

Special Needs Trust Info For County Estate Recovery

When you come across a special needs trust during your estate recovery process, here is what you should do with that information:

- Send an email to the Special Recovery Unit (SRU) at MN Dept of Human Services at dhs.srutrusts@state.mn.us notifying us that an MA recipient who has passed away has or had a special needs trust.
- If it is a trust that has not previously been reported to SRU, you may be asked to provide any and all trust related documents and contact information from your file.

These trusts are required to be reported by the attorney or trustee to MN DHS; however, when the trustee is a family member, they often aren't aware of the requirement and instead report to the county instead of the state without knowing that there's a difference between our agencies.

MA Claims

- The minimum claim report provided to your office upon notice of a recipients passing should never be provided to a trustee or attorney when requesting the claim amount for SNT reimbursement. SNT reimbursement falls under a different statute and allows reimbursement for ALL MA paid out on the individuals behalf, not just after the age of 55. Those requests should all be referred to SRU at dhs.srutrusts@state.mn.us.

Regarding Funeral Expenses:

- DO NOT tell the family to use the trust for funeral expenses without them FIRST contacting SRU to find out if the funeral expenses are allowed prior to reimbursement to DHS. Family members and/or trustees can reach out to SRU with these questions at dhs.srutrusts@state.mn.us.
- According to the terms of a special needs or pooled trust, funeral expenses are not allowed to be paid out of the trust, after death, prior to reimbursement to DHS for MA.
- The exception to the funeral expenses is the purchasing of a pre-paid burial policy – those are allowed to be purchased prior to the beneficiary's passing. Please encourage those who have trusts to purchase pre-paid funeral policies – DHS is working to abide by the terms of the trusts and not allow payment for funerals prior to reimbursement to DHS.

Final Disbursement:

- Estate recovery collections handled by your office falls under MN Stat 256B.15, while reimbursement to the State from a Special Needs or Pooled Trust falls under federal code 42 USC 1396p(d)(4) and MN Stat 501C.1205, subd 3 and subd 4. This means that according to statute, the only agency allowed to accept final disbursement payment from a trust is the MN Department of Human Services.
- If your office does accept payment from a special needs trust, the payment must be issued to the State of Minnesota as you are not allowed to keep those funds.

If you are uncertain whether a trust is a SNT or a standard trust, please send it to DHS at dhs.srutrusters@state.mn.us and we can confirm whether or not it is a SNT.

Trust Definitions

Supplemental Needs Trust – Supplement Needs Trusts¹ are funded with money that did not belong to the Trust Beneficiary. Often, parents or other relatives create and fund a Supplemental Needs Trust. Upon the death of the beneficiary, a Supplemental Needs Trust does not pay money back to the Minnesota Department of Human Services (DHS) for Medical Assistance paid on behalf of the Beneficiary. These trusts have individuals chosen by the grantor/trustee/beneficiary named as remainder beneficiaries.

The funds in a Supplemental Needs Trust are considered available assets when the beneficiary is 65 or older, and the beneficiary resides in a state institution or nursing facility for 6 months or longer, and there is no reasonable expectation that the beneficiary will be discharged from the institution or facility.

Special Needs Trust (aka self-settled, first party, pay-back) – Special Needs Trusts² contain assets of an individual under the age of 65 who is disabled and is established for the benefit of such individual by a parent, grandparent, legal guardian or a court. The State receives all amounts remaining in the trust upon the death of the beneficiary up to an amount equal to the total Medical Assistance paid on behalf of the individual.

Special Needs Pooled Trust – A Special Needs Pooled Trust³ is a Trust containing assets of a disabled individuals which is established and managed by a non-profit association. In this, a separate account is maintained for each beneficiary, but for investment and management purposes, the funds are pooled. This trust is also created for the sole benefit of the disabled individual and the amounts remaining in the trust upon the death of the beneficiary are paid to the State up to an amount equal to the total Medical Assistance paid on behalf of the individual.

¹ Minn. Stat § 501C.1205, Subd. 2

² 42 U.S.C. § 1396p(d)(4)(A)

³ 42 U.S.C. § 1396p(d)(4)(C)