Special Needs Trust

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Overview

A direct bequest to a person with disabilities, even a modest one, can trigger a benefits disqualification that costs far more than the inheritance was worth. Supplemental Security Income, MassHealth, and other means-tested programs impose strict asset limits. Exceeding those limits by even a small margin can result in months of lost coverage, denied services, and a painful process to reestablish eligibility. The financial damage often dwarfs the value of the gift itself.

Special needs trusts (also called supplemental needs trusts) exist to prevent exactly this outcome. These instruments allow families to set aside resources that enhance the quality of life for a person with disabilities without jeopardizing the public benefits they depend on for housing, medical care, and daily support. The structure of the trust, not just its existence, determines whether it works. A poorly drafted trust can fail to protect benefits just as surely as a direct bequest.

How We Structure Special Needs Trusts to Protect Disability Benefits

The distinction between a first-party special needs trust and a third-party special needs trust is not just a technical classification. It determines who can fund the trust, how distributions are managed, and what happens to remaining assets when the beneficiary dies. We tell our clients that choosing the wrong structure is one of the most costly mistakes in special needs planning.

A third-party SNT, funded by parents, grandparents, or other family members, carries no Medicaid payback obligation. Remaining assets pass to successor beneficiaries chosen by the family. A first-party SNT, funded with the beneficiary's own assets (typically from a personal injury settlement or inheritance), requires a Medicaid payback provision: remaining funds must reimburse the state for benefits paid during the beneficiary's lifetime. Individual first-party trusts are generally available only to beneficiaries under age 65. For older beneficiaries, a pooled trust is typically the appropriate alternative.

We also evaluate pooled trusts administered by nonprofits, practical for beneficiaries with smaller funding amounts or those who have aged out of individual first-party eligibility. For eligible beneficiaries, ABLE accounts offer a complementary savings tool that works alongside a properly drafted special needs trust.

Why Clients Choose Cohen Cleary

At Cohen Cleary, our practice teams combine deep subject-matter experience with disciplined execution and responsive client service. We do not take a one-size-fits-all approach. Every matter is handled with careful preparation, clear communication, and a strategy tailored to the

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client's goals and the realities of the forum.

Clients choose Cohen Cleary because we deliver:

Practice-Focused Legal Experience

Our attorneys work in defined practice areas, allowing us to develop practical insight into the legal, procedural, and regulatory nuances that matter most in each case. This focus allows us to anticipate issues, avoid unnecessary delays, and position matters for efficient resolution.

Clear Guidance and Proactive Communication

We prioritize clarity at every stage. Clients receive straightforward explanations of their options, timely updates on developments, and practical advice grounded in real-world outcomes.

Strategic Advocacy with Trial Readiness

Whether a matter calls for negotiation, mediation, or litigation, our attorneys prepare every case with discipline and foresight. We pursue efficient resolution when possible and are fully prepared to advocate aggressively when necessary to protect our clients' interests.

Regional Knowledge and Local Presence

With offices throughout Massachusetts and experience across New England courts and agencies, we bring local insight and regional reach to every matter.

Client-Centered Service

We treat every matter with urgency and respect. Our clients rely on us for responsive service, sound judgment, and steady counsel through complex legal challenges.

In our special needs planning work, this approach helps clients navigate benefit preservation and long-term care planning with clarity, efficiency, and confidence.

Our Approach to Special Needs Planning

Every special needs trust engagement follows a structured process:

Benefit program assessment

We identify every means-tested program the beneficiary receives or may need, including SSI, MassHealth, and Section 8 housing, then map the trust structure to each program's rules.

Care team coordination

We work with financial advisors, care managers, and benefits specialists to confirm the trust complements the beneficiary's broader support plan.

Trust type selection

Based on funding source, beneficiary's age, and family goals, we recommend the appropriate vehicle: third-party SNT, first-party SNT, pooled trust, or a combination.

Trustee guidance

We help families evaluate individual, corporate, and hybrid trustee arrangements, with attention to fiduciary responsibilities that many lay trustees underestimate.

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Serving Families Across Massachusetts and Rhode Island

Cohen Cleary represents families in special needs trust and disability trust matters from offices in Taunton and Plymouth. Our attorneys regularly work with families throughout southeastern Massachusetts, Bristol County, Plymouth County, and Norfolk County. We also serve clients across Rhode Island and have the capacity to assist families throughout New England.

Our familiarity with MassHealth eligibility rules, Massachusetts Probate and Family Court procedures for trust-related matters, and the Social Security Administration's treatment of trust assets gives our clients a distinct advantage when structuring trusts that must satisfy multiple regulatory requirements simultaneously.

Protect Your Family Member's Benefits and Future

If you are planning for a family member with disabilities, or if an inheritance or settlement threatens existing benefit eligibility, contact Cohen Cleary. An experienced SNT lawyer can help you evaluate the right trust structure before a well-intentioned gift becomes an unintended benefits crisis. Call our Taunton or Plymouth office, or submit an inquiry through our website.

Frequently Asked Questions About Special Needs Trusts

What is the difference between a first-party and third-party special needs trust?

A third-party special needs trust is funded by someone other than the beneficiary, such as a parent or grandparent. It carries no Medicaid payback requirement, and remaining assets pass to family members at the beneficiary's death. A first-party special needs trust is funded with the beneficiary's own assets. When the beneficiary dies, remaining funds must first reimburse the state for Medicaid benefits paid on the beneficiary's behalf.

Will a special needs trust affect my family member's SSI or Medicaid eligibility?

A properly drafted special needs trust should not affect SSI, Medicaid, or other means-tested eligibility. The trust must be structured so the beneficiary does not have direct access to the principal. Distributions must supplement, not replace, what government programs provide. Expenditures for food and shelter may trigger a reduction in SSI benefits, so distribution planning requires attention to program rules.

What can a special needs trust pay for?

A special needs trust can pay for goods and services that government benefits do not cover, including education, recreation, personal care attendants, transportation, technology, home furnishings, and travel. The trust cannot give cash directly to the beneficiary, and certain expenditures (particularly for food and housing) may reduce the beneficiary's SSI benefit. Experienced counsel helps ensure distributions enhance quality of life without creating unintended benefit reductions.

What is a pooled trust, and when is it a better option?

A pooled trust is managed by a nonprofit that combines the assets of multiple beneficiaries for investment while maintaining separate accounts for each individual. Pooled trusts are a

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practical choice when available funding is too small to justify a standalone trust. They accept both first-party and third-party assets and are particularly useful for beneficiaries over age 65 who face restrictions on establishing individual first-party trusts.

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