

Introduction to Government Benefits and Special Needs Trusts

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Presenters



Joan McGrath, Executive Director, has been with PLAN since 2009. Prior to assuming the role of Executive Director, in February 2020, Joan was Director of Finance and Administration for PLAN and has more than 25 years of experience in professional accounting and finance. She has been an auditor with a “big four” public accounting firm, where she focused on high growth, emerging business clients. She also led her own private consulting practice, where she worked with nonprofits, service organizations, and venture capital startups. Joan earned her Bachelor’s degree in Accounting from Boston University’s Questrom School of Business.



Kathy Vitello, Director of Operations, has been with PLAN since 2013. Prior to assuming the role of Director of Operations in February 2020, Kathy was Director of Beneficiary Services from 2018-2020 and has been a PLAN Service Coordinator since 2013. Kathy earned her Bachelor’s degree in Applied Mental Health from UMASS, Amherst and her Associate’s degree in Mental Health from Northern Essex Community College. Kathy is certified in Suicide Prevention in Older Adults, Mental Health and Aging from Boston University’s Institute for Geriatric Social Work and Thanatology (scientific study of death and dying).

Learning Objectives

- Overview of key Government Benefits
- Purpose and Use of Special Needs Trusts
- Pooled Special Needs Trusts
- Future Funded

What is the main problem we are trying to solve?

How can a person with disabilities maintain their eligibility for as many government benefits as possible **and** also receive lump sum payments from an inheritance or legal settlement?

Overview of Government Benefits

- For many of the Means Tested benefit programs, eligibility is based on asset (resources) and/or monthly income limits, along with disability criteria
- For Government benefits, recipients must be in federal poverty level. The 2023 federal poverty levels are:

1 person household is \$14,580

2 person household is \$19,720

Entitlement vs. Need-Based Benefits

Entitlement Benefits (Does not depend on income level)	Needs-Based Benefits (Depends on income level)
Social Security Disability Insurance (SSDI)	Supplemental Security Income (SSI)
Medicare	Medicaid

SSDI/Disabled Adult Child aka “Childhood Disabled Beneficiary Benefits aka “DAC”

- A parent’s child with a disability may receive a percentage of the parent’s Social Security Retirement benefits if the child was diagnosed before age 22
- Child must be over the age of 18 to receive benefits
- Payments begin when the parent retires, becomes disabled or dies
- The Disabled Adult Child receives 50% of the parent’s Social Security retirement amount while the parent is alive (and the parent keeps getting 100%) and then 75% of the parent’s Social Security retirement amount after that parent passes

What is Supplemental Security Income (SSI)?

- The benefit is based on Federal and State laws which take into account where you live, who lives with you and what income you receive.
- Max Benefit for Disabled is (\$1,028.39) from the Social Security Administration (\$914 is Federal and \$114.39 is State Max for Disabled)
- For adults aged 65 or older who are disabled and/or blind. Also, for disabled of any age.
- Children with disabilities may also qualify if parents are low-income (Deeming) Up to Age 18/22

What assets are not counted for SSI?

- The house you live in and the land that it is on
- Property used for trade in business
- One car (property of you or your spouse)
- Life insurance policies you own with a cash value of \$1,500 or less per person
- Burial plots for you and your immediate family
- A burial fund of up to \$1,500 each
- Household goods and personal effects

What resources are counted for SSI?

- Resources cannot exceed \$2,000 for an individual or \$3,000 for couple/parents
- Money or something owned that can be liquidated
(bank accounts, 401K, stocks, bonds)

SSI-Understanding In-Kind Support and Maintenance (ISM)

- SSI considers financial assistance for food, shelter or basic utilities to be “in-kind” income for the following categories:

Food, mortgage payments, property taxes, rent, heating fuel, gas, electricity, water, sewer, and garbage removal

- ISM is counted if a third party, i.e. family member or some other source pays for these items
- A penalty of up to 1/3 of the Federal share of SSI deducting \$20 will be imposed one month at a time

The Massachusetts State Supplement (SSP)

- A state cash benefit program for qualified Massachusetts Supplemental Security Income (SSI) applicants
- Eligibility determination is made by the Developmental Disabilities Administration or certain individuals on SSI in Adult Foster Care
- SSI is a Means Tested benefit
- You must apply for SSI before you can apply for SSP even if you are over income

What is Mass Health?

