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Should a Special Needs Trust Buy a Home for a Beneficiary?

For some people with disabilities, homeownership may present a uniquely empowering opportunity. But for many others, purchasing a home through a special needs trust may be in the beneficiary's best interests.

Homeownership comes with many pitfalls and responsibilities. Buying a home through a special needs trust, rather than through the beneficiary or a family member, provides additional protections against creditors and allows for increased flexibility when selling the property, since the assets are maintained with the trust.

When buying a home, a key starting point is understanding the differences when the purchase is made through a first- or a third-party trust. Assets held in a first-party trust are considered those of the beneficiary, while third-party trusts, as the name implies, contain assets from a third party, such as a family member.

Which of the two types of trusts is applicable can have a potential impact when the home is sold, particularly where the beneficiary is a Supplemental Security Income (SSI) recipient. If a first-party trust sells a home, then the Social Security Administration (SSA) considers the proceeds from the sale to belong to the SSI recipient. As SSI recipients may not own more than \$2,000 in assets (\$3,000 for couples), the sale will likely result in the termination of benefits.

In this situation, the SSA does provide some relief. Specifically, the SSA allows beneficiaries, upon request, up to nine months to reinvest the sale proceeds (typically on a new home) before the assets count against the beneficiary's eligibility for benefits.

On the other hand, sale proceeds from a home purchased by a third-party trust are not considered the beneficiary's assets by the SSA.

Another significant consideration is that of Medicaid and estate recovery. Where the home is the property of a first-party trust, federal and state Medicaid agencies may seek reimbursement upon the beneficiary's death for Medicaid expenses incurred during the beneficiary's lifetime. In some situations, this may result in the trust having to sell the home to reimburse Medicaid, a particularly problematic scenario if other people are living in the home.

Third-party trusts are not subject to Medicaid's estate recovery laws and practices.

For more information on special needs trusts and home ownership, talk to your special needs planner.