



## Family Support

At the St. Louis Arc, parents, siblings, significant others – all family members are welcome. We are committed to helping you connect to resources and become effective advocates for your loved ones. Whether you are looking to interact with people going through the same challenges, or in search of an activity for the entire family, the St. Louis Arc provides a lifetime of support.

The St. Louis Arc Family Workshop Series provides in-depth information on supporting a family member with an intellectual or developmental disability. Most of our workshops are free, open to everyone, and take place at the St. Louis Arc Centene Family Center or Childgarden Early Childhood Center.

### **Special Needs Trust**

Presented Thursday, March 22

Find out how to plan for the financial security of an individual with intellectual and developmental disabilities, while preserving benefits such as Medicaid and Social Security Income.

Presenters: Michael E. Chiodini, Financial Advisor, Investment Advisor Representative of SII, Chiodini Financial Group, LLC Bhavik R. Patel, Attorney, Sandberg Phoenix & Von Gontard P.C. Casie Stephens, Trust Specialist III, Midwest Special Needs Trust

**St. Louis Arc**

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Midwest Special Needs Trust

## Special Needs Trusts and ABLÉ Accounts

Saint Louis ARC Special Needs Trust Workshop  
Thursday, November 16, 2017

Casie Stephens, Trust Specialist, MSNT

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## Special Needs Trusts & ABLÉ Accounts

### IMPORTANT TO REMEMBER!

Both the Special Needs Trust and the ABLÉ Account are savings vehicles intended to work the same way:

To give individuals with disabilities the ability to save without losing their public benefit eligibility.

The personal financial situation of the individual - and the specific circumstances - will determine which option is the most beneficial or if the answer is BOTH!

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## What Is a Special Needs Trust (SNT)?

- A trust account for the sole benefit of an individual with a disability
- A financial planning and estate tool that protects eligibility for SSI, Medicaid & other public benefits
- Governed by trust language & applicable statutes
- Administered by Trustee/co-trustees
- Used for supplemental needs, NOT basic support

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## Types of Special Needs Trusts

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- First Party or Self Settled Trusts - (d)(4)(A)
  - Established by self\*, a parent, grandparent, guardian or the court for the benefit of a disabled individual under the age of 65
  - Beneficiary's assets -typical sources of funds:
    - Back payment from Social Security
    - Inheritance
    - Settlement from a lawsuit
  - Irrevocable
  - Medicaid payback required

\*21st Century Cures Act (Special Needs Trust Fixtures and Medicaid Improvement Act) effective December 13, 2018 added individual

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## Types of Special Needs Trusts (cont.)

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### Third Party Trusts

Established by a donor – typically designed as a part of the donor's estate plan to help a family member with special needs while the donor is still living and to manage an inheritance when the donor dies

Donor contributes the funds – life insurance policies, investments, retirement benefits

Can be revocable or irrevocable

Upon beneficiary's death, assets may pass to donor's other relatives or elsewhere.

No Medicaid payback

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## Types of Special Needs Trusts (cont.)

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### Pooled Trusts - (d)(4)(C)

Established by a nonprofit organization with individual beneficiaries creating accounts within the larger trust.

Often used when no one is available to create an individual first party special needs trust-individual can establish themselves

Provides a low cost option when there is only a small amount of money.

The funds are used to help others with special needs.

Funds placed in a pooled trust are invested together, but each beneficiary's account remains his own.

Medicaid payback and the nonprofit organization is allowed to retain a percentage to support its mission.

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## Special Needs Trusts Requirements

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**Written**

Trustee prohibited from making any distributions that would jeopardize beneficiary's eligibility for benefits

Distributions at the discretion of the trustee and only for the sole benefit of the beneficiary

Disabled individual must be the sole beneficiary of the trust during their lifetime

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## Special Needs Trusts

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	(d)(4)(A), First party, Self Settled	(d)(4)(C), Pooled	Third-party
Established by	Individual, Parent, Grandparent, Guardian or Court*	Individual, Parent, Grandparent, Guardian or Court	Donor - Other than individual
Assets Funding	Disabled individual beneficiary	Trust Type	Donor
Beneficiary	Disabled individual	Disabled individual	Disabled individual
Distributions	To third parties	To third parties	To third parties
Medicaid Payback	Yes	Trust Type	No
Disability	SSA Definition	SSA Definition	SSA Definition
Age Limit	Funded by 65	Differs by state - MO - Funded by 65 w/exceptions	None

