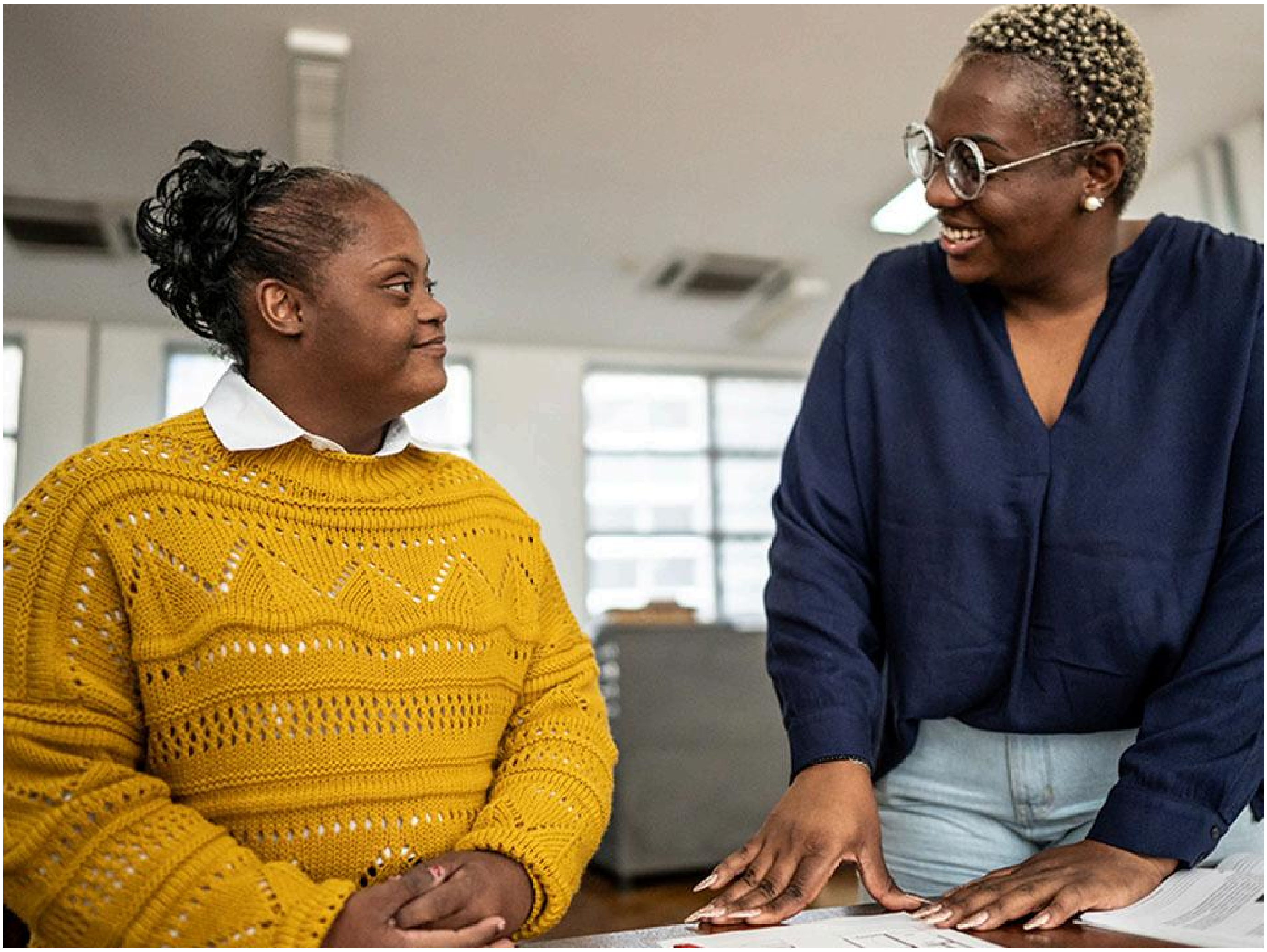
Using Your Legal Plan

Everything You Need to Know About Special Needs Trusts

Plan for the Future

5-minute read



When most people think about estate planning, they picture a standard will or trust. But for some families, especially those caring for a loved one with a disability, estate planning may require a more specialized approach.