- A Medicaid Program combined with CHIP (Childrens Health Insurance Program)
- Needs-based programs (low income, low assets)
- Pays for medical care, in-home caregivers, and long-term care (Doctor's visits, hospital stays, rehab and therapeutic services)
- Pays for durable medical equipment (such as wheelchairs or insulin pumps)
- Pays for prescription medication
- Pays for end-of-life/Hospice care
- Personal Care Attendant Programs (PCA)
- Transportation Programs

Home Modification Loans

- Help people with disabilities and elders modify their home
- Allow people to remain in their homes and live more independently in their communities
- Home Modification Loan Program provides loans to make modifications to the primary, permanent residence of elders, adults with disabilities, and families of children with disabilities.
- Examples of modifications funded by HMLP include:
 - Ramps and lifts
 - Bathroom adaptations
 - Fencing
 - Sensory integration rooms
 - Creation of additional living space including accessory dwelling units or in-law apartments

SNAP

SNAP provides food benefits to low-income families to supplement their grocery budget so they can afford the nutritious food essential to health and well-being

Households may have \$2,750 in countable resources (such as cash or money in a bank account) or \$4,250 in countable resources if at least one member of the household is age 60 or older, or is disabled.

- Income must be 200% of Federal Poverty Level (FPL) or less
- Need to apply over the phone, in person, or online. EBT cards are used and loaded monthly
- However, certain resources are NOT counted when determining eligibility for SNAP:
 - A home and lot
 - Resources of people who receive Supplemental Security Income (SSI)
 - Resources of people who receive Temporary Assistance for Needy Families (TANF), also known as welfare; and
 - Most retirement and pension plans (withdrawals from these accounts may count as either income or resources depending on how often they occur)

Transitional Assistance for Families and Dependent Children (TAFDC)

TAFDC and Emergency Aid to the Elderly, Disabled and Children (EAEDC) are administered through the Department of Transitional Assistance (DTA)

These Benefits include:

Case management to help you reach your goals

- Monthly cash payments to help you pay for necessities like housing, utilities, and clothing
- Health insurance
- Education, training and employment opportunities

DTA assists and empowers low-income individuals and families to meet their basic needs, improve their quality of life, and achieve long term economic self-sufficiency.

Other Waiver Programs in MA

- **Traumatic Brain Injury Waiver (TBI)**-Designed to assist individuals with traumatic brain injuries who have a desire to reside within the community.
- **Acquired Brain Injury Non-Residential Hamilton Waiver (ABI-N)**-This waiver is specifically tailored to provide assistance to adults with an acquired brain injury (ABI) who do not need around-the-clock assistance and support.
- **Moving Forward Plan Waiver (MFP)**-Designed to assist individuals who have resided in a nursing home or long-term care hospital for a minimum of 90 days.
- **Moving Forward PLAN Community Living Waiver (MFP-CL)**-This waiver offers assistance to adults who require less than 24-hour support and care. Those enrolled in the MFP waiver typically live with their families or in their own homes.
- **DDS Home and Community Based Services Waivers**-A way for individuals to receive services in their home instead of an institution.
- **LIHEAP**-Designed to assist individuals with Home Energy Assistance.

Omnibus Budget Reconciliation Act of 1993

- The **Omnibus Budget Reconciliation Act of 1993** (or **OBRA-93**) was signed into law by President Bill Clinton on August 10, 1993.
- OBRA-93 allowed for the establishment of Special Needs Trusts.
- The purpose of OBRA-93 was to allow a disabled beneficiary to benefit from the funds in the Special Needs Trust without losing his/her eligibility for government benefits including, but not limited to: SSI, SSDI, and Medicaid coverage.
- The guidelines for the administration of Special Needs Trusts are found in the Programs Operational Manual System (POMs) maintained by Social Security.

