



When Should You Consider a Pooled Trust?

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Directly receiving a personal injury settlement, inheritance or other sizable sum of money can derail the finances of someone with disabilities. That's because having more than \$2,000 in resources makes them ineligible for means-tested government programs such as Medicaid and SSI (Supplemental Security Income), which may be essential to them. Creating a first party special needs trust (SNT) is one way to protect both their funds and public benefits, since the assets held in such trusts are considered exempt. Sometimes, though, a standalone SNT isn't practical, and a pooled SNT should be considered.

What's a Pooled Trust?

Pooled SNTs, which are managed by nonprofit organizations, combine the resources of many beneficiaries for purposes of administrative cost-effectiveness and investment optimization. Individuals have their own sub-accounts and usually receive a proportionate share of the entire fund's earnings.

A pooled SNT may be either a first or third party trust. A first party sub-account must be initially funded with resources belonging to the beneficiary, and can be established by the beneficiary themselves, a parent, a grandparent or the court. A third party sub-account can be created and funded by anyone except the beneficiary. In addition, the resources used to fund a third party sub-account must have always been owned by someone else, a "third party," and not the beneficiary.

Depending upon the state, all or part of the funds remaining in a first party pooled trust upon the beneficiary's death may be retained by the trust. Federal law requires that if the nonprofit does not retain all or a portion of the remaining funds, Medicaid must be reimbursed for any services it covered during the individual's life from funds not retained. Once Medicaid has been compensated, any leftover funds can be distributed to designated beneficiaries. With respect to a third party pooled trust, there is no requirement to reimburse Medicaid with funds remaining in a pooled third party trust, although some portion may still revert to the administering nonprofit.

Why a Pooled Trust?

Access to professional trustees is one of the top reasons that pooled trusts are chosen. Responsibly managing an SNT is complicated and may be too much for family members or

friends to take on. While the trust departments of financial institutions often set account minimums of \$500,000 or more, pooled trusts generally accept accounts of any size. The administering nonprofits are staffed by individuals who are well versed in special needs planning, keep abreast of changing benefit rules and are knowledgeable about local services. They may partner with financial institutions in the handling of investments and, if they do, understand how those institutions are regulated and by whom (state, federal, local or self-reporting). When many sub-accounts are managed together, they have access to a wider array of investment opportunities, including greater diversification, which can reduce risk.

Stability is another reason that families choose a pooled trust. They can review its performance history and needn't worry about replacing a trustee who becomes ill or otherwise unable to fulfill their duties.

Another important reason to consider using a pooled special needs trust, versus a standalone trust, is the amount to be distributed to the trust. While only the funds of the disabled individual can be held by the first party trust, and only the funds of persons other than the disabled person can be held by a third party trust, in either case it is important to consider what the amount of those is. If the contributed amount is too small to warrant the cost of setting up a standalone trust, or there's no one available to administer it, it may be practical to place financial gifts in a first or third party pooled trust as appropriate.

Pooled Trust vs. ABLE Account

ABLE accounts are another option to consider. As with SNTs, [funds held in ABLE accounts](#) are not considered when evaluating someone's eligibility for means-tested programs. Total contributions are limited to \$14,000 per year, and if the account balance grows to \$100,000, SSI will be suspended until the ABLE account balance drops below that level. Medicaid eligibility ceases once an account total reaches a state's limit for its 529 College Savings Plan. Medicaid payback requirements apply upon the beneficiary's death.

Do Your Homework

It's always advisable to retain a special needs attorney to help you sort through your planning options. Pooled trusts vary a great deal, so before deciding to invest in one, check its track record, and consider asking other families about their experiences with it. Be sure you're satisfied with the level of detail in the reports it provides to account holders.

You should learn what services the trust provides, what costs are entailed and what its distribution policies are. There are usually enrollment and annual maintenance charges, though some trusts use a sliding scale, depending on the account's value. Some

organizations offer care coordination, through which they pay directly from the trust for health services not covered by Medicaid, transportation and other expenses.

Are you comfortable with the financial organizations the trust works with and how it invests funds? Pooled trusts generally make relatively low-risk investments, so if you're interested in a more aggressive strategy, a pooled trust may not be a good choice. Additionally, because financial entities can report to a myriad of agencies, ensuring you are comfortable with the accountability structure is important.

It's important to inform trust administrators of the beneficiary's preferences and needs so that trustees can make informed decisions. Distribution requests may be made by the beneficiary or designated individuals on behalf of the beneficiary, but it's up to the trustee to determine if a requested distribution is appropriate.

Pooled SNTs aren't right for everyone, and the alternatives should be carefully weighed. Under the right circumstances, though, they can play an important role in a family's special needs planning.

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