Improving the Quality of Life with a Trust & MinnesotABLE Account

Lutheran Social Service | Kimberly Watson – Director Pooled Trust Services
Overview of Presentation

- Purpose of Special and Supplemental Needs Pooled Trusts
- Overview of Pooled Trust Definitions
- Special or Supplemental Needs Pooled Trust?
- How trusts are used to assure financial stability for a person with a brain injury
- What to look for in a Trustee and Fund Manager?
- MinnesotAble Plan
- Resources
- Q & A
Purpose of Special and Supplemental Needs Pooled Trusts

With a properly drafted and administered trust:

• There is no period of ineligibility imposed for benefits when assets are transferred into the trust.
• Tools which can be used to preserve assets and income without interfering with public benefits on which the individual relies to meet daily needs.
• Provide individuals, parents and families with a sense of comfort that their loved one will have access to oversight, educational, therapeutic and vocational experiences to maximize safety, self-reliance, independence, and the ability to enjoy life.
Definitions

**Pooled Trust:** Medicaid and SSI law permit "pooled trusts" for beneficiaries with special needs. Such trusts pool the resources of many beneficiaries, and those resources are managed by a non-profit association.

- Managed by nonprofit
- Separate subaccounts are pooled
- Remaining funds, at beneficiary’s death, can be retained by the trust contingent on State law
Definitions

**Beneficiary:** The person or persons whom a trust is intended to benefit.

**Grantor:** The person who transfers assets into a trust. This can be the beneficiary or a third party. Many times the Grantor and the Beneficiary are the same people!
Supplemental Needs Pooled Trust

- Created for a person living with a disability
- Created and funded by someone other than the person living with a disability or spouse
- Distributions must be to supplement and not to supplant government benefits
- Available if person > 64 and in nursing home
- At death of the disabled person, any remaining trust assets may be distributed to named beneficiaries. No payback requirement for a MA Lien
- Irrevocable – funding is permanent
Special Needs Pooled Trust

- Established for a disabled person under age 65 by a parent, grandparent, guardian, or court
- Funded only with the disabled person’s assets. Irrevocable, funding is permanent
- Trust states: at death of the disabled person, any remaining trust assets must be distributed first to the State as repayment for any MA received by the disabled person
- Trust must be for the sole benefit of the disabled person.
- Trust administered so that distributions supplement and do not supplant government benefits
Use of funds in a Special Needs Trust

Funds in a Special Needs Trust can be spent on (partial list), *if allowed by the public benefit program*:

- Appropriate entertainment expenses
- Clothing
- Education
- Furniture
- Home purchase or repair
- Medical or personal services not covered by public benefits
- Prepaid burial plan
- Supplemental caregiver services
- Trust management and Care Coordination expenses
- Vacations
Real World Trust Usage

Bringing Joy to Life
What to Look for in a Trustee?

Trustworthy + Dependable + Accessible

**Trustworthy**
- Mission, Longevity, Reputation, Oversight, Expense Control, Investment Knowledge

**Dependable**
- Experienced with rules, disability and programs, local people with resources in your community, modern business practices and systems

**Accessible**
- Welcoming, Compassionate, Approachable, Committed
Practical Considerations – Choosing a Trustee

Fees
- Trustee
- Trust Fund Manager

How the funds are accessed – requesting disbursements
- For the sole benefit of the beneficiary
- No cash
- Options for accessing funds

Fiduciary responsibility
- Investment strategy
- Financial planning related to intended longevity and use of trust funds
The Trustee

- The LSS Pooled Trust is a low-cost way for a disabled individual to enter a *Special Needs* or *Supplemental Needs* Trust. Other benefits include:
  - Liability rests with LSS who serves as trustee (LSS is bonded and insured)
  - LSS’s familiarity with Pooled Trust requirements and restrictions
  - LSS partners with Securian Trust for investments / disbursements
  - Some of the funds remaining at end of life can be retained to benefit other disabled members of the trust
The Fund Manager

Investments in the LSS Pooled Trusts are managed by Securian Trust Company, a Minnesota company dating back to 1888. Securian Trust manages the investments, produces monthly statements, cuts checks for purchases authorized by the Trustee and provides an annual 1099 tax form.

LSS and Securian Trust have instituted an Investment Policy that is intended to enhance the value of funds held in the portfolio, to preserve purchasing power, and at the same time provide a dependable source of income which may be used for the needs of the trust beneficiaries.
529 ABLE Account

- Able: **Achieving a Better Life Experience** Savings Plan
- Signed into law by President Obama December 2014
- Minnesota ABLE Plan – January 2017 – Now Available
- Very new and still developing
- Access through the Internet at [www.mnsavewithable.com](http://www.mnsavewithable.com)
- ABLE accounts are savings accounts that receive preferred federal tax treatment
- Enable eligible individuals to save for disability related expenses (*maintaining, improving health, independence or quality of life*)
- Assets in and distributions for qualified disability expenses will be disregarded or given special treatment in determining eligibility for most federal means-tested benefits.
MinnesotABLE Account Highlights

- Qualifying Criteria – Disabled by SSI, SSDI or SMRT, blind or disabled before age 26
- One ABLE account per individual
- Up to $14,000 per year in contributions
- Multiple individuals may make contributions
- Account balance limit is $350,000
More Highlights

- Open an account with as little as $25.00
- Account balance that exceeds $100,000 will suspend SSI benefits to an individual
- ABLE Assets are not counted in determining Medical Assistance Eligibility
- State is considered a creditor of the ABLE account not a beneficiary for MA payback.
ABLE Qualifying Expenses

Qualified Expense include but are not limited to:

- Education
- Health and Wellness
- Housing
- Transportation
- Legal Fees
- Financial Management
- Employment Training and Support
More Qualifying Expenses

- Assistive Technology
- Personal Support Services
- Oversight and Monitoring
- Funeral and Burial Expenses

In summary: Any expenses that are incurred as a result of living with a disability and are intended to improve the quality of life.
### ABLE? Pooled Trust? or Both?

