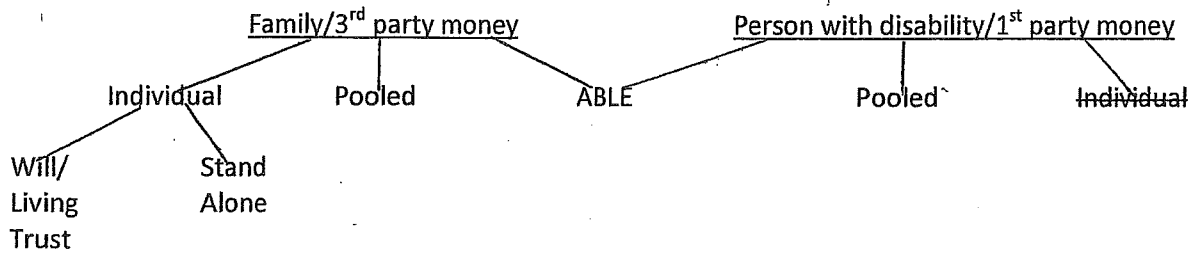


Comparison of Special Needs Trusts and ABLE Accounts



Considerations



- ⌘ Supplemental needs-qualified expenses
 - SSI is for food and shelter
 - Anything else: job supports, clothing, purchase a home, furniture, transportation, medical/dental, vacations, etc.
- ⌘ Usually Irrevocable--can't be changed
- ⌘ **AVOID** using Conservator or Financial Guardianship for financial protection from Medicaid

Individual Trust by 1st Person — Person with Disability



1. Pay back or Recovery Trust

- ⌘ Individual's own funds
- ⌘ Pay back Medicaid after demise
- ⌘ Since 2001 but many challenges now

2. Disability Trust

Third Party Individual Trust



Third Party=anyone other than individual with disability

- ❖ Set up by family—parents, grandparents
- ❖ Name own trustee=control but more expensive (use attorney)
- ❖ Access only through trustee
- ❖ Hold any asset
- ❖ No limit to amount or age of beneficiary
- ❖ Designate beneficiary after demise
- ❖ Medicaid has no claim on assets
- ❖ However, no housing or final expenses after demise

Options for Individual Third Party Trust



A. Stand Alone

- Set up and activate now—parents can be trustee
- Inherit from grandparents
- Parents “pour-over” from will or living trust
- Cannot be changed

B. Testamentary

- Written as part of parents’ will or living trust
- Written now but activate after parents are gone
- Can be changed/réwritten

Pooled Trusts



Often 1st party funds but some handle 3rd party funds & private services

- ❖ Best if no other trustee-Board serves as trustee
- ❖ Individual has own piece
- ❖ Reasonable prices and easy to establish
- ❖ Invested as a unit
- ❖ No limit to cash held
- ❖ Stays in nonprofit or to Medicaid

Pooled Trust Options



- CFPD (Colorado Fund for People with Disabilities)
- LET (Life Enrichment Trust) Pennsylvania
- NFSNI (Natl. Foundation for Special Needs Integrity) Indiana
- SecureT in Pennsylvania
- SNTN (Special Needs Trust Network)

ABLE Accounts



- ⌘ Signed into federal law 12/19/2014
- ⌘ Colorado Legislature passed law 6/3/15
 - HB1359 as a modified 529 plan
- ⌘ Activated 8/23/17
 - Info at www.ColoradoABLE.org
- ⌘ 25 other states but can have only one ABLE Account-Check www.ablenrc.org
- ⌘ Continuing development
 - Federal proposals: increase age to 46, move between 529 and 529a, additional if working

ABLE Accounts



- ⌘ Not a trust, but an account
- ⌘ Disability occurs before 26, SSI/SSDI, self
- ⌘ Best option for individual 65 years and older
- ⌘ Allowable expenses PLUS housing and burial
- ⌘ Individual can have direct access to funds
- ⌘ Reasonable fees and easy set up online
- ⌘ Various investment options
- ⌘ Limits: \$14,000/yr, \$100k stops SSI, \$400k max.
- ⌘ However, Medicaid claim from date of account