



SPECIAL NEEDS TRUST “WRAP UP”

Tips, Tricks & Practice Points to Consider for the End of the Administration of a Special Needs Trust

with
Ethan J. Ordog, Esquire
Begley Law Group, P.C.
Moorestown, New Jersey

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LAW GROUP, P.C.**



Ethan J. Ordog Tom D. Begley, Jr. Marianne Johnston

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Why the Wind-Down Matters

- A beneficiary's passing begins a distinct phase of trust administration.
- Trust assets are not necessarily distributed immediately.
- Claims, taxes, expenses, court requirements, and trust terms may affect timing and outcome.
- The Trustee's role is to develop a deliberate wind-down plan—not simply close accounts.

Speaker notes: Families may expect prompt distributions to relatives or individuals named in a Will. Explain early that the process depends on the trust instrument, beneficiary interactions, claims/liens, and applicable court or agency requirements.

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Set Expectations Early

- Discuss likely expenses, benefits, and possible reimbursement obligations.
- Explain that outcomes and timing cannot be predicted with certainty.
- Communicate the process—not a promised result.
- Keep the beneficiary, family, Trustee, and professionals informed.
- Document will dictate certain discussions and decisions, as well as applicable rules and regulations.
- Determine status of prior accountings, tax returns, as well as set understanding of final accounting, income or estate tax filings, payback/lien impact on Trust, etc.



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Three Practice Points for the File

- Track benefits: Identify programs, coverage, disbursements and possible recovery obligations.
- Track jurisdictions: Record every state where the beneficiary received benefits or lived- possible need for communications to determine payment/pro rata contribution depending on amount of liens and remaining balance of assets.
- Secure and Keep core documents accessible: Trust, court Order settlement documents, tax filings, benefits received, and family records(who are the potential beneficiaries)

Speaker notes: For successor Trustees, also gather prior tax filings, accountings, budgets, and agency decisions or correspondence. A Life Care Plan—and any updates—can help clarify services and funding history, particularly if any dispute over services rendered.



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First 1-7 Days: Immediate Actions

- Obtain a death certificate.
- Secure/identify trust assets and request date-of-death valuations.
- Stop unnecessary recurring payments.
- Identify urgent obligations and ongoing carrying costs.
- Notify appropriate professionals and benefit programs.
- Review trust termination provisions.
- Determine whether a probate estate exists/will be created.
- Check tax status, accountings, and any potential Court filing need

Speaker notes: Funeral-related payments and other immediate expenses may depend on the trust terms, available assets, and potential claims. Avoid promising that a particular expense can be paid initially given the potential claims that could exist.



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First 30 Days: Build the Picture

- Prepare a complete asset inventory.
- Obtain current financial statements.
- Identify real estate, vehicles, and personal property (How owned).
- Locate annuity and structured-settlement contracts.
- Identify creditors, lienholders, and benefit agencies.
- Contact Medicaid agencies in relevant jurisdictions.
- Determine accounting requirements.
- Consult tax and legal professionals as needed.

Speaker notes: The inventory should include both assets and recurring obligations. Identify amounts normally paid monthly, quarterly, or annually, then determine whether each payment should stop or continue to preserve an asset.



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Identify Benefits and Potential Claims

- Medicaid and state medical assistance.
- Social Security and Medicare.
- Housing assistance and SNAP.
- Veterans benefits.
- State, County, and local programs.
- Other benefit programs.



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Identify Benefits and Potential Claims (cont'd)

- Key Questions
 - Which states provided benefits?
 - What benefits may be recoverable?
 - Is a payment history available and accurate?
 - Are exemptions or limits relevant?
 - How do trust-recovery rules differ from estate-recovery rules?

Speaker notes: Program rules and recovery requirements vary. Confirm the applicable agency, jurisdiction, and claim rather than relying on assumptions or a general benefits list.



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Secure Trust Assets and Information

- Inventory assets and obligations, including:
 - Bank and brokerage accounts.
 - Real estate and vehicles.
 - Personal property and digital assets.
 - Insurance, business interests, and receivables.
 - Annuities, structures, and pending settlements.
 - Loans, credit cards, and recurring expenses.
- Coordinate with the accountant, financial advisor, counsel, and family as appropriate.

Speaker notes: Confirm how each asset is titled and held. Also identify pending litigation, claims against the trust, or matters that could affect disposition.