<table>
<thead>
<tr>
<th></th>
<th>Special Needs Pooled Trust</th>
<th>ABLE Account</th>
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</thead>
<tbody>
<tr>
<td><strong>Qualifying criteria</strong></td>
<td>• Must be categorized as disabled (SSI, SSDI, SMRT)</td>
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<tr>
<td></td>
<td>• Blind or disabled before age 26</td>
<td>• Blind or disabled before age 26</td>
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<tr>
<td><strong>Contribution limitations</strong></td>
<td>• None</td>
<td>• $14,000 per year</td>
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<td></td>
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<td>• If the account exceeds $100K the beneficiary loses eligibility for SSI benefits</td>
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<td>• MN will limit accounts to $350K</td>
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<td><strong>Source of funds</strong></td>
<td>• Beneficiary – Special Needs PT</td>
<td>• Beneficiary, relatives and friends all can contribute</td>
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<td>• Third-party – Supplemental Needs PT</td>
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**Source of funds**

- Beneficiary – Special Needs PT
- Third-party – Supplemental Needs PT
## Comparisons

<table>
<thead>
<tr>
<th>Decision making and guidance related to fund distributions</th>
<th>Special Needs Pooled Trust</th>
<th>ABLE Account</th>
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<tr>
<td>• Trustee must approve requests</td>
<td>• Trustee must approve requests</td>
<td>• The beneficiary (or legal representative) must:</td>
</tr>
<tr>
<td>• Not negatively impact gov’t benefits</td>
<td>• Not negatively impact gov’t benefits</td>
<td>• Only use funds for allowed expenses</td>
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<tr>
<td>• Maintain financial records and provide annual accountings</td>
<td>• Maintain financial records and provide annual accountings</td>
<td>• Comply with benefit program requirements</td>
</tr>
<tr>
<td>• Funds are paid directly to the vendor; cash not accessible</td>
<td>• Funds are paid directly to the vendor; cash not accessible</td>
<td>• Keep receipts</td>
</tr>
<tr>
<td>• Purchase must be for the sole benefit of the beneficiary</td>
<td>• Purchase must be for the sole benefit of the beneficiary</td>
<td>• Provide financial records if audited</td>
</tr>
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</table>
## Comparisons

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<tr>
<th>Funds remaining when the beneficiary dies</th>
<th>Special Needs Pooled Trust</th>
<th>ABLE Account</th>
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<td></td>
<td>• 10% of remainder goes to the LSS Pooled Trust, then</td>
<td>• For beneficiaries on MA, the remainder must be used to repay the State for benefits received after the ABLE account was created</td>
</tr>
<tr>
<td></td>
<td>• Special Needs PT</td>
<td></td>
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<tr>
<td></td>
<td>• • 90% goes to repay MA</td>
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<tr>
<td></td>
<td>• • If anything is still remaining, it can go to secondary beneficiaries</td>
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<td>• Supplemental Needs PT</td>
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<td>• • 90% goes to secondary beneficiaries</td>
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## Comparisons

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<th>When these accounts are most attractive</th>
<th>Special Needs Pooled Trust</th>
<th>ABLE Account</th>
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<td><strong>• Larger $ amounts</strong></td>
<td><strong>• Small $ amounts</strong></td>
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<td><strong>• Beneficiary would have difficulty:</strong></td>
<td><strong>• Beneficiary has higher level of autonomy</strong></td>
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<tr>
<td>**  • Complying with restrictions on use of funds**</td>
<td>**  • Periodic deposits are under the gift tax exclusion**</td>
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<td>**  • Purchasing items or paying vendors**</td>
<td>**  • Over 65 beneficiary with lifetime disability**</td>
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<td>**  • Disability occurs after age 25**</td>
<td>**  • There would be tax implications when using funds**</td>
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<tr>
<td>**  • The beneficiary wants to use funds for expenses not allowed by ABLE accounts**</td>
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<tr>
<td>**  • The grantor wants remaining funds to go to secondary beneficiaries (Supplemental Needs PT)**</td>
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Pending Federal Legislation

- The ABLE Age Adjustment Act (S. 817/HR1874) would raise the age limit for ABLE accounts to age 46.
- The ABLE Financial Planning Act (S. 816/HR1897) would allow families to rollover savings in a 529 college savings plan into an ABLE account without penalty. Rollover would still be subject to the maximum $14,000 contribution limit.
- The ABLE to Work Act (S. 818/HR 1896) would allow individuals and their families to save more money in an ABLE account if the beneficiary works and earns income. The impact would be an effective allowable annual contribution of $25,770.
Resources

LSS Pooled Trust - www.lsspooledtrust.org
Law Help MN - www.LawHelpMN.org
Minnesota Attorney General - www.ag.state.mn.us
MN Dept. of Human Services (disabilities) – http://mn.gov/dhs/people-we-serve/people-with-disabilities/
Disability Benefits 101 (MN) - http://mn.db101.org
ABLE National Resource Center - www.ablenrc.org
MinnesotAble Plan – www.mnsavewithable.com
Q & A

THANK YOU!

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