\*21<sup>st</sup> Century Cures Act (Special Needs Trust Fairness and Medicaid Improvement Act) effective December 13, 2018 added individual

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## Not Allowable v Allowable SNT DISTRIBUTIONS

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NOT ALLOWABLE	ALLOWABLE
Rent or mortgage payments	Clothing
Basic utilities	Transportation expenses
Groceries or food	Services or costs not covered by Medicaid
Cash to the life beneficiary	Telephone or cable
Alcohol	Furniture or household items
Gambling	Cleaning supplies
Charitable donations or gifts to others	Modifications to home for accessibility
Anything paid already by another funding source	Communication or other assistive devices
Any expense, including funeral expenses after the death of the life beneficiary	Travel expenses
	Prepaid burial plan

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 What does ABLE stand for?

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The Stephen Beck, Jr.,  
Achieving a Better Life Experience Act of 2014

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 What is an ABLE account?

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- Tool for persons with disabilities and their families
- Allowed under Internal Revenue Code Section 529A to allow families of persons with disabilities to save for expenses
- Similar to the college 529 savings plan
- A tax-advantaged account - contributions are made with after tax dollars but interest grows tax free and withdrawals are tax free if used for qualified disability expenses

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 ABLE Accounts– Who is Eligible?

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Must have a disability as determined by Social Security Act definitions; or  
Be certified by a doctor as having a severe physical or intellectual disability or blindness as specified in law and regulation  
Disability must be established and the disability must occur before the person reaches the age of 26\*

\*Proposed ABLE Act Adjustment Act (S.2704)(B, 4812) raises age limit to 46.

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 **ABLE Accounts – Facts**

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- Only one (1) ABLE Account per person
- Can establish in any qualified state, however MO tax deductions are only for accounts established in MO
  - \$8,000 per participant, \$16,000 if married/filing jointly-
- Maximum account accumulation is \$445,000 in MO (varies by state)

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 **ABLE ACT – More Facts**

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- Anyone may contribute, but annual contribution limit is \$14,000 (federal gift tax exclusion)\*
- Contributions must be in cash, unless it is an in-kind rollover\*\*
- If unpermitted distribution occurs, could cause account to lose its tax exempt status, subject to 10% penalty tax

\* Proposed ABLE to Work Act (S. 2702 H.R. 4791) adds earnings up to Federal Poverty Line currently \$11,770 for total of \$25,770  
 \*\* Proposed ABLE Technical Planning Act (S. 2701 H.R. 4794) allows rollover of 50% account with \$14k cap

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 **ABLE ACT – More Facts**

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“Qualified Disability Expenses” include:

- Assistive technologies and personal support
- Education
- Housing
- Health and Wellness
- Transportation
- Employment training and support
- Financial Management and Administrative services

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 **ABLE ACT and Public Benefits**

SSI benefits are suspended if the account exceeds \$100,000 until it is below \$100,000 (\$100,000 balance or less is exempt from the \$2,000 limit on personal assets)

Certain housing expense distributions will affect SSI eligibility (spend same month as withdrawal)

Medicaid eligibility is not lost even if account exceeds \$100,000

Medicaid payback is required

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 **Missouri State Treasurer**

Signed a partnership agreement

Began free online enrollment in MO ABLE accounts on April 24, 2017 becoming 20<sup>th</sup> state to establish

Participating in a consortium of Georgia, Kentucky, Ohio and Vermont

MO ABLE accounts are powered by the Ohio STABLE platform – praised for its ease of use and low fees.

