

SPECIAL NEEDS TRUSTS & ABLE ACCOUNTS – THE BASICS

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Special Needs Trusts

Definition:

A special needs trust (SNT) is a trust that will preserve the beneficiary's eligibility for needs-based government benefits such as Medicaid and Supplemental Security Income (SSI). Beneficiaries can remain eligible for benefits programs even though SNT may be available to pay for other expenses that Medicaid and SSI do not supplement the beneficiary's government benefits.

The Roles:

- Just like any other trust - Grantor, trustee, beneficiary
- **First Party Special Needs Trust**
 - Set up with the beneficiary's own money
- **Third Party Special Needs Trust**
 - Set up with money from another person(s)
- **Pooled trust**

From the Special Needs Alliance - www.specialneedsalliance.org

First Party Special Needs Trust

- Also known as a self-settled or (d)(4)(A) trust
- Beneficiary must be under the age of 65 to qualify
- Trust must be irrevocable
- Medicaid must approve the trust
- Medicaid must be reimbursed upon the trust termination
- Trust must be for the sole benefit of the beneficiary
- Trust must "supplement" not "supplant" other funds

Third Party Special Needs Trust

- Also know as a supplemental needs trust
- Assets protected from disability payment programs
- Assets belong to another person(s)
- Multiple people can contribute
- Beneficiary's own assets cannot be co-mingled
- There is no Medicaid pay back upon termination
- Person creating the trust can decide what happens to the funds at termination

Pooled Trusts

A pooled trust is one where a special needs trust combines the assets of multiple disabled individuals into a single trust for investment and management. The trust is managed by a nonprofit organization, and each beneficiary has their own sub-account within the trust.

Advantages:

- Accept accounts of any size
- Often exempt self-settled via OUT management
- Handle investment management
- Fees are usually lower than financial institutions

Disadvantages:

- Only as good as the non-profit managing it
- May have a waitlist
- Pooled trust may keep some or all of the assets at the death of the beneficiary
- Can move from the pooled trust to another but may not be able to keep pooled trust option

In our area: ARCANE (KS & MO) and Midwest Special Needs Trusts (KS & MO)

What is an ABLE Account?

The Achieving a Better Life Experience (ABLE) Act of 2014

- Amended Section 529 of the Internal Revenue Service Code to create tax-free savings account for individuals with disabilities
- Both Kansas and Missouri allow and offer ABLE Savings Plans
- Tax advantage savings plan
 - Contributions can be made by any person (family, friends, special needs trust or pooled trust)
- Must meet eligibility requirements
 - Eligible for SSI based disability or blindness BEFORE age 26 (in 2026, age limit is raised to 46), AND
 - Entitled to disability benefits, childhood disability benefits, or disabled widow's or widower's benefits based on disability or blindness that began before age 26, OR
 - Someone who has certified, or whose parent or guardian has certified, that he or she have a medically determinable impairment meeting the statutory specified criteria, or is blind, and the disability and blindness occurred before age 26

How can I establish an ABLE Account?

The Rules:

- One account per individual
- Must be a qualified ABLE program
 - Does not have to be a program where you live
 - Contribution limit for 2025 (up to \$19,000 limit for 2026) from unearned income
 - In addition, can contribute up to \$15,060 (MO) or \$15,650 (KS) from earned income
- Maximum balance limits
 - KS - \$501,000
 - MO - \$555,000

ABLE Account Fees

Kansas

- Annual fees - \$50-paper statements/\$35-online statements
- Debit card – free if the balance remains about \$250

Missouri

- Annual fees - \$27 per year
- Debit card - \$3.00 per month (can have up to \$20,000 on the card)

ABLE Accounts & Other Benefits

Social Security Limit for ABLE Account

- The first \$100,000 is excluded from counting as a resource

Medicaid and ABLE Account

- Account balances and withdrawals are excluded for the purpose of Medicaid and other benefit programs

HUD programs exclude ABLE account balances

What can I use my ABLE account for?

Qualified disability expenses include:

- Education
- Housing
- Transportation
- Employment training and support
- Assistive technology
- Personal support services
- Health care expenses
- Financial management & administrative services
- Legal fees & ABLE account management
- Funeral Expenses
- Basic living expenses

Other Tidbits about ABLER Accounts and Special Needs Trusts

Special Needs Trusts

- Yes, you can have both a SNT and ABLER Account
- First Party Special Needs Accounts can help pay expenses special needs trusts cannot
- Special Needs Trusts can offer more protection

ABLE Accounts are subject to Medicaid Estate Recovery

- Kansas eliminated estate recovery on ABLER accounts
- Missouri is subject to estate recovery

Tax Deduction (state only, no federal)

- Missouri - up to \$8,000 single filer, up to \$16,000 joint filers
- Kansas - up to \$3,000 single filer, up to \$6,000 joint filers

Resources

- **ABLE National Resource Center** – www.ablenrc.org
 - Can research all state options
 - Lots of information at your fingertips
- **Kansas** – savewithable.com/ks/home.html
 - Can access through ABLE National Resource Center
- **Missouri** – www.moable.com
 - Can access through ABLE National Resource Center
 - Partnered with STABLE Account (National ABLE plan)