

Frequently Asked Questions about The Tennessee Pooled Trust

Q. What is a "pooled trust"?

A. A pooled trust is a creature of federal disability law, authorized by Congress under 42 U.S.C. section 1396p(d)(4)(C). Before this law was enacted, disabled persons who received personal injury settlements, inheritances, or windfalls risked the loss of essential government benefits such as Supplemental Security Income (SSI) and Medicaid. In some cases, disabled persons actually gave away their money to avoid losing their government benefits. Congress therefore stepped in and authorized non-profit associations like The Center for Special Needs Trust Administration, Inc., to create trusts to which the funds are transferred. The Trust administers the money for the benefit of the disabled person (called the "beneficiary").

Q. What can the trust money be used for?

A. The money can be used for the beneficiary's "special needs." For that reason, the term "special needs trusts" has been coined to describe these types of trusts. Another term that has been used is "supplemental needs trust." Generally speaking, the trust money can be used to purchase any goods or services that SSI or Medicaid does not pay for -- typically, non-support items that are other than essential medical care, food, shelter, and clothing. On our Web site we have included a [memo](#) written to help educate individuals who have been named trustees of special needs trusts understand their responsibilities.

Q. This sounds too good to be true. You mean a beneficiary can receive government benefits and yet set aside an unlimited amount of money to pay for amenities like vacations and entertainment? The government allows this? What's the catch?

A. It's true, and there is a catch -- two of them, actually. First, the trust money no longer belongs to the beneficiary. Once the beneficiary transfers his personal injury settlement money or inheritance to the trust, he cannot change his mind and ask for the money back. The money belongs to the Trust, which is required by law to distribute the money to or for the beneficiary's best interests, subject to certain limitations.

Second, at the death of the beneficiary, any money that remains in the trust account set up with the beneficiary's money is paid to the State as reimbursement for any Medicaid benefits the State has paid out on behalf of the beneficiary. (Note: this applies to Medicaid benefits only, not SSI benefits.) After "Medicaid payback," any remaining trust money will be given to persons designated by the beneficiary, such as other family members. Or, the Trust retains the money; but the Trust must use the retained money for the benefit of other disabled persons. The retained money will *not* be paid back to the government.

Q. Why should I transfer my money to the Trust for the benefit of my adult disabled child if the government must be paid back after he dies?

A. There is no payback to the government of money that other people, including the disabled child's parents, transfer to the Trust for the benefit of a disabled family member. Payback is required only if the assets that are transferred to the Trust are owned by the beneficiary, such as a personal injury settlement or inheritance.

Q. As a non-profit company, The Center for Special Needs Trust Administration will administer the money for free and ensure that the beneficiary stays on government benefits. Right?

A. No. Trust administration is not free. The Trust does charge a fee to set up the beneficiary's trust account and for ongoing administration of the trust assets. The money in beneficiaries' trust accounts is used to pay for, among other things, the expenses of trust

administration, investment advice, and salaries and professional services rendered to the Trust and its beneficiaries. Moreover, the Trustee may use the trust money to pay for services rendered to the Trust and its beneficiaries by the Elder Law Practice of Timothy L. Takacs.

Q. Why should I select the The Tennessee Pooled Trust? Why not name a member of the family to be trustee?

A. Serving as a trustee of a special needs trust is a difficult and exacting job and may continue for a long time in the future. This is an awesome burden to impose on a family member. Parents of adult disabled children and personal injury lawyers who are seeking to preserve settlements for their disabled clients are assured of trust management by caring professionals who understand a beneficiary's special needs and know the law applicable to government benefits.

For more information about joining The Tennessee Pooled Trust, please e-mail Tim Takacs: ttakacs@tn-elderlaw.com; or visit the Trustee's Web site at http://www.sntcenter.org/Download_Page_Tennessee.htm.

For information about Special Needs Trusts, please visit the Web site of [Vista Points: The Special Needs Trust Resource Center](#).