A special needs trust is designed to help protect a loved one's financial future while preserving eligibility for important government benefits. Understanding how this type of trust works can help you plan with confidence and clarity.

What is a trust?

A **trust** is a legal arrangement that allows you to put conditions around how and when your assets will be distributed after you pass away. Trusts can reduce estate taxes, protect property and avoid probate.

There are several types of trusts you can create, one of which is a special needs trust.

What is a special needs trust?

A special needs trust can help you provide financial support for someone with a disability without compromising eligibility for Medicaid, Social Security and other governmental assistance programs. According to The American College of Trust and Estate Counsel, there are two main types of special needs trusts, a first-party special needs trust and a third-party special needs trust – each designed for different situations and funding sources.

First-party special needs trust

A first-party trust is commonly used when a person with a disability inherits money or property outright, or they receive a court settlement.

Third-party special needs trust

A third-party trust is most often used by a parent or other loved one who is planning in advance for the care of someone with special needs.

Pooled special needs trust

Additionally, you could consider a pooled special needs trust. A pooled special needs trust is one where the assets of and the assets are managed by a non-profit tax-exempt association using a master trust agreement. This means you would be opening a separate sub-account for your beneficiary which is then pooled with the assets of other separate sub-accounts that the non-profit organization manages according to the trust's terms.

How do special needs trusts work?

Special needs trusts function like any other types of trusts. There are three main parties involved:

- The grantor: this is the person who sets up the trust and provides the money or resources for it.
- The trustee: this is the person who is in charge of managing the assets placed in a trust.

- The beneficiary: this is the person who receives the benefits or assets that the grantor notes in the trust.

For a special needs trust, a beneficiary can often use the funds to pay for expenses such as housing, medical appointments and supplies and more. The trust lasts until it runs out of money, the beneficiary passes away or the beneficiary no longer qualifies as someone with special needs.

How can an attorney help?

There are important nuances and specific rules that must be followed for each type of special needs trust, which is where an attorney and your legal plan can assist. They can help you determine which type of trust is right for you or your loved one, along with understanding your state's laws and federal regulations governing special needs trusts.

It is important to note that trusts, especially special needs trusts, are often very complex documents with significant legal and financial implications. They're also subject to state laws that can greatly vary depending on where you're located. Because of this, it's critical to consult with an experienced attorney who is licensed in the state where the trust is created – and potentially a financial advisor – to make sure that your special needs trust is properly set up.

You'll also want to review your trust, and estate plans overall, every few years (or as major life events occur) to ensure they're up to date and don't require any changes.

As an ARAG legal insurance member, your plan may cover the creation of a trust for you and any covered family members. Contact Customer Care or use the **start a case feature** in your online account to understand how your legal plan can help you with trusts.

Frequently asked questions

What is a special needs trust?

A special needs trust is a legal tool that allows assets to be used for a person with a disability without affecting eligibility for government benefits such as SSI or Medicaid.

Who should consider a special needs trust?

Families with a loved one who has a disability and relies on government assistance often benefit from creating a special needs trust as part of their estate plan.

Does a special needs trust affect government benefits?

When structured correctly, a special needs trust is designed to preserve, not disrupt, eligibility for government assistance programs.

What can a special needs trust pay for?

Trust funds may be used for certain education, medical, housing-related and quality-of-life expenses that are not fully covered by public benefits.

What's the difference between a first-party and third-party special needs trust?

A first-party trust is funded with the beneficiary's own assets, while a third-party trust is funded by someone else, such as a parent or grandparent.

Who manages a special needs trust?

A trustee manages the trust assets and ensures funds are used appropriately according to the trust's terms and benefit rules.

Should I work with an attorney to create a special needs trust?

Yes. Because of the legal and regulatory complexity involved, working with an experienced estate planning attorney is strongly recommended.

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