

CASE LAW UPDATE

SNT cases from the past year

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SNTs and Housing Benefits

DeCambre v. Brookline Housing Authority (Page 1)
1st Cir., Nos. 15-1458, 15-1515, June 14, 2016

Background

- Kimberly DeCambre – federal housing assistance
- Irrevocable trust – legal settlements
- Sole discretion

Decision

- HUD defines term "net family assets"
- Lump-sum income not counted by HUD
- No reason to distinguish funds passing through trust
- Qualified for housing

SNTs and Food Stamps

In Re Petition of Hagenbuch (Page 2)

No. 2015-0079 (N.H., Jan. 13, 2017)

Background

- Kelly Hagenbuch – food stamps
- SNT – P.I. recovery
- Sole discretion

Decision

- 7 C.F.R. § 273.9(c) – payment by third party for household's benefit
- Funds not "owed to" Ms. Hagenbuch
- Qualified for food stamps

Decanting to Third-Party SNT

Simonsen v. Bremby (Page 3)

2015 WL 9451031 (D. Conn. Dec. 23, 2015)

Background

- Dawn Simonsen
- Inter-vivos trusts funded at mother's death
- Sole discretion for HEMS
- Spendthrift clauses
- Decanted to new third-party SNT

Decision

- Original trusts not available resources
- Denial of Medicaid *per se* irreparable injury for injunction

SNT Created by Power of Appointment

Matter of Kroll (Page 9)

2016 WL 5795354 (N.Y. App. Div. Second Dept. Oct. 5, 2016)

Background

- Trust to end at age 21
- Age 20 –trustees moved to new third-party SNT
- State argued must be self-settled SNT with payback provision

Decision

- Grandson not “creator”
- Original trust not a resource or income
- No payback provision required

Irrevocable Trust not an SNT

Alabama Medicaid Agency v. Hardy (Page 3)

2016 WL 360707 (Ala. App. Jan. 29, 2016)

Background

- Denise Ann Hardy – nursing home
- Half interest in father’s house
- Placed in irrevocable trust

Decision

- Intended as purely discretionary SNT
- Did not attempt to satisfy 42 U.S.C. § 1396p(d)(4)(A)
- Merely irrevocable trust

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First appeared as part of the conference materials for the
13th Annual Changes and Trends Affecting Special Needs Trusts session
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