



Buying a House with a Third-Party Special Needs Trust and Medicaid Repayment

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Special needs trusts (SNTs) are often used to help beneficiaries receive income without jeopardizing their receipt of benefits. The trust's distributions are used to enhance the beneficiary's quality of life. The distributions can be used for various purposes, including health/dental treatment and care, household and diagnostic equipment, or rehabilitative expenses – just to name a few.

Yet when a beneficiary receives Medicaid, state Medicaid recovery programs may take a beneficiary's trust funds to recover Medicaid benefits paid on behalf of a Medicaid recipient. If the beneficiary uses a third-party supplemental needs trust, no Medicaid repayment is necessary upon the beneficiary's death. But what if the third-party trust purchases a home for the beneficiary, is it subject to the SSA's one-third reduction rule for in-kind support and maintenance (ISM)? The following explores that question.

SNT and Medicaid Repayment Background

An SNT is a valuable tool to help people receiving Social Security Insurance (SSI), Medicaid, and other benefits to keep those benefits while having access to assets and financial resources to assist in their care. As defined by SNA President-Elect [Amy C. O'Hara, CELA](#), "A special needs trust (SNT) is a trust that will preserve the beneficiary's eligibility for needs-based government benefits [Public Benefits] such as Medicaid and Supplemental Security Income (SSI)." There are two types of SNTs – first-party and third-party.

For this article, the biggest takeaway is to understand the government can recover Medicaid payments from a first-party SNT and not from a third-party SNT because funds in a first-party trust belong to the beneficiary, and the funds in a third-party SNT never belonged to the beneficiary.

Using a Third-Party SNT to Buy a House

Because a third-party SNT can be used to purchase a home, it can be advantageous for it to own the house to avoid the Medicaid payback provisions in a first-party SNT. What happens if the trustee of a third-party SNT buys a house and an individual receiving SSI benefits lives

in the house and pays none of the expenses? SSI has rules that reduce a person's SSI benefits for payments that are defined as in-kind support and maintenance. ISM is money a person receives in the form of food or shelter, or both. When determining SSI eligibility and payment amounts, the Social Security Administration considers ISM, along with other forms of income, in determining the amount to be paid to the SSI recipient. The amount an SSI recipient's payment is reduced for receiving ISM can either be one-third or the presumed maximum value as defined in the SSI regulations. For this article, we will presume the reduction is one-third of the value of the SSI recipient's monthly SSI check.

So, if a third-party trust buys a house and the beneficiary lives in it without paying any of the expenses, like taxes, insurance, and utilities, it will result in a one-third reduction in the monthly social security payments the beneficiary receives.

Conclusion and Resources

Navigating the administration of a first-party or third-party SNT can be complicated. Therefore, if you want to learn more about using a first or third-party SNT, please use our ["Find an Attorney"](#) resource to find assistance in your state. For additional information, check the resource links below.

[*Program Operations Manual System \(POMS\), SI 00835.000 Living Arrangements and In-Kind Support and Maintenance*](#)

[*Special Needs Trusts*](#)

[*Medicaid Estate Recovery*](#)

[*What Is Medicaid Estate Recovery? And How Does It Work?*](#)

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