

Advocate's Outline on Supplemental Needs Trusts and Rules for Impact of Lump Sums on Various Benefits

This in-depth training manual or outline (updated **June 2023**) covers how Supplemental Needs Trusts work (both individual and pooled), when an asset or lump sum may be deposited into an SNT. For Community Medicaid only, income may also be placed into an SNT. Explains how lump sums and SNTs affect eligibility for SSI, Medicaid, Section 8, SCRIE/DRIE, SNAP, Temporary or Public Cash Assistance/HASA, and other public benefits, including new rules on the Veteran's Pension.

The 2023 edition includes:

- **BIG NEWS** on a **new ASSET TEST for Public Housing and Section 8**, which goes into effect Jan. 1, 2024, unless local housing authorities delay implementation.
- **April 2024 NEW: UPDATE since the outline was posted** - in Dec. 2023, the NYC Housing Authority posted its revised Admissions & Continued Occupancy Policy (ACOP) eff Jan. 1, 2024. Chapter 7, Sec. E covers ASSETS, but does not yet state the HOTMA asset limit. In various places, such as Chapter 8, the ACOP states, the "effective date of HOTMA provisions: December 1, 2024," From this statement it appears that the new asset limit described in the 2023 edition of NYLAG's manual will not be effective in NYC until Dec. 1, 2024. NYLAG has not yet fully reviewed the ACOP and has not yet revised the outline to include any changes that may result at least in NYC based on this revised policy manual.

The 2022 changes included:

- **Powers of Attorney** executed after Sept. 1, 2009 do not need a Statutory Gift Rider (SGR) to establish a pooled income trust, (and SGR's dropped altogether for POA's executed after June 13, 2021) - GIS 20 MA/03 - Clarification of GIS 19 MA/04, "Clarification of Policy for Treatment of Income Placed in Medicaid Exception Trusts" See more here about the directive and how the policy shift came about from advocacy from the NYS Bar Association Elder Law & Special Needs Section.
- Increases in deposit and asset limits for **ABLE** accounts - also see National ABLE Resource Center and NYS ABLE site
- **MEDICAID - Lookback** & transfer penalty for community-based long term care - delayed from 1/2022 - not likely to start before 2024 (delayed because of COVID rules)
- **HEADS UP for 2023 increases in Medicaid and MSP income & asset limits**
- **Temporary Assistance asset test increases coming Oct. 2022** - thanks to Susan Antos of Empire Justice Center for updating this section
- **SNAP changes** - thanks to Abby Biberman, NYLAG, for updates
- **Updated Public Housing/Section 8** chapter

- July 2022 Changes in procedure to submit disability documents to local Medicaid agency

The 2019 changes included:

- More information on resource rules and impact of lump sums on Public Assistance and HASA, with thanks and references to these companion materials:
 - ♦ Public Benefits Resource Rules and the Impact of Lump Sum Receipt on Benefits Eligibility, by Paula Arboleda, Susan Antos, Saima Akhtar & Maryanne Joyce, prepared for NYSBA 2018 Partnership Conference, available at <http://www.wnyc.com/health/download/676/> (has more detail on Public Assistance eligibility rules as well as other benefits, with Appendix with government materials)(posted with permission)
- Revisions to SSA POMS April 2018 re "Sole Benefit" Rule - expenses that may be paid by SNTs to third parties, and other changes
- Veterans' pension - In October 2018 added new transfer penalties, asset limits
- Information on ABLE accounts as a possible alternative or supplement to SNTs, for those individuals who became disabled before age 26. Also see National ABLE Resource Center and NYS ABLE site
- Changes in Section 8 and public housing asset limits enacted in 2016 (not yet implemented as of Jan. 2019), and a 1st Circuit Court of Appeals decision issued in 2016 that finds distributions from principal held in an SNT are not income;
- The Pooled Trust Notification Law enacted in December 2017!

Other information about Pooled Income Trusts - See Related Articles below.

- State forms for proving disability (updated 2022), as needed for approval of a Supplemental Needs Trust, can be downloaded in this article
- NYSARC and other pooled trusts periodically revise their joinder agreements, fees and procedures. Check out the websites for these trusts to find the latest forms. Links to most pooled trust websites, along with basic information about the trusts, are in this article.
- **New: View recording of 2-part Webinar** about Supplemental Needs Trusts and lump sums in NYS. Click here for links to view the recordings and download the PowerPoints.
- Watch this taped seminar by David Silva, Asst. Director of the Evelyn Frank Legal Resources Program, explaining pooled trusts. (July 16, 2013 - procedures have changed but basics are the same)

Medicaid -> Supplemental Needs Trusts -> Advocate's Outline on Supplemental Needs Trusts and Rules for Impact of Lump Sums on Various Benefits
<http://health.wnyc.com/health/entry/5/>