

# 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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