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 **MO ABLE Program**

Initial contribution of at least \$50

\$3.50 per month (\$42 annually) maintenance fee

Small asset-based fee of between 0.19% and 0.34% depending on the investment option chose

Other costs could apply depending on account activity (e.g., a return check fee)

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### MO ABLE Program

- Uses a loadable prepaid debit card per account
- Companion cards available for parent or Authorized Legal Representative
- Plan your Qualified Disability Expenses by choosing a specific amount of money to load
- Can be loaded up to \$15,000
- Used anywhere MasterCard is accepted
- Can track Qualified expenses with online registration

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### Other Available ABLE Accounts

- Ohio STABLE accounts – online nationwide  
[www.stableaccount.com](http://www.stableaccount.com)
- Tennessee ABLE TN accounts – online nationwide  
[www.abletn.gov](http://www.abletn.gov)
- Nebraska ENABLE accounts – online nationwide  
[www.enablesavings.com](http://www.enablesavings.com)
- Iowa Iable accounts – online nationwide  
[www.iable.gov](http://www.iable.gov)

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### Other Available ABLE Accounts

- STABLE Kentucky program – online nationwide  
[www.stablekentucky.com](http://www.stablekentucky.com)
- Kansas ABLE – online nationwide  
<https://savewithable.com/ks/home.html>
- Illinois able – online nationwide  
<https://savewithable.com/il/home.html>

ABLE National Resource Center  
<http://www.ablenrc.org>

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### Comparative Analysis ABLE & SNT's



The ABLE account may be a better option –

- When it is desirable for the beneficiary to have more autonomy and independence and the beneficiary has the ability to responsibly manage the account
- When smaller amounts of money are involved
- If third party donors are not concerned with Medicaid payback provision
- For individuals with lifelong disability who wish to conserve some assets after age 65 when subject to transfer penalties

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### Comparative Analysis ABLE & SNT's



The Special Needs Trust may be a better option –

- When ABLE annual contribution rules are too restrictive
- When ABLE account balance limitations prohibit
- When ABLE "disability related" needs are too restrictive and non-disability expenses are important to the donor or beneficiary (household needs, clothing, etc.)
- When multiple accounts are necessary or preferred

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### Comparative Analysis ABLE & SNT's



The Special Needs Trust may be a better option (continued) –

- When disability occurred after beneficiary turned 26
- To protect third party assets from Medicaid payback, allowing the donor to name other remainder beneficiaries
- When a professional trustee with special knowledge of disability services and public benefits is essential to protect the interests of the beneficiary

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### ABLE Act Proposed Changes



ABLE to Work Act – working disabled could save additional \$11,770 (FPL) to the current \$14,000 (gift tax exclusion)

ABLE Financial Planning Act – increases the current eligibility age of 26 to 46 (disability onset documented prior to 46)

ABLE Age Adjustment Act – allow families to rollover any money saved in a 529 (college saving account) to the 529A (ABLE account)

Collectively referred to as “ABLE 2.0”

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### Midwest Special Needs Trust



Created by Missouri Statute in 1989 to serve the public  
Governor-appointed Board committed to accessibility & affordability

Nonprofit 501(c)3

Serves Missouri and contiguous states

Receives no state or federal appropriations

Managed by professionals who are familiar with public funding and State and Federal laws and regulations

[www.midwestspecialneedstrust.org](http://www.midwestspecialneedstrust.org)

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### About MSNT



As of 3/31/17, MSNT administers 1248 active accounts, mostly in MO with trust account assets of \$39m

Contract with Landmark Bank for account custodial services & investments

Steady growth in number of accounts and total trust assets over the last decade

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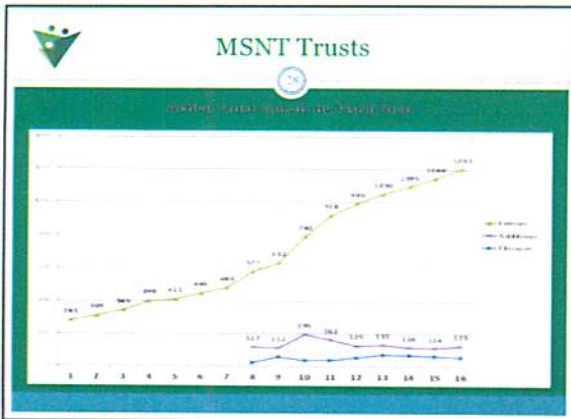
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**As Trustee, MSNT provides -**