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Real Estate: Questions Before Action

- How is the property titled, and what percentage is trust-owned?
- Are there mortgages, liens, taxes, or insurance issues?
- Who lives there, and who pays carrying costs?
- How are utilities titled and paid?
- What personal property remains?
- Will the property be sold, transferred, or distributed in kind?
- Is an appraisal or court approval needed?

Speaker notes: Secure the property, confirm insurance requirements, budget carrying costs, identify claims and liens, and communicate options and next steps to residents.



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Vehicles and Personal Property

- Vehicles
 - Confirm ownership, title, fair market value, and any loan.
 - Review insurance and registration.
 - Determine who is using the vehicle and the intended disposition.
- Personal Property
 - Identify trust-owned items and their value.
 - Discuss disposition of jewelry, electronics, furniture, collectibles, and household goods.
 - Avoid informal transfers without considering trust ownership and value.

Speaker notes: A relative's use of an asset does not by itself establish ownership or authorize transfer. Clarify the trust's interest and document the decision.



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Structured Settlements and Annuities

Locate and review the complete contract, including residual and remainder provisions.

- Who owns the annuity, and who is the payee?
- Do payments end at death, or is there a guaranteed term?
- Is there a death benefit?
- Who is named as successor beneficiary or payee?
- Is there a commutation provision or rider?
- Can the annuity be assigned or sold?
- Is court approval required?

Speaker notes: Settlement and structure documents often remain with prior counsel or another party. Obtain a copy and involve trust or estate counsel when appropriate.



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A Practical Order for Resolving Claims

- Government reimbursement claims: Confirm agencies, jurisdictions, payment histories, and asserted amounts.
- Permissible administration expenses: Consider Trustee, legal, accounting, tax, court, and other allowable costs.
- Tax obligations and reporting: Address trust, state, estate, inheritance, and other potential filings.
- Other liabilities and creditor claims: Review priority, available assets, and potential insolvency issues.
- Any remaining distribution: Apply the trust terms and address probate, Will, or intestacy issues.

Speaker notes: The governing trust document, applicable law, claim type, and court direction may affect the order and treatment of payments.



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Accountings and Court Protection

- Assemble records of receipts, investments, expenses, distributions, and fees.
- Prepare a final accounting that covers the administration and proposed closeout.
- Consider releases or court review and approval.
- Seek court direction when disputes or uncertain actions remain.
- Address proposed asset sales, distributions, or recovery of trust property.
- Complete any required court filings before final distribution.

Speaker notes: Court proceedings may help resolve contested or unclear issues and establish finality. Consider whether the accounting should be presented to interested parties for review and whether court approval is appropriate.



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Tax Planning at Termination

- Confirm final trust income-tax filings, including any required Form 1041.
- Address final K-1s, if applicable.
- Check the beneficiary's individual filing status.
- Reserve funds for outstanding tax preparation costs and liabilities.
- Consider possible state estate or inheritance tax filings.
- Evaluate whether a federal estate-tax filing may be required.

Speaker notes: Tax obligations depend on the trust's activity, assets, and jurisdiction. Coordinate with a tax professional, and do not distribute funds needed for known or reasonably anticipated obligations.



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Closing the Trust and Trustee Role

Before closeout, confirm as applicable:

- Claims, taxes, fees, and administrative expenses are addressed.
- Final accounting is complete.
- Required approvals or releases are obtained.
- Remaining assets are distributed under the trust terms.
- Receipts and final Trustee reporting are documented.
- Financial accounts are closed and records preserved.
- Any court-ordered surety bond is released.

Speaker notes: Trustee compensation and termination fees may be governed by the trust, a court order, or applicable law. Confirm the amount before final distribution.



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Avoid Common Wind-Down Missteps

- Do not distribute too early/Confirm claims and liens before releasing funds.
- Maintain an appropriate reserve or escrow for anticipated costs.
- Read the trust, amendments, court orders, and settlement documents again, while also documenting communications and decisions, especially ones to potential beneficiaries who may not be receiving a distribution as expected by them.
- Consider court protection when disputes, complex claims, or uncertainty exist.

Speaker notes: Clear correspondence can help families and interested parties understand what is known, what remains unresolved, and what steps are anticipated to be completed.



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Final Takeaways

- Start planning for termination during the administration.
- Keep benefit, jurisdiction, asset, and document records current.
- Inventory assets and obligations promptly after death.
- Verify claims and tax responsibilities before distributing.
- Communicate the process without promising an outcome.
- Use court direction and professional advice when needed.
- Close the trust deliberately, with a documented final record.

Closing: A careful wind-down protects the trust administration and helps bring clarity and finality to everyone involved.


