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Estate Planning: Special Needs Trusts

Frequently Asked Questions

What is a Special Needs Trust?

- A special needs trust (SNT) helps to preserve the public benefits that a disabled person might receive from a later inheritance or settlement. A special needs trust can also be used to protect assets for those planning for long-term care.

What is a first-party special needs trust?

- A first-party trust is often set up when a person with special needs receives an inheritance or a court settlement. This type of trust is also used when a person owns assets, becomes disabled and needs to qualify for public benefits.
- All first-party trusts must repay any Medicaid benefits prior to distributing the remainder of the trust to any beneficiary.

What is a third-party special needs trust?

- A third-party special needs trust is funded by someone other than the person with the disability or special needs. Typically, this is done by a parent, grandparent or sibling of the special needs person. It is often created as part of the estate planning process for the beneficiary that is disabled or has special needs.
- A third-party trust is not required to reimburse Medicaid benefits received during the person's lifetime. This trust gives control to where the remaining assets would go upon the death of the special needs person.

What are the advantages of a special needs trust?

- The biggest advantage to a special needs trust is that it preserves the public benefits that a disabled person receives in the case that this person should receive an inheritance or settlement.

- When administered correctly, a beneficiary can supplement their public benefits. The trust may be used for health care or other services that are not covered by public benefits, and other personal needs.

What are the disadvantages to a special needs trust?

- It can be expensive to set up a special needs trust.
- A first-party trust requires that Medicaid be repaid before distributing the remaining assets to the beneficiary.
- The trustee must understand the rules for distributing money within the trust so that the one with special needs does not lose his/her eligibility for government benefits.

What needs to be considered when setting up a special needs trust?

- Selecting a trustee
- Selecting an experienced accountant
- Let family members know of the trust
- Working with an experienced attorney

How can special needs trust funds be used?

- Funds from a special needs trust can supplement the income the beneficiary is receiving through government programs.
- Funds may be used for medical, psychological, dental and vision needs, not covered by public benefit assistance programs.
- Funds may be used for residential expenses beyond basic rent costs, including furnishings, telephone, internet and television services.
- Funds may be used for social needs such as specialized classes, vacations, athletic events, cultural events and the equipment needed for these activities, for example computer equipment, books, camping or athletic equipment.
- Funds may be used toward vocational and educational training needs, not covered by public benefit assistance programs.
- With certain types of special trusts, the funds cannot be used towards essential items such as food, rent, utilities, mortgage, and property taxes.

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