

SUPPLEMENTAL NEEDS TRUSTS / SPECIAL NEEDS TRUSTS

TYPE OF TRUST:	THIRD PARTY	FIRST PARTY / "MEDICAID PAYBACK"	ABLE ACT ACCOUNT 529A
SOURCE OF FUNDS:	Funds deposited into the trust are from a third party (i.e. parent, grandparent, sibling, relative or friend).	Funds belong to the individual with a disability (the beneficiary). These funds may come from an inheritance, personal injury lawsuit, etc. No one other than the beneficiary should deposit funds into the First Party/"Medicaid Payback Trust."	Funds from any source belong to the designated beneficiary. No one other than the beneficiary should deposit funds into an Able Act Account.
WHO CAN CREATE IT?	Anyone can create a Third Party Supplemental Needs trust for a person with a disability.	If the beneficiary is competent: A parent, grandparent, legal guardian or court can create the trust and the beneficiary can transfer his/her funds into the trust without going to court. If the beneficiary is not competent: A parent, grandparent, legal guardian or Court can create the trust but a <i>Court Order is required</i> to transfer the beneficiary's funds into the trust.	Either a competent beneficiary or a guardian or power of attorney for the person with the disability
WHO RECEIVES FUNDS UPON DEMISE OF BENEFICIARY?	The creator of the trust names the person(s) who receive any funds left in the trust at the death of the beneficiary.	Upon the death of the beneficiary, any funds left in the trust are used to repay Medicaid for the funds it has expended on behalf of the beneficiary during his/her lifetime.	Upon the death of the beneficiary, funds paid to beneficiary's estate and Medicaid has claim against the funds.
LIMITATIONS ON THE USE OF THE FUNDS:	The funds cannot be used to pay for items that government benefits (i.e. Medicaid or SSI) will pay for.	The funds cannot be used to pay for items that government benefits (i.e. Medicaid or SSI) will pay for.	Funds can be used only for qualified disability expenses.

© 2015 Sandra M. Gumerove, Esq.

Sandra M. Gumerove & Associates

42 Marian Lane, Jericho, NY 11753 • P. 516.822.3397 • F. 516.822.3516 • www.smgesq.com