

**PRESENTED AT**

19<sup>th</sup> Annual Changes and Trends Affecting Special Needs Trusts

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**Protecting and Maximizing Public Benefits**

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This outline presents the law as of this writing, with the warning that many public benefits in Texas are presently in a state of change. Nothing contained in this publication is to be considered as the rendering of legal advice for specific cases, and readers are responsible for obtaining such advice from their own legal counsel. This publication is intended for educational and informational purposes only.

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# Protecting and Maximizing Public Benefits

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## Introduction

This overview of the most significant public benefits for persons with disabilities in Texas is intended to assist attorneys and other benefits counselors to identify the major benefits to which such clients may be entitled.

Its focus is primarily on the “means-tested” benefits, which are available only to persons with assets and income below certain limits. Therefore, particular attention is paid to rules relating to trusts and transfers of assets to assist attorneys and other professionals with estate planning for family members and with planning for dispositions of personal injury awards, inheritances and other assets of persons with disabilities.

Although much of the law discussed is federal law, many rules are state-specific. Accordingly, with regard to cases governed by the law of jurisdictions other than Texas, it must be used, if at all, with great caution.

This outline is intended as a “bridge” to help the practitioner better understand and use the voluminous statutes, rules, and agency operating instructions applying to each program. Therefore, although it seeks to cover the most important rules, it cannot include every benefit, exclusion, exemption, etc. contained in the numerous sources of law, which are cited for further reference.

## 2023 UPDATES

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## **II. OVERVIEW OF TEXAS HEALTH & HUMAN SERVICE AGENCIES**

### **A. TEXAS AGENCIES**

#### **1. HEALTH AND HUMAN SERVICES COMMISSION (HHSC)**

The Texas Health and Human Services Commission (HHSC) administers the government programs Special Needs Trust beneficiaries need the most often:

- Long-Term Care Medicaid (nursing home and home care programs)
- Medicaid for children and their caregivers
- SNAP (food stamps)
- TANF (cash assistance for families)
- Behavioral Health Services
- Intellectual Disability Services
- Women's Health Services

HHSC also licenses long-term care facilities, certifies certain nursing facilities as Medicaid providers.

#### **2. DEPARTMENT OF STATE HEALTH SERVICES (DSHS)**

Within HHSC, the Texas Department of State Health Services (DSHS) manages birth and death records, gathers and shares public health data, collects data to monitor for chronic and infectious disease, provides emergency response services for health emergencies, regulates producers of consumer health goods and service providers that pose potential danger to public health. Most, if not all, of the client-side health and human services have transitioned to HHSC but DSHS may come up in discussions related to public benefits in Texas.

#### **3. OTHER TEXAS AGENCIES**

The Texas public benefits system has been going through an iterative transformation process for decades. A system that was administered by 12 separate agencies in the mid-90s is now mostly centralized within the HHSC/DSHS umbrella.<sup>1</sup> The roles and responsibilities, or even existence, of certain agencies, has also changed.

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<sup>1</sup> TEX. HEALTH & HUMAN SERVICES COMM'N, *Health and Human Services System Strategic Plans for 2019-2023*, <https://www.hhs.texas.gov/sites/default/files/documents/about-hhs/budget-planning/strategic-plans/2019-23/strategic-plans-2019-23-volume-i.pdf>.

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