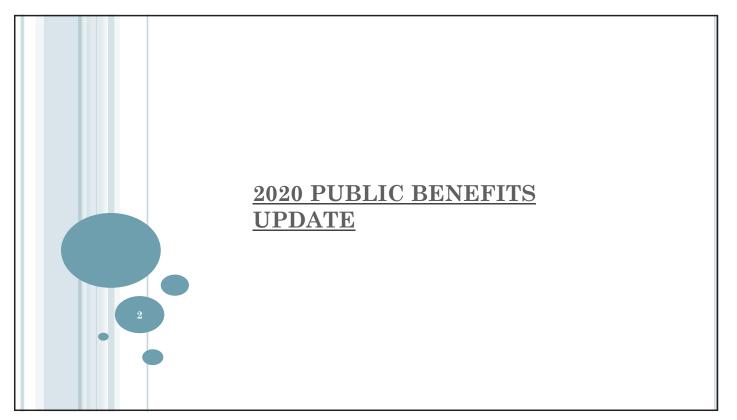


Written & Presented by: H. Clyde Farrell **Certified Elder Law Attorney** www.txelderlaw.com 1000 MoPac Circle Austin, Texas 78746 cfarrell@txelderlaw.com 512-323-2977

Christina Lesher, JD, BSW www.lawlesher.com 5615 Kirby Drive, Suite 412 Houston, Texas 77005 (713) 529-5900 <u>clesher@lawlesher.com</u>





SSA MAY REQUIRE APPROVAL OF SNT ATTORNEY FEES

- SSA published then withdrew an ambiguous POMS section arguably requiring SSA approval of fees of an attorney drafting an SNT, even if there is no Appointment of Representative.
- President of NAELA "remains concerned" that may be SSA policy.
- Next presentation at 3:15 pm: Constance R. Somers and Stacy Braveman Cloyd, New POMS Clarification on Fee Approval Requirements at this conference.

More information in page 58 of materials

NEW STATUE OKS PAYING ADULT DISABLED CHILD SUPPORT TO SNT

- New Texas Family Code 152.304(c): child support for an adult child with a disability may be paid to a Special Needs Trust in a case in which the state does not have a Title IV-D claim (child support to be paid to the state).
- Does not apply to child support for a *minor* child with a disability. However, it does *not prevent* such an order in a case involving support of a minor child.
- Problem: A federal regulation applying to the Texas AG's child support enforcement says who may receive child support payments for minor children and does not include Special Needs Trusts--yet.

More information in pages 58-59 of materials

SNT SHOULD NOT PAY CHILD SUPPORT FOR BENEFICIARY

- Payments of child support by an SNT on behalf of the trust's beneficiary with a duty of support are treated as income to the SNT beneficiary.
- The Result: Beneficiary required by Medicaid to pay a copayment that is impossible to pay; nursing home may discharge for nonpayment.
- The Fix: Move to modify the child support order.

More information in page 60 of materials

RETIREMENT ACCOUNTS: STATUS OF POLICY HHSC (Texas Medicaid) exempts some IRAs from counting as "resources" Policy not yet published. Maybe this summer? Policy is more favorable to applicants than federal law requires—so nobody is filing suit. Sources of information: Slides from presentations of Shari Nichols Texas Chapter of NAELA Listserv Each law firm's own experience

5

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the <u>UT Law CLE eLibrary (utcle.org/elibrary)</u>

Title search: Protecting and Maximizing Public Benefits

Also available as part of the eCourse 2020 Special Needs Trusts eConference

First appeared as part of the conference materials for the 16th Annual Changes and Trends Affecting Special Needs Trusts session "Protecting and Maximizing Public Benefits (Advanced)"