

Redlining the Basics with 1st Party SNT

John B. Henry, III

Law Office of John B. Henry, III, PLLC

Bellaire, Texas

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Focus of Presentation

- History of Special Needs Trusts
- First Party SNT Authorities in the POMS and MEPS HB
- Distributions
- Trustee
- Termination
- Powers of Trustee
- Administration
- Definitions
- Reporting



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Disclaimer

- The author has offered some sample language in the paper; however, this sample language is not warranted to be the exact language that should be used in particular client's case. Rather, it was provided for analysis and review of concepts.



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First-Party SNTs are not a Forms Practice

- As special needs trust practitioners, you often connect with clients and their concern for themselves or their child, parent, sibling or other loved one.
- At the core of every special needs plan, then, is the beneficiary's ability to either provide for their own care or have care be provided for them in the hopes to maximize the beneficiary's quality of life.
- What's more, laws, regulations, and interpretation changes. Keeping drafter's eye to update a practitioner's trust is key.



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Person Centered Planning is Key

- A PCP “...approach identifies the person’s strengths, goals, medical needs, needs for home- and community-based services, and desired outcomes. The approach also identifies the person’s preferences in areas such as recreation, transportation, friendships, therapies and treatments, housing, vocational training and employment, family relationships, and social activities. Unique factors such as culture and language also are addressed.”

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History of the First-Party SNT

- Due to perceived abuses by families attempting to work around the strictures of income and asset rules, Congress passed the Omnibus Budget Reconciliation Act (“OBRA ’93”), which addressed trust fund availability for government aid.
- Unlike third-party special needs trusts, OBRA ’93 specifically provides an exception for first-party (also called self-settled) special needs trusts disqualifying the beneficiary from SSI or Medicaid .
- Both SSA and THHS have addressed this issue of first-party special needs trusts.

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