POOLED SPECIAL NEEDS TRUST

Briefly: pooled special needs trusts are a Florida state and federally accepted tool for turning countable resources into non-countable resources so one can obtain need-based benefits (such as Medicaid) or remain eligible for need-based / means-tested benefits after a sudden influx of assets (e.g. personal injury settlement, inheritance, selling a valuable asset).

Pooled special needs trusts have the benefit of no age limitation (as opposed to self-settled / d4A trusts, which require the settlor to be under age 65) and professional trustee oversight, albeit for an administrative fee.

The law provides that a pooled special needs trust account may be created for a disabled person by a court, a guardian, a parent, a grandparent, or by the disabled individual him or herself. Assets placed in the pooled special needs trust cannot be counted for purposes of Medicaid, and this is why pooled special needs trusts have a place in Medicaid planning given the right circumstances. The reason the government will not count assets in the trust is because the trustee of the trust has sole discretion to distribute (or not distribute) to the applicant, and because the trust provides that the trustee must only make distributions that supplement and do not supplant any government benefits.

> Some requested Pooled SNT disbursements may be denied by the trustee or come under close scrutiny, because they can result in a reduction of SSI benefits, including: cash payments directly to the Medicaid recipient, payments for rent/mortgage, food/groceries (occasional restaurant outings are OK), property taxes, HOA/condo association dues, homeowners insurance, and electric/water/sewage. ***For those only seeking Medicaid (and not SSI), this will not be of any concern***.
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> Almost all other requests will be completely fine, e.g.: paying part of an ALF bill, paying for a private room in a nursing home, entertainment, outings, cable, movies, travel, car services, legal/accounting, acupuncture/gym, appliances / TV / computer / electronics, home furnishings, linens, alarm, car insurance, massage, pets/pet supplies, uber/lyft, medical/dentist not covered by Medicaid and other supplemental care services.

Because it is one of the purposes of the trust to make sure that the applicant does not lose any government benefits, the trust will not make distributions if the applicant has a government benefit that already covers the requested distribution.

The pooled special needs trust, by law, must be managed by a non-profit organization. The trustee maintains trust participants' assets in individual sub-accounts but "pools" them with the assets of other trust participants for purposes of investment. None of the other participants would have access to the applicant's money, nor would the applicant have access to theirs.

The pooled special needs trustees charge a fee. They charge a one-time enrollment fee (usually between $500.00 and $1,500.00) and an administrative fee (usually between 1.75% and 3% per year).

The Pooled Trust organizations all have different criteria and benefits for accepting clients. As an example, a low-fee option may have a minimum investment required. A higher cost option may be better for complex Medicaid applications due to the support that they provide. All Special Needs Trust funds are invested conservatively, the goal is for the investment to cover the ongoing management fee and possibly even result in a net gain for the Medicaid recipient's SNT trust funds. However, this is not guaranteed.

Pooled Special Needs Trust Can Serve Same Function as Qualified Income Trust

For those with gross income over the Medicaid Income Cap Limit, a PSNT can also double as a QIT (in other words, a PSNT can accept both excess assets and regular monthly income). This is useful when you need income to go towards non-health-care expenses or if you don't have anyone willing to act as trustee of the QIT.

Big Drawback to Pooled Special Needs Trusts

Upon the applicant's death, if there is any money remaining in the pooled special needs trust sub-account, a portion of the remaining money could be retained by the pooled special needs trust.

To the extent assets are not so absorbed, **the law requires that Medicaid be repaid from the assets on a dollar-for-dollar basis for benefits paid out to the applicant during the applicant's lifetime prior to any distribution to designated heirs**. Some pooled special needs trusts do permit a distribution to the deceased applicant's estate, but only after the government repayment and an additional fee imposed by the Special Needs Trust.

SSI Recipients

Some of my clients are on Social Security Income (not to be confused with Social Security Retirement). A few easy ways to that you or your loved one is on SSI is if their income is at or below $794.00 and also have Medicaid. **For SSI recipients (again, not to be confused with social security retirement benefits) over the age of 65, contributions to pooled trust will result in a period of disqualification.**

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