

Working with SSA: Tips on How to Avoid the Appeal

15th Annual Changes and Trends Affecting
Special Needs Trusts

The University of Texas School of Law
Austin, Texas
February 7-8, 2019

Pi-Yi Mayo*
Bryn Poland
2114 Massey Thompkins
Baytown, Texas 77521
281.421.5774

*Certified Elder Law Attorney by the National Elder Law Foundation
Nothing in this paper is to be construed as the rendering of legal advice.
©2019 Copyright, Mayo & Poland, All Rights Reserved

**MAYO &
POLAND**

Introduction

1. Drafting SNT is Tough
2. Statutes
3. Regulations
4. POMS
5. State laws; Tex Prop Code 142 or Texas Estates Code 1301
6. Local Probate Court Rules (Don't worry we have a form you can use)
7. Trustees that want certain provisions
8. Don't worry about it because all of the above can change

All of this doesn't matter if you don't end up with a trust that the SSA will approve (meaning the Field Office Technician FO)

**MAYO &
POLAND**

Introduction

If your trust is turned down by the FO at the SSA then you can take several actions- reconsideration; reopen; but eventually you end up with an appeal to the Administrative Law Judge—with the attendant delay and doubtful outcome

This paper is designed to help avoid an appeal

This paper is to help you WORK WITH SSA TO AVOID AN APPEAL

The best way to work with SSA to help them approve your trust is to figure out what they are going to do when they look at the trust

THE POMS-it's the POMS Stupid (not the economy)

The FO and the RTRr will look at your trust based on what the POMS tells them to do ----- so you should look at your trust based on what the POMS tells you that you should do

**MAYO &
POLAND**

Introduction

Designed to allow you to change the names and faces and use Monday morning

I don't need this I have my own stuff don't need to fix it if it is not broken

That's what we all thought but.....

Ha, Ha it all changed on Transmittals, SI 01120 TN 51 – 54, effective April 30, 2018

**MAYO &
POLAND**

Why You Should Report The Trust

1. It's not my job—the responsibility of signer of the application/beny
2. A beneficiary must report any changes that may affect their benefits immediately, and no later than 10 days after the end of the month in which the change occurred
3. Can result in penalty (\$25-100) or sanction (6-24 month no check)

Why You Should Report The Trust

1. How would they know; They won't until sometime later
2. Report on Beny's SS# of disbursements from the trust or income from assets in the trust by Trustee
3. IRS sends tape match to SSA (may take a while)
4. Now they know and maybe penalty or sanction
5. Worst case is the trust is determined to be an available resource ---resulting in disqualification of the Beny based on excess resources

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Working with SSA: Tips on How to Avoid the Appeal

Also available as part of the eCourse

[2019 Special Needs Trusts eConference](#)

First appeared as part of the conference materials for the
15th Annual Changes and Trends Affecting Special Needs Trusts session
"Working with SSA: Tips on How to Avoid the Appeal"