



MassNAELA®
National Academy of Elder Law Attorneys
Massachusetts Chapter

Leading the Way in Special Needs and Elder Law in Massachusetts

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Proposed MassHealth Regulation Harms Disabled Seniors

Disabled seniors in the Commonwealth may soon lose the option to fund special needs pooled trusts to help pay for expenses not covered by the Commonwealth's Medicaid health insurance program (MassHealth). Proposed regulations could go into effect as early as February 1, 2017.

Federal law allows residents age 65 and older with disabilities to establish these trusts for expenses which are not otherwise covered by MassHealth such as dental work, pharmacy costs, health aides, companion services, transportation, clothing, personal items, non-medical therapies, rent, real estate taxes and assisted living costs (with the goal of delaying placement in nursing homes). Assets can be transferred into these trusts without the penalty of a delay in MassHealth eligibility.

However, with current proposed changes to the MassHealth eligibility requirements, disabled seniors would no longer be able to establish and fund these trusts and instead, would be required to spend all but \$2,000 of their assets before qualifying for MassHealth. This would make it difficult for these individuals to remain in a community setting. The proposed state regulation also would discriminate against disabled seniors based on age, as disabled people under 65 would still be allowed to transfer assets to a special needs pooled trust.

Since MassHealth is seeking to ease its budget constraints, this regulation makes little sense, because any money remaining in pooled trust accounts is paid as reimbursement to MassHealth when the individual dies (less minor trust fees). Based on recent testimony by various non-profit pooled trust organizations, at least \$6 million was reimbursed to the Commonwealth last year.

Without the ability to set aside funds in a pooled trust, low-income disabled seniors will be at risk for earlier nursing home placement and reduced quality of life. Some will no longer be able to pay their rent at assisted living facilities, while others will not be able to pay for care providers and real estate taxes to remain at home. More disabled seniors will be forced to move to a nursing home at greater cost to the Commonwealth.

The Massachusetts Chapter of the National Academy of Elder Law Attorneys (MassNAELA) advocates on legislation supporting the elderly and those with special needs. MassNAELA is filing legislation by the end of January 2017, to permit disabled seniors to continue to fund special needs pooled trusts.

We encourage concerned citizens to contact their legislators as soon as possible to support our legislation.

A handwritten signature in black ink that reads "Laura Silver Traiger". The signature is written in a cursive, flowing style.

Laura Silver Traiger
President of the Massachusetts Chapter
of the National Academy of Elder Law
Attorneys