

# Special Needs Trust Foundation

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**The Special Needs Trust Foundation is a cooperative project of:**

- ♦ Access to Independence
- ♦ The Arc of San Diego
- ♦ Community Catalysts of California
- ♦ Developmental Services Continuum
- ♦ Home of Guiding Hands
- ♦ NAMI San Diego
- ♦ Partnerships With Industry
- ♦ Sharp Healthcare Foundation
- ♦ St. Madeleine Sophie's Center
- ♦ United Cerebral Palsy, San Diego
- ♦ Unyeway, Inc.
- ♦ Vista Hill

## **1<sup>st</sup> PARTY/SELF-SETTLED SPECIAL NEEDS TRUST**

Unfortunately, a windfall of cash for a person with a disability who relies on public benefits for income and medical care, is a problem. They are only allowed to have \$2,000 in resources, but could certainly use the additional funds to enhance their quality of life. In order to help these individuals, the Special Needs Trust Foundation (SNTF) created a Self-Settled Special Needs Master Trust which can be used as a safe harbor for those funds.

The SNTF's Trust allows the contributions of many individuals to be pooled for increased investment leverage, but still maintains individual accounts for each Beneficiary. Disbursements are made in a manner which is compatible with maintaining their public benefits. This process is overseen by a licensed professional fiduciary who is experienced in the administration of Special Needs Trusts.

# QUESTIONS FREQUENTLY ASKED ABOUT THE FIRST PARTY/SELF-SETTLED SPECIAL NEEDS TRUST

## *What is a first party/self-settled special needs Trust?*

The **Special Needs Trust Foundation** (SNTF) was developed to assist individuals living in San Diego County/Southern California with special needs to establish a special needs trust (SNT) that allows them to supplement their monthly income from SSI with distributions from their special needs trust, but with no adverse effects on their SSI, Medi-Cal (the California Medicaid agency), IHSS (In Home support Services), Section 8 Housing, or other “needs based” public benefits. Although the special needs trust cannot give the Beneficiary cash, it can enhance the quality of an individual’s life by paying certain bills and by purchasing goods and services for their benefit. This gives the Beneficiary more flexibility to use their own income as they wish.

A “self-settled” or “first-party” trust can be established and funded by a parent, a grandparent, a legal guardian or the court. The “first party” trust can be used to manage the proceeds of personal injury and other litigation, for inheritances, for Medicare Set-Aside Supplements, and for retroactive Social Security payments, which might otherwise disqualify these individuals from receiving public benefits. If the Beneficiary is not competent, this type of trust requires court approval. The Master Trust must include a Medi-Cal payback provision requiring that, on the termination of the trust, the Trustee shall reimburse the state Medicaid agency for medical services received up to the total amount that the State(s) has spent on Medi-Cal or Medicaid services for the Beneficiary throughout the Beneficiary’s lifetime. However, there is no reimbursement right for SSI, IHSS or Section 8.

The first party SNT, created by the SNTF, offers an opportunity, which families might choose over an individual trust for several reasons. First, because the pooled trust will accept smaller amounts of money. Second, the pooled trust with the SNTF allows the trust to be established by the individual. Third, the first party SNT offers services that promote continuity of fiscal management through a well-known and respected local San Diego non-profit corporation providing broad access to professional

expertise through the participating members of the SNTF. Furthermore, the SNTF administrative expenses are usually less than those for an individual SNT.

### ***Can this Trust be set up to be the principal means of support for our loved one?***

Probably not. If the SNT pays for food and/or shelter, the individual will receive less SSI.

### ***What is meant by “extras”?***

Funds in a SNT can be used to purchase those “extras” for individuals with disabilities, which they may not be able to receive from government assistance. These “extras” may well be expenses that are very important to a Beneficiary’s happiness and welfare. For example, a special needs trust can pay for dental treatment, travel, purchase of personal goods or services and recreational activities.

