



***Hosted by the Kentucky Autism  
Training Center:***

**An Overview of  
Special Needs Trusts**

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# Topic Areas

- Federal and Kentucky statutory framework
- The “nuts and bolts” of an SNT
- Planning Considerations
- Additional Documents
- Summary

# Federal and Kentucky Statutory Framework

- **42 USC 1396 Subsection D (4)(A)**  
[exempts SNT assets as a Medicaid resource]
- **42 USC 1382c (a)(3)** [defines disability]
- **POMS** [Program Operations Manual]


# Kentucky

## 907 KAR 1:650

[Treatment of trusts and Medicaid]

Kentucky Cabinet For Health and Family  
services:

<http://chfs.ky.gov/dms/incorporated.htm>



**What are the requirements for  
establishing an Special Needs Trust  
(SNT)?**

**When is an SNT is appropriate?**

# First Party versus Third Party SNTs

- Identical in operation
- Medicaid Recovery
- Source of funding
- Sometimes both are needed

# **B. The “Nuts and Bolts” of an SNT**

How does a SNT work in the real world?

Legal Document

Sole Benefit

Who can set up a SNT?

# Typical SNT Provisions

Declaration of Trust; appointment of Trustee and Successor Trustee(s)	Definitions; Purpose and Intent of Trust; Assets of the Trust
Amendments	Medicaid reimbursement
Provisions tailored to beneficiary; Spendthrift clause	Family/Home Living Arrangements
Ultimate distribution	Powers and duties of Trustee; Removal of Trustee
Tax provisions; generation skipping	Advisory Committee/Trust Protector
Misc; signatures and attachments	



# Planning Considerations

## Who's in charge?

Frequently parents or a sibling;

*Parent issues, age, divorce, sibling rivalry*

**Sole Benefit Trust...***Other siblings?*

# Planning Considerations

- Medicaid Reimbursement
- Financial Planning
- Checks and balances
- Planning for the next generation

# Who should be the Trustee?

*Consider...*

- Fiduciary Responsibility
- Control within family
- Aging
- Co-trustees
- Distinguish: guardian and/or Social Security Payee



# Planning for the Next Generation

The “pool” of future Trustees

Corporate Trustees

# Checks and Balances

- SNTs are Private documents
- Potential for error
- Advisory Committee
- Trust Protector
- Guardian/advocate

# Financial Planning

*Critically important topic!*

Long term view

Financial Planner (vs CPA?)

Taxation of trust

# Additional Documents

- Last Will and Testament
- Power of Attorney
- Healthcare/Medical POA
- Living Wills (Kentucky)
- Living Trusts for Parents/siblings

# Summary

Consequences of doing nothing

SNT “only game in town”

Unique to each individual and family



# Summary

**Plan** “*crystal ball gazing*”

**Get the best advice possible in all  
areas:**

living arrangements, financial, legal, and  
others areas

# Questions?

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