

THE SPECIAL NEEDS TRUSTS \$2,000 RESOURCE LIMITATION:

Countable Resources and Allowable Expenses

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Special Needs Trusts are normally set up for the benefit of a disabled person or someone over the age of 65 who is eligible for SSI and Medicaid benefits. Individuals who are eligible for such benefits are restricted to owning less than \$2,000 worth of countable resources. If their resources exceed \$2,000, or \$3,000 for a couple, they will lose eligibility to receive such benefits. Countable resources are cash or any assets that can be converted to cash by sale. These include a vacation home, stocks, bonds, bank accounts, second car, etc. Accordingly, one's primary residence, principal vehicle, furnishings and personal effects, life insurance policy and/or moneys reserved for funeral expenses (as long as the face value does not exceed \$1,500) are excluded from the said limit.

The trustee can work around this cap by directly paying for most of the beneficiary's needs that are not covered by the governmental benefits, such as out of pocket medical and dental expenses, and most other support and maintenance expenses such as utilities, professional services, etc. A trustee therefore should not give the beneficiary a gift of cash or an allowance, because the same can be deducted from the beneficiary's benefits. Instead a trustee can take the beneficiary shopping and/or pay for the expenses directly.

Payments for food and shelter however, can be considered income to the beneficiary even if the trustee pays for them directly. This is called In-Kind Support and Maintenance, or ISM, and is treated as income by the SSI program. SSI benefits are issued to those in need for support and maintenance, so if the beneficiary receives assistance from the trust to pay for ISM, the amount is deducted from the SSI monthly benefit. The good news is that the amount of the deduction is limited to \$245. So even if the beneficiary spends a \$1000 per month on rent and food, the SSI benefit will only be reduced by \$245 dollars.