

# SPECIAL NEEDS TRUST PLANNING

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EPCCT PRESENTATION  
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1. **What is Special Needs Planning?**
2. **Criteria for Special Needs Planning**
  - a. Disability per 42 USC 1382(c)
    - i. Has the proposed beneficiary been determined to be disabled by the Social Security Administration?
  - b. Meet means-tested criteria where required
  - c. Impact of planning on quality of life
  - d. Funded with monies belonging to the proposed beneficiary
    - i. 1396p(d)(4)(A) – must be established by parent, grandparent, guardian or court (TX Statutes 1301 and 142)
    - ii. Medicaid payback trust – 42 U.S.C. 1396p
  - e. Funded with monies belonging to one or more third parties (non-payback – can be stand-alone, testamentary)
3. **Common disabilities in Special Needs Planning**
  - a. Intellectual Disabilities
  - b. Chronic Illnesses
  - c. Traumatic Brain Injury
  - d. Dementia
  - e. Mental Illness
  - f. Strokes
4. **Definition of “means-tested”**
  - a. Income and/or Asset limitations
5. **Public programs for income, medical care, food, and housing**
  - a. Monthly Income

- i. Supplemental Security Income (*means-tested*)
    - ii. Social Security Disability Insurance (*non-means tested*)
    - iii. Optional State Supplementation (*means-tested*)
    - iv. Section 8 housing (*means-tested income only*)
  - b. Medical Care
    - i. Medicaid (*means tested*)
    - ii. Medicare (*non-means tested*)
    - iii. Medicare Low Income Subsidies  
(*can pay deductibles, co-insurance, co-pays*)
    - iv. "Means-tested" QMB, SLMB, QI
  - c. Other
    - i. Food Stamps (*means-tested income*)
- 6. **Types of SNTs**
  - a. First Party/ Self-settled/ d4A or d4C
  - b. Third Party
- 7. **Differences between First and Third party SNTs**
- 8. **Testamentary and Inter Vivos SNTs**
- 9. **Choosing a Trustee**
- 10. **Can a SNT be terminated before the death of the beneficiary?**
- 11. **When is a SNT unnecessary or should planning be postponed?**
- 12. **What is the role of SNTs in divorce proceedings?**

**Helpful Resources:**

- Special Needs Alliance newsletter: The Voice, [www.specialneedsalliance.org](http://www.specialneedsalliance.org)
- Stuart D. Zimring, Rebecca C. Morgan & Bradley J. Frigon, *Fundamentals of Special Needs Trusts*, (Matthew Bender 2009).
- Thomas D. Begley, Jr. and Angela E. Canellos, *Special Needs Trust Handbook* (Wolters Kluwer 2012).
- Robert B. Fleming and Lisa Nachmias Davis, *Elder Law Answer Book* (Wolters Kluwer 2015, 2010-2014).