- Expertise about public benefits and statutory and policy requirements for special needs trusts
- Relieves family burden of dealing with eligibility authorities to document the trust as an exempt asset
- Board and staff with expertise in working with individuals and families with disabilities

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**As Trustee, MSNT provides - cont...**

- Affordable opening fees including a sliding scale
- Reasonable administrative fees
- Low minimum account balance of \$500
- Investment options available
- Amendment authority to keep trust in compliance with evolving Social Security requirements
- Program benefits other people with disabilities through the MSNT Charitable Grant Program
- Over 25 years experience

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### MSNT & SSI & Medicaid Eligibility



- MSNT trusts specifically exempted as a countable asset by MO Family Support Division ( FSD) policy
- MSNT recognized pool trust by the Social Security Administration (SSA)
- Standardized letters for new applicants & re-investigations
  - MO FSD for Medicaid
  - SSA compliant with most current Trust Review Process

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### Why choose MSNT as Trustee? Cont...



- Minimizes co-trustee burden
  - Knowledge of public benefits & disability services
  - Upon request, send trust info to SSA/FSD for eligibility reviews
- Distributions processed each work day
- Board amends trusts as necessary to remain compliant with state and federal requirements

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### What's so SPECIAL about a SNT?



- Trust language protects benefits used only SUPPLEMENTALLY
  - NO distributions that have a negative impact on public benefits
- Trust "exception" allowed by Medicaid and SSI regulations
- Funds can be used for a wide range of *living and health needs*
- No upper limit on amount in trust or annual deposits

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## ➤ MSNT Charitable Grant Program

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In 1993 when Congress created public benefit exemptions for SNTs, they included provisions for charitable missions.

Social Security and Medicaid statutes allow MSNT to retain a portion of a trust account balance at the death of the beneficiary before Medicaid payback to be used for Charitable Grants.

With the assets of the Charitable Trust, MSNT operates a Charitable Grant program to serve indigent Missourians with disabilities

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## MSNT Charitable Grant Program (cont.)

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An impoverished Missouri resident with a disability may apply for a \$1500 grant.

They can have no Charitable Grant award in the previous 12 months

They must not have a Special Needs Trust with MSNT

Grants are for items not covered by public benefits that enhance independence and quality of life.

The Charitable Grant program operates consistent with policies and procedures to safeguard public benefits eligibility for approved grant recipients.

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Midwest Special  
Needs Trust

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## Questions

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Midwest Special Needs Trust

Thank You

Kathy Birkes  
Executive Director  
Midwest Special Needs Trust (MSNT)



MSNT Contact Information

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Web: [www.midwestspecialneedstrust.org](http://www.midwestspecialneedstrust.org)  
Business Hours: 8:00 am-4:30 pm





# CHIODINI

## FINANCIAL GROUP LLC



### Michael E. Chiodini

LPL Financial Advisor  
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#### BUSINESS PHILOSOPHY

My goal is to assist families and business owners in creating a financial roadmap for their future goals. By applying years of industry knowledge and experience I help families develop answers to their financial goals and concerns.

#### PRODUCTS AND SERVICES

- Wealth Management
- Managed Accounts
- Charitable Giving Strategies
- Disability Income Insurance
- Estate Conservation Strategies
- Education Funding Strategies
- IRA Consolidation/Rollovers
- Long-Term Care Insurance
- Mortgage Protection (through life insurance and disability income insurance)
- Medicare Supplement Coverage
- Pension Payout Alternatives
- Pension Transfer/Rollovers
- Mutual Funds
- Tax Sheltered Annuities, 403(b) Plans
- Term Insurance
- Fixed Annuities
- Variable Annuities
- Universal Life Insurance
- Variable Universal Life Insurance
- Whole Life Insurance

#### QUALIFICATIONS

- Licensed to sell Life & Health Insurance in Missouri, Indiana, Illinois, and Georgia
- Registered to offer securities products in Missouri, Illinois, Kansas, California, Oklahoma, Arizona and Ohio
- Currently working towards the CFP® designation

