

KENT COUNTY SPECIAL NEEDS TRUST REQUIREMENTS

Because Supplemental Security Income (SSI) and Medicaid are means-tested government benefits, assets or income owned or controlled by a disabled person will affect that person's eligibility for those public benefits.

A first party self settled special needs trust (SNT) provides a mechanism for the disabled beneficiary's assets or resources to be held in trust for his benefit without disqualifying the beneficiary from eligibility for the means tested government benefits.

These special needs trusts are subject to federal assets counting rules, the Michigan Trust Code and the supervision of the probate court. The probate court has full authority to order the inclusion of any trust provision reasonably calculated to be in the best interests of the disabled beneficiary and protect the disabled beneficiary's assets.

To protect the disabled individual and the assets placed in trust, the Kent County Probate Court requires the following procedures and documents for the creation of a first person self settled special needs trust:

1. Court appointment of a guardian ad litem (GAL)
Payment for GAL services to be provided from the trust
2. Copy of the trust document or joinder agreement
3. Copy of the proposed order creating the trust
4. Copy of the complete criminal history (CCH) of the proposed trustee
This form is available at the probate court office and online at Accesskent.com
5. Bond in the amount of assets held in trust

All federal requirements for the creation of a special needs trust shall be established or included in the trust document, including but not limited to:

1. Proof of disability
2. Proof that the trust assets are owned by the beneficiary
3. Proof that the beneficiary is under the age of 65 (d4A trusts only)
4. Provision that the individual is the sole beneficiary of the trust
5. Proof that the trust was established by a parent, grandparent, guardian, conservator, the disabled individual if competent and creating a d4C trust, or the court
6. Provision that trust distributions are discretionary
7. Provision that the trust is irrevocable
8. Provision requiring Medicaid payback or residual distribution to the pooled (d4C) trust
9. Provision that no public assistance payments may be added to the trust corpus.

To further protect the disabled individual, the following provisions shall also be included in the trust document:

1. Michigan law controls the establishment, administration, construction and modification of the trust
2. Trust administration remains in Kent County
3. Annual accountings served on all interested persons and approved by the court
4. The application of the Prudent Investment Rule to all investments
5. No modification of the trust without a court order
6. No gifting
7. No loans
8. No purchase of real estate without a court order
9. No purchase of a vehicle without a court order
10. No purchase of life insurance without a court order
11. No encumbering trust assets without a court order
12. No vacation expenditures for any person other than beneficiary without a court order prior to travel
13. No appointment of a successor trustee without a court order
14. Residuary trust beneficiaries shall be the individual's heirs at law (unless provided otherwise by court order)