Hosted by the Kentucky Autism Training Center:

An Overview of Special Needs Trusts

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March 22, 2011



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]





907 KAR 1:650 [Treatment of trusts and Medicaid]

Kentucky Cabinet For Health and Family services:

http://chfs.ky.gov/dms/incorporated.ht m

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

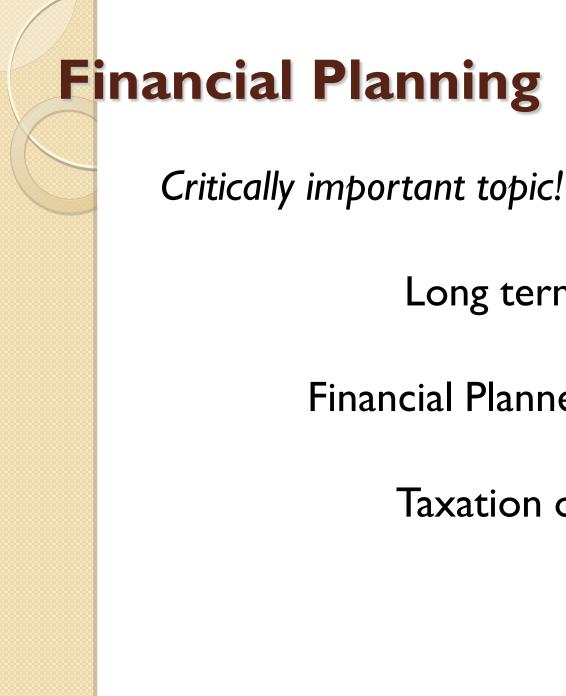
Planning for the Next Generation

The "pool" of future Trustees

Corporate Trustees

Checks and Balances

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



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



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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