



## Maximizing Public Benefits: New Developments

H Clyde Farrell

512-323-2977

[cfarrell@txelderlaw.com](mailto:cfarrell@txelderlaw.com)

Christina Leshner

713-529-5900

[clesher@lawlesher.com](mailto:clesher@lawlesher.com)



FARRELL & JOHNSON PLLC

1

1

### ***Definition of “Special Needs” for the SSI Program***

- Payment directly to providers for any goods that are not countable as resources; or
- Payment for any services used by the beneficiary;
- Except each month’s unreimbursed payments for food or shelter are counted as having a value not exceeding one-third of the maximum SSI monthly benefit rate plus \$20.
- And don’t give the beneficiary cash or anything so easily converted to cash that it counts as a resource.

**Pages 10-18**



FARRELL & JOHNSON PLLC

2

## ***Your Authors' Definition of "Special Needs"***

- **"Special Needs": any help to be furnished in-kind (not cash or easily converted to cash) that is not counted by the benefit program as income or resources.**
- **Most Medicaid programs use the "methodology" (definitions of "resources" and "income") of the SSI program.**
- **However, there are some important differences among programs. See Appendix 3: Three Ways Different Medicaid Programs Define "Income"**

**Page 18**



FARRELL & JOHNSON PLLC

3

## ***Appendix 3: Three Ways Different Medicaid Programs Define "Income"***

- **SSI**
- **Community Attendant Services and Medicare Savings Programs**
- **Nursing Home and HCBS Waiver Medicaid**

Page 234



FARRELL & JOHNSON PLLC

4

## ***A Trustee Must Always Determine--***

- Which program(s) do(es) the beneficiary have or need?
- Which of the three categories is/are involved?
- Given the beneficiary's needs and the trust's assets, which of the permissible distributions are in the beneficiary's best interest?



FARRELL & JOHNSON PLLC

5

## ***But Consider Also the "Resource" Limit***

- Children's Medicaid, Pregnant Women's Medicaid, Parents and Caretakers Medicaid, and Breast and Cervical Cancer Medicaid have no resource limits
- Texas Long-Term Care Medicaid programs not requiring SSI eligibility allow transfers to UTMA accounts for persons under age 21 with no transfer penalty
- Texas Long-Term Care Medicaid programs have a resource limit of \$2,000 for unmarried persons (and some who are married but separated); but ineligible spouses of married applicants can keep more—sometimes a lot more



FARRELL & JOHNSON PLLC

6

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: Maximizing Public Benefits: New Developments

Also available as part of the eCourse

[2024 Special Needs Trusts eConference](#)

First appeared as part of the conference materials for the  
20<sup>th</sup> Annual Changes and Trends Affecting Special Needs Trusts session  
"Maximizing Public Benefits: New Developments"