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ESTATE PLANNING ATTORNEYS



Supplemental Needs Trusts

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Public Benefit Programs

	Non-Means <u>Tested</u>	Means <u>Tested</u>
Income	SSDI	SSI
Medical	Medicare	Medicaid



Exempt Assets

- \$2,000
- Homestead property
- Personal effects and household goods
- Motor vehicle
- Life insurance (with restrictions)
- Burial funds (with restrictions) and burial space
- Property used in a trade or business



Historical Choices

- Lose benefits
- Disinherit child



Solution for Third-Party Funded Trusts

- 760 ILCS 5/15.1 (Sept. 6, 1991)
- Authorizes SNTs for funds outside disabled person's control
- Trust assets exempt
- No government reimbursement at death



Solution #1 for Self-funded Trusts

- OBRA Payback Trust (d-4-A Trust) (Aug. 1993)
- Authorizes SNTs for funds in control of disabled person under 65
- Created by parent, grandparent, legal guardian, or court
- Trust assets exempt during life
- Government reimbursement at death



Solution #2 for Self-funded Trusts

- Pooled Trust (d-4-C Trust) (Aug. 1993)
- Funds pooled for management purposes
- No age requirement
- Created by disabled person, parent, grandparent, legal guardian, or court
- Trust assets exempt during life
- Government reimbursement at death



Primary Terms of Supplemental Needs Trust

- Irrevocable
- Grantors' intent important
- Distributions for “supplemental needs” only
- Distributions in trustee's sole discretion (no standards)
- Distributions to providers of goods and services, not directly to disabled person

(Continued ...)



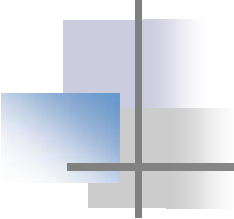
Primary Terms of Supplemental Needs Trust (Continued)

- Avoid in-kind support and maintenance (will reduce SSI)
- Trustees and successor trustees
- Remainder beneficiaries at death (after gov't reimbursement for d-4-A trust)



Examples of Permissible Distributions

- Dental care
- Optical care
- Supplemental nursing care
- Expenditures for travel, recreation, or educational or cultural experiences
- Expenditures for travel of family members to visit disabled person



Coordination with Other Estate Planning Documents

- Wills of parents, grandparents, etc.
- Insurance and retirement plan beneficiary designations
- No assets should pass directly to disabled child
- All assets for disabled child should be allocated to SNT