### ***Will our loved ones lose their government benefits?***

No. The Master Trust has been carefully researched and drafted to prevent a negative effect upon the flow of government benefits.

There is no guarantee, however, that the Master Trust will never be challenged by a government agency. But, you can be assured that the situation will be continuously monitored by the Trustee.

### ***Who is the Trustee of the first party SNT?***

The **Special Needs Trust Foundation**, a 501 (c) (3) California non-profit corporation is the Trustee.

### ***Who will make decisions about disbursements?***

The SNTF Board of Directors serve as Trustee. They employ a licensed professional fiduciary to review disbursement requests to obtain needed goods and services for each Beneficiary.

***Can family members participate in the review of disbursement requests?***

Yes. If a competent beneficiary agrees that the family can participate in the process.

***How secure is the Special Needs Trust Foundation?***

If a SNTF member agency should end their involvement with the SNTF, successor directors would be elected from other service providers. The SNTF as a corporation is self-perpetuating and should always be available even if one or more member agencies of the SNTF cease to be a member.

***Is there a minimum amount that must be placed into the first party SNT in order for our family member to be a Beneficiary?***

Yes. \$5,000 is needed to establish a 1<sup>st</sup> Party/Self-Settled special needs trust with the SNTF.

***Are separate accounts kept for each Beneficiary?***

Yes. The funds are pooled to increase investment leverage but each individual has a separate trust account.

***What assets will the Trust accept?***

Any payment that might disqualify an individual from receiving public benefits such as: proceeds of physical injury or other litigation, inheritances, Medicare Set-Asides Supplement, and retroactive Social Security payments. Only contributions in the form of cash or checks will be accepted. Real property or stocks are not accepted.

***Can we change our minds about being a part of the first party SNT?***

**No. When funds are placed into a SNT, they are irrevocable and will only be distributed according to the Joinder Agreement which you established.**

### ***How will Trust funds be invested?***

Trust assets will be invested according to the Investment Policy Statement developed between the SNTF and the investment advisor at the financial institution where the funds are held. In general, the Trustee invests for long-term preservation of principal, reasonable current income and in accord with the “prudent investor” philosophy. There are several different investment platforms which are designed to meet the varying needs of our Beneficiaries.

### ***Are there fees charged to the account?***

Yes. The fees are outlined in the SNTF Joinder Agreement. Annual tax returns, if required, will be prepared by a certified public accountant. Preparation fee and related tax liability will be billed to the individual Trust.

### ***Will disbursements be made from interest only or from principal and interest?***

At the time the SNT is established, the Beneficiary or their representative, will be asked to outline what the long term goals are for the trust and how they feel the money might be used for the Beneficiary. The Trustee, at its discretion, may disburse trust income or principal to purchase goods or services for each Beneficiary, consistent with the purpose and objective of this SNT.

### ***What happens to the Beneficiary’s account if he/she dies before it is all spent?***

If this Trust account is funded with the Beneficiary’s own money, federal law requires that all unspent money in the account remaining at the time of the Beneficiary’s death be used to reimburse the State(s) for medical services received, up to the total amount that the State(s) has spent on Medi-Cal services for the Beneficiary throughout the Beneficiary’s lifetime. If a balance remains after the State(s) has been reimbursed the balance will be disbursed as follows:

If the Beneficiary is a minor or is incompetent, the remainder must be that individual's "heirs at law" as determined by the California Probate Code. Competent individuals may name their beneficiaries in their Joinder Agreement.

***Is there a tax deduction for any of the amount placed into the Trust?***

No. Amounts placed into the SNT are **NOT** tax deductible because they go to benefit an individual rather than a charitable organization.

***How do I get more information about the Special Needs Trust?***

If you or your family member has special needs and could benefit from these services, apply to the SNTF at (619) 201-2672, P. O. Box 1890, Lakeside, CA 92040. Also, visit our web site [www.sntf-sd.org](http://www.sntf-sd.org).