



New York Special Needs Act Signed into Law

Governor Cuomo recently signed a bill to amend the certain laws relating to special needs trust to conform New York State law to federal law. Special needs trusts permit disabled individuals who receive benefits through programs such as Medicaid and Supplemental Security Income (SSI) to retain certain trust assets without disqualifying them from governmental assistance.

New York Law. The recent legislation amends New York Social Services Law 366(2)(b)(2)(iii) in order to harmonize New York law with the new federal provisions that enable individuals under 65 years of age with disabilities to establish their own Medicaid Special Needs Trust without having to file a petition with a court.

The New York law is effective as of August 21st, 2017, and shall apply to all trusts established on or after such effective date.

Federal Law. On December 13, 2016, President Obama signed into law the Special Needs Trust Fairness Act. The new act allows first party special needs trusts to be established by mentally competent individuals with disabilities for their own benefit. Prior to this, individuals could only create a trust through a parent, grandparent or legal guardian, or by petitioning the court. The Special Needs Trust Fairness Act allows individuals with capacity to set up their own trust.

The federal law is effective as of December 13, 2016.

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If you have any questions about this article, please contact our office at 516.393.2200.

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