



Attorneys for special needs planning.

# BUYING A HOME

## for a Person with Disabilities



### David is 12 years of age

and suffered a closed-head injury resulting in severe brain damage as a result of an automobile accident. Although he received a significant amount of money, additional funds will be required to help David. To retain his eligibility for public benefits, including Medicaid, a Special Needs Trust (SNT) for David's benefits can be designed and implemented by an attorney member of the Special Needs Alliance® (SNA). David and his family have been living with his aunt during the pendency of the lawsuit, and his family is anxious to purchase a home.

**Here are several options for using David's personal injury settlement to buy their home.**

### » TRUST PURCHASES HOME

In this option, the trust has sufficient liquid assets to pay for the home; however, upon David's death, the home will have to be sold to repay Medicaid for medical assistance rendered to David if the Medicaid benefits exceed the cash remaining in the trust. In addition, family members must pay their pro rata share of the operating expenses or some rental because the trust must be "for the sole benefit of" the disabled beneficiary.

### » TRUST PURCHASES HOME WITH PARENTS/SPOUSE/LIFE ESTATE

Here the trust pays a large share of the purchase price of the home as the value of the beneficiary's life estate will be significant based on his relatively young age. At age 18, that value is .97590. Each state law must be consulted as in some states there is no estate recovery against a life estate. The disadvantage to this option is the parents/spouse must pay for the remainder interest and their share of any home improvements or expansions.

## » TRUST PURCHASES HOME WITH PARENTS/SPOUSE AS CO-TENANTS

In this scenario, co-tenants have a right to use the property, so there is no issue concerning payment of rent. The disadvantage is the Medicaid pay-back provisions apply to the percentage of the home owned by the trust.

## » BENEFICIARY OWNS HOME

An advantage to this option is the home will not be subject to the pay-back provisions of the trust; however, it may still be subject to Medicaid estate recovery on the death of the beneficiary. Again, individual state law must be consulted. The disadvantage to this option is if the beneficiary is a spendthrift, he may mortgage the home, fail to maintain homeowner's insurance, or fail to pay real estate taxes or other expenses. An incompetent or minor person should not own a home. NOTE: You may consider having the beneficiary purchase the home out of the proceeds of settlement directly rather than through an advance from the trust.

## » PARENTS PURCHASE HOME

By having the parents purchase the home, there is no Medicaid pay back or estate recovery; however, the parents must pay for the home. NOTE: This should be taken into consideration and an attempt made to allocate sufficient funds to the parent to pay for the home. As with any issues pertaining the use of the SNT, these five strategies to purchase a home for an individual with special needs requires an attorney with specialized knowledge of state-specific public benefits law, such as a member of the SNA to protect the home.

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The best way to provide compassionate care and a comfortable life to your family member with special needs is to support your legal and financial decisions with reliable information and proven expertise. That's why America's finest disability attorneys are members of the Special Needs Alliance® (SNA).

As attorneys in the field of disability and public benefits law, we help to enhance your family member's quality of life. Every SNA member has the resources and legal expertise to help you maintain public benefits for your family member and develop effective estate plans and protect your assets.

**Members of the Special Needs Alliance® (SNA) are available nationwide. Visit the [SNA website](#) to find a member in your area.**



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