

19TH ANNUAL CHANGES & TRENDS AFFECTING SPECIAL NEEDS TRUSTS

UNIVERSITY OF TEXAS CLE
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AUSTIN, TX

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CHALLENGES FROM THE SNT FAIRNESS ACT — ASSESSING CAPACITY

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TODAY'S PRESENTATION



WHAT WAS THE
PROBLEM?



WHY DID IT MATTER?



HOW WAS IT SOLVED?



WHAT NEW ISSUES
WERE RAISED WHEN
THE SOLUTION WAS
FOUND?



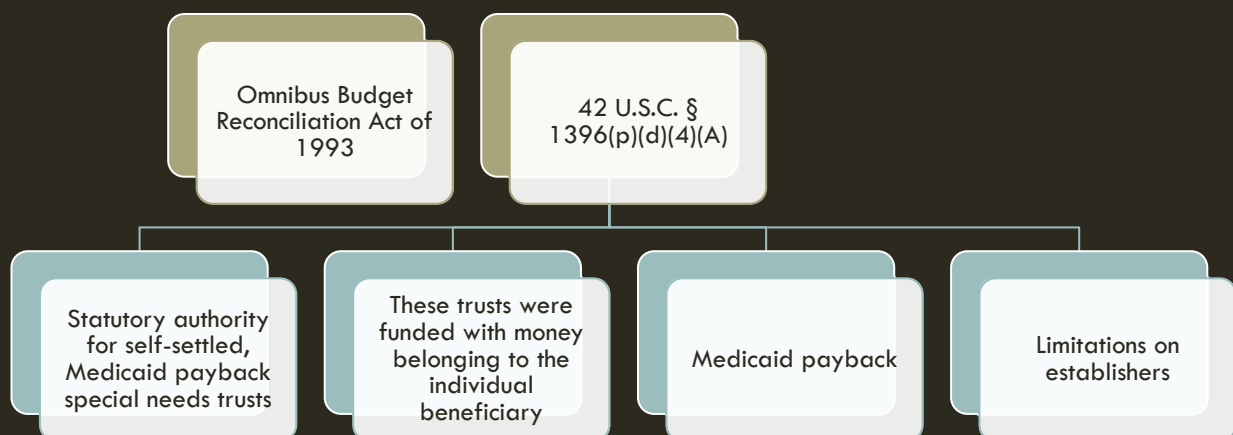
HOW DO WE ADDRESS
THE NEW CHALLENGES?



THE ETHICAL DILEMMAS
FACED BY THE
PRACTITIONER.

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WHAT WAS THE PROBLEM



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A trust containing the assets of an individual under age 65 who is disabled...and which is established for the benefit of such individual by a *parent, grandparent, legal guardian of the individual, or a court...*"

PROBLEMATIC LANGUAGE

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42 U.S.C. § 1396P(D)(4)(C)

Pooled Special Needs Trusts
Single Master Trust
Agreement
Establishers sign a "Joinder Agreement"

D (iii) Accounts in the trust are established solely for the benefit of individuals who are disabled (as defined in section 1396p(d)(2)(A) of this title) by the parent, grandparent, or legal guardian of such individuals, by such individuals, or by a court.

(iii) Accounts in the trust are established solely for the benefit of individuals who are disabled ...by the parent, grandparent, or legal guardian of such individuals, **by such individuals**, or by a court.

What's right with this picture?

(iii) Accounts in the trust are established solely for the benefit of individuals who are disabled (as defined in section 1396p(d)(2)(A) of this title) by the parent, grandparent, or legal guardian of such individuals, by such individuals, or by a court.

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Title search: Hazards of the Special Needs Trust Fairness Act – Assessing Beneficiary Capacity to Establish a SNT

Also available as part of the eCourse

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"Hazards of the Special Needs Trust Fairness Act – Assessing Beneficiary Capacity to Establish a SNT"