

What Every Attorney Should Know about Special Needs Trusts for Disabled Individuals (2004)

Overview

- Is it malpractice to overlook the benefits of a Special Needs Trust and fail to recommend one?
- How do Special Needs Trusts preserve eligibility for public benefits like SSI and MaineCare?
- What is the Maine Pooled Disability Trust?
- How does a Third Party Special Needs Trust differ from a d(4)(A) or (C) trust?
- Why is the choice of trustee so vital with a Special Needs Trust?
- What are the challenges in administering a Special Needs Trust?

Agenda

- Introduction to the d(4)(A) Special Needs Trust
 - Purpose
 - Uses and Misuses

Jane E. Skelton, Esquire

- Public Benefits Available to the Disabled that Are Protected with a d(4)(A) Special Needs Trust
 - Benefits Not Based on Financial Need
 - Means-Tested Public Benefits

Jane E. Skelton, Esquire

- Alternatives to a d(4)(A) Special Needs Trust
 - Maine Pooled Disability Trust
 - Other Alternatives to Consider

Barbara A. Carlin, Esquire

- Special Rules to Consider in Drafting a d(4)(A) Special Needs Trust
 - POMS Requirements
 - MaineCare Requirements
 - Useful Trust Provisions

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- Considerations for Trustees Administering d(4)(A) Special Needs Trusts

- Notification to SSA of the Creation and Funding of the Trust
- Notification to DHS of the Creation and Funding of the Trust
- SSA Policy for Disbursements from the Trust
- MaineCare Claims and ERISA Plan Reimbursement Claims
- Settlement of Personal Injury Claims
- Tax Drafting and Compliance Issues for a d(4)(A) Special Needs Trust
- Trust Administration Duties
- Written Advice

Sally M. Wagley, Esquire

- Is it Malpractice to Fail to Preserve SSI and MaineCare Eligibility?
 - Personal Injury Cases
 - Estate Planning and Brown decision

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