



NEW YORK STATE BAR ASSOCIATION

ELDER LAW SECTION



Guidelines for Trustees of First Party Supplemental Needs Trusts

Prepared by the Special Needs
Planning Committee

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I. Welcome/Introduction: Now That You Are a Trustee.

Congratulations on accepting your recent appointment as Trustee of a Supplemental Needs Trust! A Supplemental Needs Trust, sometimes called a Special Needs Trust, but referred to interchangeably or simply as an “SNT,” is a valuable legal tool available to assist persons with disabilities in maximizing their resources and enhance their quality of life. We hope the following basic guidelines will assist you in understanding your responsibilities.

A. What is a fiduciary?

You have accepted the role of Trustee. As such, you are now a fiduciary. A fiduciary is one who owes to another the duties of good faith, trust, confidence and candor; one who must exercise a high standard of care in managing another’s money or property. Thus, you must act in the best interest of the SNT beneficiary and may not mix Trust assets with your own assets or profit from your role as Trustee, other than receiving Commissions for your work as Trustee.

B. What is a Trust?

A Trust is a legal written entity created through a written document. It sets forth the reason the Trust was created and how assets owned by the Trust may be distributed.

C. Who is a Trustee?

A Trustee is a fiduciary who is entrusted with managing the Trust assets. As Trustee, you are entrusted with investing the Trust assets and disbursing them in accordance with the terms of the SNT. You may have been appointed by the person who created the Trust or by a Court.

D. Who is the Beneficiary?

The Beneficiary is the person for whom the Trust was established. The Beneficiary is the person who will have the trust assets applied for his or her needs.

II. Overview of Supplemental Needs Trusts.

A. What is a Supplemental Needs Trust?

A Supplemental Needs Trust (SNT) is a trust designed to qualify or preserve the Beneficiary's eligibility for government benefits, such as Medicaid and Supplemental Security Income (SSI). These programs, which are described in greater detail below, are often vital for the Beneficiary of SNT, who is an individual with a disability, sometimes called the Benefit Recipient.

B. What is Supplemental Security Income? (SSI)

Supplemental Security Income (SSI) is a government benefit for persons with a disability of limited means. A person with a disability may qualify for SSI financially because he or she does not have income and assets greater than the SSI rules allow. In general, for 2011, a single person must have limited income and not more than \$2,000.00 in countable assets. If you need more information on eligibility for, entitlement to, applying for, and maintaining SSI benefits, you may consult with an experienced special needs attorney to learn those rules. Information is also available at www.ssa.gov.

C. What is Medicaid?

Medicaid is a government benefit that assists the disabled and/or elderly with medical

Also available as part of the eCourse

[How to Reduce Fiduciary Litigation Risks for Trustees](#)

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