

TRUST ISSUES: *Four Common Concerns People Have About Special Needs Trusts*

A special needs trust (SNT) is a key component in a financial strategy for a person who has special needs. Various types are available and can:

- ***receive assets – an inheritance, a court settlement, an insurance claim payment, gifts of money, life insurance proceeds, regular or sporadic cash deposits, and more,***
- ***protect government benefits the person receives now or will receive in the future – assets in the trust will not be included when determining if a person has exceeded the maximum allowable income to qualify for or keep receiving benefits, and***
- ***provide financial benefits – be a source of distributions for certain living expenses as determined by the terms of the trust.***

A financial expert, such as a Special Care Planner or a Chartered Special Needs Consultant (ChSNC)* with Massachusetts Mutual Life Insurance Company (MassMutual), will often recommend a special needs trust for a child, but it can also benefit a person of any age whose current and/or future ability to earn an income or be self-supportive is in question.

This article explains some aspects of special needs trusts – the issues that most commonly come up in conversation when individuals or families with special needs meet with Special Care Planners.

I know I should have a trust, but I don't have that kind of money.

Some clients feel they don't have money for an SNT, or they think they don't have *enough* money. If this is also your concern, here are some things to consider.

"Contrary to what some films, T.V. shows, or literary works might have you believe, you don't need to be mega wealthy to have a trust," explains Debra L. Anderson, Senior Vice President at MassMutual Trust Company, FSB in Enfield, Connecticut. "You can establish a trust now and contribute assets to it at a later date. That way, the trust is in place – ready and waiting to be funded." This is particularly advantageous if you (or

your family member, if the trust is for him or her) receives unexpected money that might jeopardize eligibility for government benefits.

The SNT could be funded by purchasing a life insurance policy or changing the beneficiary of a policy you already have, so when the insured passes on, the death benefits are paid into the trust. Or you may know that someone has named you (your family member) in a will. In this case, you'd want to advise that person to designate the trust as recipient of the inheritance. When the time comes, the trust receives the money.

"The idea is to be prepared for the future," Anderson says. "Just as many parents put aside regular contributions to a college fund, that same thinking can be applied to funding an SNT." You could choose to have money deposited directly from a paycheck to a savings account, then make quarterly or annual transfers of the savings to the SNT.

I want to be able to contribute my own money to my trust.

There are three types of trusts: first party, third party, and pooled. There's much to know about each type, and there are benefits and limitations to each, including who may contribute to them. An experienced financial professional and attorney can help you understand each type and determine which would be best for your personal situation.

"A first party trust is often used when proper planning hasn't been done in advance," says Anderson. "For example, a person with special needs might unexpectedly receive an inheritance. The asset is in their name, but keeping it that way would be disadvantageous. A first party trust is created because it allows an individual to contribute his or her own assets. If advance planning had been done, a different type of trust might have been a better choice."

With a third party trust, anyone can contribute assets to it at any time – *except* the person for whom the trust was established. This type of trust makes it easy for friends and relatives to make contributions. They simply send checks (or issue instructions for inheritances, policy death benefits, and so forth to be sent) to the trustee for deposit to the trust.

SPNT

A pooled trust is often chosen when trust assets are under \$100,000. It's a joint trust with others, managed by a community organization or foundation. Each person has a separate sub-account, but funds are pooled for the trustee to invest for the benefit of all trust participants. There may not be attorney fees to pay, but you'll be charged a maintenance fee (and sometimes a set-up charge). Depending on policies established by the organization, when you die a portion of the balance of your trust stays in the trust with the remainder distributed to your beneficiary(ies).

I can't afford the legal fees to set up a trust.

If your family feels confined by a tight budget, a Special Care Planner can help you review your family's income and expenditures, including spending habits, to find ways to reduce expenses and increase your discretionary income. He or she can also put you in touch with attorneys who have the knowledge and experience to properly help families with special needs. Some attorneys may reduce their fees, offer affordable payment plans, or provide some services at no cost.

"The benefits may outweigh the cost of establishing a Special Needs Trust," Anderson stresses, "because the risks of not having one are so great." Risks include:

- having no source of income to take care of yourself when others who now care for you are no longer available to do so,
- losing government benefits you now receive because you've exceeded resource limitations (or being ineligible to qualify for benefits later when you need them), and
- losing your money and other assets to creditors.

I just want to set up a trust and not worry about it again.

It can be a relief to finally have an SNT in place. But once you create it, it's prudent to review it at least annually with your Special Care Planner (or other financial professional) and your attorney, and certainly whenever a major issue arises. You might include others in the review process, or have them meet on your behalf – your trustee or trust advisory committee (a group of individuals you choose to work with a corporate trustee), a family member or caregiver, or other people involved in your well being.

Life events or changes that can affect your trust include marriage, divorce, births of children, moving to a new location, transportation

needs, significant changes in care that's needed, and housing needs. Sometimes moving out of the state in which you created your trust can affect the trust – for instance, how funds may be used or how states are paid back for the benefits they've provided.

* The Special Care Planner received advanced training and information in estate and tax planning concepts, special needs trusts, government programs, and the emotional dynamics of working with people with disabilities and other special needs and their families. The certificate program was offered by The American College in Bryn Mawr, PA, exclusively for MassMutual financial professionals. State insurance departments recognize that the Special Care Planner certificate program provides essential information on the profession of special care by granting continuing education (CE) credits (varies by state).

A Special Care Planner through MassMutual's SpecialCareSM program can assist parents in drafting Letters of Intent and can help make a difference in the quality of life for an individual with special needs, their caregiver and other family members. Through SpecialCare you will learn valuable financial strategies, identify financial strategy solutions, access vital information, and meet certified specialists who will work with you and your professional advisors – your banker, accountant or financial planner, lawyer, social workers and health care providers – to review your financial picture and offer options to fit the needs of each situation. For more details, visit MassMutual's website at <http://www.MassMutual.com/specialcare>, or call 1-(800)-272-2216.

About MassMutual

Built on more than a century-and-a-half of financial strength and customer service, Massachusetts Mutual Life Insurance Company (MassMutual) is a leading mutual life insurance company headquartered in Springfield, MA. We operate for the benefit of our members and participating policyholders' and offer a range of quality financial products and solutions, including life insurance, disability income insurance, long-term care insurance, annuities and retirement/401(k) plan services. Our family of companies in the MassMutual Financial Group includes: Babson Capital Management LLC and its subsidiary Cornerstone Real Estate Advisers LLC, Baring Asset Management Limited, First Mercantile Trust Company, MassMutual International LLC, MML Investors Services, LLC, The MassMutual Trust Company, fsb and OppenheimerFunds, Inc.



Get the issues out of the way.

Talk with your financial professional soon. Put your issues on the table, ask the questions you have, and find out if you or your family member should have a Special Needs Trust.

**Chartered Special Needs Consultant – a professional designation awarded to those individuals who've completed 120 hours of academic classes in addition to previously completing the Special Care Planner certification program. The designation was developed by The American College in Bryn Mawr, Pennsylvania. The certification program and the professional designation evolved from MassMutual's SpecialCare Program.*