How To Keep All Those Benefits

Some of the regulations include that the Special Needs Trust (SNT)

- **Must be irrevocable**
- Must be used for the sole benefit of the beneficiary
- SNTs allow the beneficiary to have all of the benefits of government needs-based programs, and also have the benefits of the assets (plus investment income) held in the Trust

1st Party (d4A) and 3rd Party Standalone Special Needs Trusts (SNT)

- 1st Party=assets that belong to the disabled person/individual, from legal settlement or unplanned inheritance, carries Medicaid payback after death. Important to Note: Federal regulations require that after the death of the individual, Medicaid is to be paid prior to any remainder people.
- 3rd Party Standalone= assets from someone other than the beneficiary such as parents, grandparents or other relatives and friends, no Medicaid payback after death.
- Future Funded

These are the type of trusts that PLAN offers

What is a Pooled Trust (d4C):

- Under OBRA-93 regulations, Pooled Trusts were established, and are required to be run by non-profits 501(c)3.
- The non-profit develops a “Master Trust” agreement governing all participants
- The Master Trust serves as an “umbrella” trust document for every beneficiary who enrolls by signing and executing a Joinder Agreement
- A separate account is maintained for each beneficiary of the trust, but for investment and management purposes the various accounts are pooled, hence the name Pooled trust
- Pooled Trusts can be either 1st Party, or 3rd Party

Why a Pooled SNT can be a good option

- Use of a Joinder Agreement as part of a Master Trust means lower set up fees than with a private attorney
- Lower minimum amount needed for professional trustee and wealth management services
- Only option for someone 65 and over (Prior to 3/1/24)
- Minimize conflicts of interest from family members/their spouses
- Potentially could prevent a disabled person from being exploited

Professional Trustee vs Family Trustee

- Best practice is to have a licensed professional such as a professional trustee, which could be a non-profit, attorney or commercial trust company
- Professional trustee typically require \$500,000-\$1 Million in assets to provide their services (PLAN is the EXCEPTION)
- Family members may find the responsibilities of being a trustee overwhelming and burdensome. There are many responsibilities, including legal, tax and government benefits issues plus ensuring that your beneficiary is receiving all the benefits they are entitled to, and being well cared for and in a safe environment.

What can Special Needs Trust \$ Buy?

A Special Needs Trust can be used to supplement not supplant benefits.

Some examples of the types of things a Special Needs Trust can be used for are:

- Cell phone/Internet/Streaming Channels
- Clothes, shoes including any specialized items such as orthopedic shoes. Furniture, electronic equipment including computers
- Medical and dental expenses not covered by other health insurance
- Trips, vacations including paying for an aide if needed
- In-home help in addition to IHSS hours-supplement hours provided by IHSS
- Transportation

ABLE accounts and SNTs can work together

A Special Needs Trust can be used to fund your ABLE Account

- Advantages to using ABLE accounts to pay for rent
- Individuals can have more direct control over their ABLE funds
- Can use SNT as more of a savings account with a fiduciary oversight
- No penalties in transferring money from a SNT to an ABLE account, and vice versa
- Because ABLE accounts max at \$100,000 for SSI benefits, use SNT for ongoing non-covered medical and other living expenses

What Makes PLAN Unique

- PLAN offers **social services support** through our knowledgeable, experienced, and compassionate social workers who follow the complicated and ever-changing rules of Special Needs Trusts and public benefits. They serve as the primary liaison for the beneficiary and their family.
- We operate an **all-inclusive model, taking a holistic approach**, that includes trust administration and payments for the beneficiary, professional fund investment, annual accounting, and tax statement preparation.
- We have **no minimums** to establish a Special Needs Pooled Trust.

Thank you

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