

# Trust Options: Special Needs Trust

A Special Needs Trust, sometimes called a Supplemental Needs Trust (SNT), is a trust created for a disabled or incapacitated individual to supplement (not replace) benefits provided through government and other public assistance programs.

A trust is a legal relationship whereby one party (the grantor, trustor or settlor) transfers the title to property to a second party (the Trustee) for the benefit of persons referred to as the beneficiaries.

There are generally two classes of SNT beneficiaries: the current beneficiary and the remainder beneficiaries. The current beneficiary is eligible to receive carefully defined benefits from the trust during the trust term, usually the life of the beneficiary. The remainder of the beneficiaries are eligible to receive the assets remaining in the trust at the end of the trust term.

SNTs are often established as a part of the estate plan of a family member (such as a parent or grandparent) to provide for a disabled or incapacitated child or grandchild. This type of SNT is usually called a third-party SNT.

SNTs are also commonly established as a result of a disabled or incapacitated individual's recovery or settlement award from a personal injury lawsuit. This type of SNT is usually called a self-settled SNT. With a self-settled SNT, the trust's governing instrument must require any remaining trust assets to be distributed first to the state or governmental agency that provided benefits during the beneficiary's lifetime. If assets remain in the trust after the state or governmental agency is reimbursed, the remaining assets may be distributed to contingent remainder beneficiaries as provided in the trust instrument.

Both types of SNTs are usually created when it is expected that the disabled or incapacitated individual will require specialized care and supervision during the individual's entire lifetime. The SNT supplements (does not replace) governmental and other public assistance benefits for which the disabled individual is eligible. As a result of the SNT, a more desirable quality of life may be provided for a disabled individual than public benefits alone could provide.

For example, an SNT can be drafted to provide for needs such as medical and dental expenses, annual independent check-ups, equipment, programs of training and education, treatment, and rehabilitation, eyeglasses, transportation, purchase of a specially equipped vehicle, payment of premiums for insurance on the life of the beneficiary, and essential dietary needs. SNTs also may be drafted to include provision for appropriate electronic equipment such as radios, CD players, television sets, computer equipment, and camping and other enrichment programs.

SNTs present unique administrative challenges resulting from the government's strict requirements for these trusts and the ever-changing governmental benefits process. If the trustee does not carefully observe these requirements, the disabled or incapacitated beneficiary could lose his/her eligibility for public assistance programs, such as Social Security and Medicaid.