

## GLOSSARY OF NEW JERSEY TRUST TERMS

**Special Needs Trust** — A general term that denotes any one of several specific trusts, all of which preserve eligibility for government assistance benefits and create a fund that can be used to supplement the beneficiary's care and quality of life.

**Pooled Trust** — A trust established and administered by a non-profit association with trust sub-accounts established for the sole benefit of the individual beneficiaries by the beneficiary's parent, grandparent, legal guardian, a court, or the individual beneficiary. The beneficiary does not need to meet any age requirement, the assets used to fund the trust must belong to the beneficiary, and any remaining assets at the beneficiary's death must either be retained in the trust by the non-profit or used to reimburse the State for all medical benefits provided to the beneficiary.

**Medicaid** — Refers to all of the various needs based State programs that are operated in conjunction with the Federal government. New Jersey has numerous different adult Medicaid programs intended to provide different benefits and meet different needs. Like Supplemental Security Income (SSI), Medicaid programs have income and asset limits that must be satisfied and maintained as a condition to receiving program benefits. While Medicaid asset limits are fairly consistent, income limits can vary considerably from program to program.

**Social Disability Income (SSDI)** — An entitlement program that operates very much like Social Security old age and retirement benefits because eligibility is partially based on paying into the system for an appropriate number of quarters. Assuming that a sufficient number of quarters have been paid, receipt of SSDI benefits is then conditioned on a determination of disability by the Social Security Administration rather than upon reaching retirement age.

**Special Needs / Supplemental Needs** — Refers to services and/or goods that are not provided by the trust beneficiary's public assistance program. Because this definition of special needs is directly related to the technical eligibility requirements of each public assistance program, trust distributions that are perfectly appropriate for one trust beneficiary may be entirely inappropriate for a different trust beneficiary who receives different public assistance benefits. Supplemental Security Income (SSI). A needs-based Federal program that is administered by the Social Security Administration. The determination of disability that the Social Security Administration must make is the same determination that is made for SSDI. Unlike SSDI, however, SSI has income and asset limits that must be satisfied and maintained as a condition to receiving program benefits. In many States, including New Jersey, eligibility for SSI automatically qualifies the individual for Medicaid benefits.

## HANLON NIEMANN, PC

### Practice Areas

- Elder Law & Elder Care Planning
- Estate Tax Planning
- Preparation of Wills and Trusts; Estate & Probate Administration
- Medicaid Planning, Including Asset & Income Protection
- Guardianships of Adults & Minor Persons
- Special Needs Trusts for Incapacitated Adults & Minor Persons
- Adoptions
- Estate, Trust, Wills and Probate Disputes



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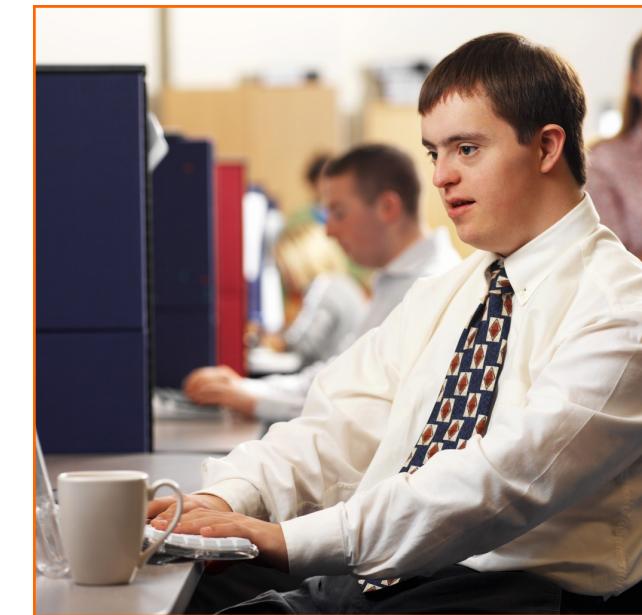
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# A Primer on Special Needs Trusts as an Effective Tool for Your Adult or Minor Child with Handicaps



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## IN NEW JERSEY, WHAT MAKES A TRUST A SPECIAL NEEDS TRUST (SNT)?

### A Special Concept

While there are different types of special needs trusts, they all share the common trait of maintaining eligibility for means tested government assistance programs such as Medicaid and Supplemental Security Income (SSI) and a fund that can be used to supplement the care and/or services that are not provided by government programs.

### Resource Test

All means tested government programs limit a person's assets and income. Income limits vary from program to program. Asset limits are generally \$2,000.00 for most programs. Certain assets, such as the individual's home and automobile, are not counted as available resources when determining eligibility. Most assets are counted. This includes property held in restricted accounts. Without some planning or a directed strategy, the individual will need to spend down all available resources to qualify for assistance.

### A Narrow Exception to Means Based Programs

A special needs trust provides a very narrow exception to the general rules that apply to trusts. A properly drafted and administered special needs trust will not be counted as an available asset, and trust distributions will not be counted as income. To receive this special exception, the trust must meet certain statutory requirements.



### *Importance of Proper Administration of a SNT in New Jersey*

While special needs trusts in New Jersey are conceptually simple, the administration of a special needs trust can be very complex. Administration can become complex because the rules that regulate government assistance programs are complex. Every special needs trust must be administered to the specific rules of the government assistance program providing benefits to a person.

## THE ADVANTAGES IN NEW JERSEY OF USING A SPECIAL NEEDS TRUST

### *Advantages for the Trust Beneficiary*

#### Eligibility for Government Assistance

If the individual is already receiving government benefits, he or she will continue to receive these benefits and/or services with no disruption. If the individual is just applying for benefits, then initial eligibility can be granted because the special needs trust will prevent the assets from being counted in the application process.

## Maximizing the Benefit of a Structured Settlement in a New Jersey Special Needs Trust

In personal injury cases, combining a special needs trust with a structured settlement can provide a second level of protection for the beneficiary. The first level of protection is provided through the structured settlement's ability to shield the settlement proceeds from the undue influence of new-found "friends" as well as from any of the beneficiary's own spendthrift propensities. Additionally, the special needs trust can provide a second level of protection by receiving the structured payments in such a way as to preserve eligibility for government assistance. In turn, this allows the structure's periodic payments to be maximized to the greatest extent possible.

### *Use of a Supplemental Needs Trust*

A special needs trust can greatly increase a person's quality of life. Some examples include the following:

- Payment of housing costs between shared and private rooms in institutional settings.
- Medical procedures or therapies not provided through government assistance.
- Supplemental nursing care and private companion services.
- Geriatric care services.
- Travel expenses.
- Entertainment expenses such as concerts, stereo, and other electronic equipment.
- Guardian Fees.
- Attorney Fees.
- Any other expense, service, or product not provided by the individual's government assistance program.

