Establishing Supplemental Care SNTs is an essential step for those with a family member or friend with a disability to protect quality of life and eligibility for important government benefits.

Federal and state laws now recognize the need for this type of planning. These laws provide support vehicles for people with disabilities, assisting families of both limited and substantial means.

What is a Special Needs Trust?

A “Special Needs Trust” (SNT) is a key tool that allows assets to be set aside for the benefit of a person with disabilities without disqualifying them from means-tested benefits such as Medicaid or Supplemental Security Income (SSI). An SNT is a legal arrangement (trust) where assets are held and managed by a third party (trustee) for the benefit of a person with a disability (beneficiary). An SNT may be of two general types: a Supplemental Care SNT or a General Support SNT.

The great majority of SNTs are Supplemental Care SNTs, and they are the focus of our discussion here. These SNTs are structured so that the assets held in the trust do not count as the beneficiary’s personal resources for determination of eligibility for public benefits and are structured to supplement the basic care provided by public benefits.

General Support SNTs are less common; they are designed to serve as the ***primary*** source of support for the beneficiary. As such, they preclude eligibility for need-based benefits. General Support SNTs are used when the wealth of the trust is great enough to make government assistance unnecessary.

Understanding the 3 Types of Supplemental Care SNTs

1. Third-Party SNTs

Third-Party SNTs are funded with assets belonging to someone other than the beneficiary (e.g., parents or grandparents).

- There are no age limitations for the beneficiary of a Third-Party SNT and there is no limit on the amount of assets that may be contributed to a Third-Party SNT.
- There is no payback required by Medicaid (or other government providers) after death.
- The SNT may provide for the disposition of any assets remaining in the trust at the death of the beneficiary (for instance, to other family members or charity).

2. First-Party (Self-Settled) SNTs

First-Party SNTs are funded with the beneficiary’s own assets.

- Must be created before age 65 (unless using a Pooled SNT, see below)
- Medicaid (or other government providers) must be reimbursed from any assets remaining in the trust at the death of the beneficiary.
- To the extent that there are funds remaining after reimbursement to Medicaid/government providers, the trust may provide for the distribution of these remaining funds (for instance, to other family members or charity).

3. Pooled SNTs

Pooled SNTs are managed by a nonprofit organization. Funds are pooled for investment purposes but tracked individually. The pooled management usually allows these funds to be managed more efficiently with a reduced management fee.

Pooled SNTs may be either First-Party or Third-Party SNTs; First-Party SNTs for persons over age 65 may use Pooled SNTs.

What Can a Supplemental Care SNT Pay For?

Each state has specific rules for SNTs, and Georgia is no different. There are specific expenses that can be covered using a Supplemental Care SNT.

Expenses may include medical care, therapy, education, transportation, personal care, and quality-of-life items such as vacations or hobbies. Supplemental Care SNTs are not intended to provide for basic needs such as food, clothing, and housing; these needs are being met by Medicaid or other governmental services. However, these trusts are structured to augment those basic services.

Choosing a Trustee for Supplemental Care SNTs

The SNT arena is a technical area of the law and careful consideration should be given to the choice of trustee.

The trustee manages the trust, makes distributions, and ensures compliance with benefit rules. Options include family members, professionals, or corporate trustees. The trustee is entitled to a fee for the services rendered and this can be determined by the parties. If not agreed to by the parties, Georgia has a statutory fee schedule that may be used.

Identifying Beneficiaries for Remaining Funds

A Supplemental Care SNT allows financial support while preserving public benefits. Third-Party SNTs are ***not*** required to reimburse or payback public support received by the beneficiary. First-Party SNTs ***are*** required to reimburse public support to the extent that funds are available in the trust to do so.

The trust document should provide a beneficiary for any remaining funds in the SNT. These beneficiaries may be other family members or a charity such as the Episcopal Community Foundation which can facilitate supporting a person's church. Proper drafting and administration of the trust are essential.



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