

How Do Special Needs Trusts Protect Beneficiaries?

- Special Needs Trust
- August 2, 2024

If you have a family member with a physical or mental disability, you may rightly worry about what may happen to them in the event of your untimely passing. If your loved one cannot care for themselves, setting up a special needs trust can reassure you and your loved ones.

Financial security is something individuals with disabilities may take for granted, as they often don't understand the unique challenges they face. Medical expenses, specialized care, and the need for lifelong financial support are just a few burdens that must be carefully attended to—even well-intentioned gifts or inheritances can inadvertently disqualify a beneficiary from receiving ongoing benefits, such as medical care, that they need.

Special needs trusts are a type of estate planning for families with disabled beneficiaries. Establishing a special needs trust ensures your loved one can maintain their quality of life while preserving their access to vital support systems.

Understanding Special Needs Trusts

A special needs trust (SNT) is a legal arrangement that allows assets to be held and managed on behalf of a beneficiary with disabilities. SNTs offer financial security for individuals with disabilities without jeopardizing their ability to access essential government benefits, such as Medicare, Medicaid, and Supplemental Security Income (SSI). An SNT is meant to complement medical and financial assistance programs, not replace them.

Three primary types of special needs trusts include:

1. First-Party Trust

A first-party SNT is funded by the beneficiary's own assets, such as a personal injury settlement or a previously received inheritance. First-party SNTs are typically used when beneficiaries have received a significant sum of money that could disqualify them from receiving benefits.

2. Third-Party Trust

A third-party SNT is funded by the assets of someone other than the beneficiary, such as a parent, grandparent, or other family member. Third-party SNTs are commonly seen in the estate plans of families providing for a loved one's future.

3. Pooled Trust

Often managed by a non-profit organization, a pooled SNT combines multiple beneficiaries' assets, invests those pooled funds, and then distributes profits into the individual accounts for each beneficiary. If your family prefers a more hands-off SNT management approach, a pooled SNT is a good option.

What Are the Benefits of a Special Needs Trust?

Special needs trusts offer several benefits for beneficiaries and their families, such as:

- **Government benefit eligibility preservation.** The assets held in a special needs trust aren't counted in a government benefit eligibility determination.
- **Supplemental care provisions.** SNT funds can pay for services and goods not covered by assistance programs, such as additional medical care, educational opportunities, recreational activities, and personal items.
- **Financial exploitation protection.** Unfortunately, individuals with disabilities are often preyed on and are vulnerable to financial abuse or mismanagement.

A responsible trustee manages a special needs trust, safeguards the beneficiary's assets, and verifies that the funds are used appropriately.

How Does a Special Needs Trust Work?

The success of a special needs trust largely depends on the roles and responsibilities of the trustee. Trustees manage the SNT's assets, make distributions according to the terms, and guarantee all actions are in compliance with state and federal regulations. This fiduciary role requires a deep understanding of financial asset management and a beneficiary's specific needs.

Trustees then distribute funds to cover a range of approved expenses, such as:

- Medical care
- Education
- Personal items

But there are restrictions. For instance, SNT funds cannot be used for care or items that are covered by the beneficiary's assistance programs. Other distributions, such as direct cash payments to the beneficiary, payments toward rent or a mortgage, or using the funds to buy food are also expressly forbidden and could jeopardize the beneficiary's assistance program eligibility.

An experienced attorney can safeguard the beneficiary's needs and guarantee legal compliance when drafting and maintaining the trust. Regular SNT reviews and updates can help accommodate any changes.

How to Choose the Right Trustee

Choosing the right trustee is the most critical decision in establishing a special needs trust.

Consider if the potential trustee is:

- Trustworthy
- Financially responsible
- Familiar with the beneficiary's needs
- Familiar with trusts, estate planning, and general asset management

If you're choosing between a professional trustee and a family trustee, these distinctions are important:

A professional trustee, such as a banking institution or trust company, brings fiduciary responsibility, experience, expertise, and impartiality but may not have a personal connection with the beneficiary.

A family trustee may deeply understand the beneficiary's needs but lack the financial acumen required to effectively manage a trust.

Don't forget to appoint one or more secondary trustees who will assume responsibility and succeed the original trustee if he or she can no longer fulfill their duties.

What Are Some Common Special Needs Trusts Mistakes to Avoid?

SNTs are powerful tools, but if any mistakes are made, the trust may not fulfill its intended purpose.

Some of the most common special needs trust mistakes include:

- Failing to properly fund the trust
- Improper use of trust funds
- Neglecting to update the trust

Proactively maintaining the trust assures that it continues to effectively serve your family member.

Partner with Professionals for Your Special Needs Trust

Given the complexities of special needs trusts, professional guidance from an experienced attorney can help families find their way through the legal landscape, avoid common trust mistakes, and find comfort in knowing a trust is set up to meet the beneficiary's unique needs.

If you're considering setting up an SNT or need assistance with estate planning, Houck Menninger Law is here to help. Contact us today for a consultation, and let us help you secure your loved one's future.