

# **SUPPLEMENTAL NEEDS TRUST**

**Office of Legal and Advocacy Services  
Heritage Centers**

## **What is a Trust?**

A “trust” is nothing more than a written set of instructions for managing assets. It is an agreement between the creator of the trust (often called the *grantor*) and a *trustee* to administer assets, including money, for the benefit of a third party (the *beneficiary*). There are many different kinds of trusts including a Supplemental Needs Trust (SNT).

## **What is a Supplemental Needs Trust (SNT)?**

A Supplemental Needs Trust (SNT) is a special type of trust that is established by a grantor for the benefit of a person with a disability. The grantor must be a parent, grandparent, legal guardian or a court of law. The trustee is the person who administers the assets in the SNT for the benefit of the person with a disability. A trustee can be any person 18 years or older. It is very important that a trustworthy and reliable person is appointed as the trustee. Once Established, an SNT is irrevocable. This means that it cannot be revoked or cancelled.

## **What is the Purpose of an SNT?**

The purpose of an SNT is to enhance the quality of life of the person with the disability. An SNT can allow a person with a disability to receive government benefits, such as SSI and Medicaid, and still have a source of funds to pay for items that government benefits do not cover. Any money given or bequeathed to the person with a disability is considered as an asset. Therefore, failing to establish an SNT when money is given may disqualify the person from SSI and/or Medicaid benefits.

## **What is the Role of a Trustee?**

The trustee must use the assets in the SNT for the benefit of the beneficiary and must always act in the best interest of the beneficiary. The trustee is the person that will make the decisions about how to utilize the SNT assets. It is very important that the trustee keep all receipts for items and services purchased on behalf of the beneficiary. From time to time, it may be necessary for the trustee to provide an accounting to a government agency. The saved receipts are the most efficient way to provide this accounting.

The SNT is a taxable entity. This means that the trustee is responsible for submitting annual Federal and New York State Income Tax Returns on the interest earned from the SNT. Please seek the assistance of an accountant to ensure that this is done properly.

## **What can the SNT purchase?**

SSI and Medicaid are intended to provide for food, shelter and covered medical expenses. The intent of the SNT is to provide goods and services that are not provided by SSI and Medicaid. The trustee should know what SSI and Medicaid benefits the beneficiary receives prior to making a purchase.

Note: the trustee should never give money directly to the beneficiary. Doing this may make the beneficiary ineligible for SSI and Medicaid. Rather, the trustee should pay a third party, the vendor, for the goods and services purchased on behalf of the beneficiary.

Most common items/services purchased with SNT funds are:

- Vacations, travel expenses, trips to visit family members
- Recreational activities, exercise equipment, entertainment, magazine subscriptions, birthday and holiday presents
- Goods such as clothing, computers, televisions, CD players, cable television service, long distance telephone service
- Legal and accounting services
- Repairs to the consumer's home
- Capital improvements to the consumer's home
- Additional support services, therapy and care that is not covered by Medicaid

## **There are Three basic types of SNTs**

1. **First-Party SNT or “Payback Trust”** This is an SNT that is funded with the beneficiary’s own assets. A beneficiary could fund a trust with assets from the sources including but not limited to:
  - a. inherited from a will
  - b. as a relative of an individual who died without a will,
  - c. received in a settlement of a lawsuit;
  - d. received as a beneficiary of a life insurance policy

Upon the death of the beneficiary, New York State will be reimbursed for Medical Assistance paid to the beneficiary. After New York State has received all “payback” funds, any person can be named as a remainderman.

2. **Third-Party SNT** This is an SNT that is funded by a source, known as a “third-party”, other than the beneficiary. The trust is funded by assets from the third party such as a parent, relative or any other person. The third party can designate any person to receive the remainder of the trust upon the death of the beneficiary.
3. **Pooled-SNT** This is an SNT that is established and maintained by a not-for-profit organization such as NYSARC. This type of trust allows families to pool their resources with other families. The not-for-profit organization, as the trustee of the SNT, will maintain a separate account for each beneficiary of the trust. The not-for-profit organization pools the funds in these accounts for purposes of investment and management. Upon the death of the beneficiary, any funds left in the trust is retained by NYSARC for the purposes and programs of the corporation and its chapters.

## **What is the process of establishing an SNT?**

The Office of Legal and Advocacy Services (OLAS) can assist you in establishing an SNT. Call OLAS at (716) 833-8603 ext. 248 to make an appointment with an attorney. During the appointment, the grantor and trustee will sign a completed Supplementary Needs Trust Instrument. Then, the attorney will assist you in obtaining an Employer Identification Number (EIN) from the IRS. Next, the trustee will take the Supplementary Needs Trust Instrument and the EIN number to a bank to open an account.

It is important for the trustee to remember to keep a receipt for all goods and services purchased on behalf of the person with a disability. Finally, the trustee is required to notify the Department of Social Services of the establishment of an SNT. The trustee also is required to notify the Department of Social Services when a large amount of money is withdrawn from the SNT. Please read the Supplementary Need Trust Instrument carefully for these specifics.

## **Definitions**

<u>Assets:</u>	All property in the SNT, including real and personal property and income.
<u>Beneficiary:</u>	The person who receives benefits from the trust during its administration.
<u>Distribution:</u>	A payment of money or property from the SNT to or for the benefit of the Beneficiary.
<u>Grantor:</u>	A person who creates the SNT by signing the trust document.

## **Living Trust/**

<u>Intervivos Trust:</u>	A trust established by a grantor during his or her lifetime.
<u>Probate:</u>	A court proceeding validating the Will.
<u>Remainder Interest:</u>	The funds from the trust that are left after the beneficiary dies.
<u>Remainderman:</u>	The person who receives the funds from a trust after the administration of the trust has been completed.
<u>Testamentary Trust:</u>	A trust established under the grantor's Will.
<u>Trustee:</u>	The person who administers the trust. This can be the same person as the grantor.

## **Resources:**

Special Needs Trust: A Guide for Trustees. 2005 Edition. Barbara Jackins. People with Disabilities Press Series. IUniverse, Inc. 2021 Pine Lake Road, Suite 100 Lincoln, NE 68512. 1-800-288-4677.

[http://onlineresources.wnylc.net/healthcare/SNT\\_Materials.htm](http://onlineresources.wnylc.net/healthcare/SNT_Materials.htm)

<http://www.specialneedsalliance.com>