#### PERSONAL

- 16-year resident of South St. Louis County
- Wife Debbie is an ER Nurse at SSM St. Mary's Hospital in St. Louis. Son Dillon 11 years old, Son Robbie 7 years old, Daughter Lily 2 years' old
- Hobbies: Golf, Sporting events, soccer
- Education: Bachelor degree in Political Science and a minor in Economics from the University of Missouri-Columbia

#### ORGANIZATIONS

- Past Member of Mercy Hospitals TASK Force for Supported Employment
- Past President of the Family Support and Respite Coalition of St. Louis
- Past Member of the Regional Advisory Committee Advisory Council
- Volunteer for Down Syndrome Assoc. of Greater St. Louis, the Delta Gamma Center, UCPHeartland and Easter Seals/Life Skills.

Securities and advisory services offered through LPL Financial, a registered investment advisor and member FINRA/SIPC.

# Comparisons & Key Differences

	ABLE Accounts	Special Needs Trust (d)(4)(a)	Special Needs Pooled Trust (d)(4)(c)
Beneficiary	Named Person with disability eligible for SSA services	Named Person with disability eligible for SSA Services	Named person with disability eligible for SSA Services
Settlor	Individual, parent, or third party	Parent, grandparent, guardian or court of law	Individual, parent, grandparent, guardian or court of law
Trustee	No Trustee; any individual including beneficiary, parent, others that have guardian status or power of attorney	Any individual, corporate, or non-profit institution	Non-profit institution
Legislation	ABLE Act, 2014	OBRA Act 1993	OBRA Act 1993
Source of Funds	Individual's assets, parent's, third-party	Individual's assets, parent's, third-party	Individual's assets, parent's, third-party



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	<b>ABLE Accounts</b>	<b>Special Needs Trust (d)(4)(a)</b>	<b>Special Needs Pooled Trust (d)(4)(c)</b>
<b>Assets Contributions</b>	\$14,000 per year	No max or cap	No max or cap
<b>Account Size</b>	Capped at \$100,000	No max or cap	No max or cap
	Missouri State Tax Deduction Of up to 8K/person 16/K joint filers	NO TAX DEDUCTIONS	NO TAX DEDUCTIONS
	Tax Free Earnings on investments	No special tax treatment on investments	
<b>Distributions</b>	Sole benefit Qualified expenses	Sole benefit Not otherwise reimbursed by SSA or Medicaid	Sole benefit Not otherwise reimbursed by SSA or Medicaid
<b>Impact on Benefits</b>	Not a resource, up to \$100,000	Not a resource 65+ look back for Medicaid	Not a resource 65+ look back for Medicaid
<b>Death of Beneficiary</b>	Payback to state for Medicaid funded services	Payback to state for Medicaid funded services	Partial or no payback to Medicaid, money can be left to family or charity of choice



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# Common Pitfalls

- Gift to Minor Act Accounts
- Unstructured Beneficiary Designations
  - Beneficiary of insurance
  - Beneficiary of retirement plan
- Disinheritance
- No planning at all
- Gifts from non-parents (other friends or family members)

# Transfers to Minor Act/Custodian

- Once the child takes control of the account, the child may then use the money for purposes other than education – regardless of the custodian's wishes
- If your family is applying for need-based financial aid, having an UTMA may reduce the size of the benefits package or result in a finding of ineligibility
- UTMA accounts are considered available resources for purposes of SSI eligibility



# Unstructured Beneficiary Designations

- Designating a retirement plan, insurance policy or annuity directly to an SSI or Medicaid recipient will cause a reduction or elimination of public benefits
- Many IRAs or 401K s have as default that the employees children are beneficiaries

# No Planning at All

- Dying intestate (without a will or trust) will usually leave all or a portion of the estate to the decedent's children
- Any child on SSI or Medicaid will lose eligibility until the inheritance is either spent down, converted to a exempt resource, or placed in a Medicaid Payback Special Needs Trust
- A Medicaid Payback Trust differs from an estate planning Special Needs Trust because
  - the trust must be established by a parent, grandparent, legal guardian or court,
  - there is a lien upon death for any Medicaid used by the beneficiary, and
  - if the trust is established by a court, then the courts will often require costly court accounting.

# Questions?