

Gathering Storms

Legal Concerns of a Pooled Trust Counsel

Anna Sappington, Esq.

2025 National Conference on Special Needs Planning and Special Needs Trusts

October 21-24, 2025

Introduction

Pooled Special Needs Trusts (SNTs) are designed to protect and manage assets for individuals with disabilities, preserving their eligibility for public benefits while ensuring their financial needs are met. However, recent high-profile cases have exposed significant vulnerabilities in the governance and oversight of these trusts. This paper examines recent cases involving theft, conflicts of interest and private inurement by pooled SNTs by individuals controlling the nonprofits and their affiliated for-profit entities. Through a detailed analysis of three major cases—the Center for Special Needs Trust Administration, the Foundation for Those with Special Needs, and the National Foundation for Special Needs Integrity—this paper highlights patterns of fraud, conflicts of interest, and regulatory gaps that have led to the loss of millions of dollars held in trust for the benefit of vulnerable beneficiaries.

In addition to these case studies, the paper explores the broader policy landscape affecting individuals with disabilities, including recent changes to Medicaid and Social Security operations under the One Big Beautiful Bill Act (OBBBA). These legislative shifts, coupled with administrative restructuring and budget cuts, raise further concerns about the adequacy of protections for disabled individuals relying on public benefits and trust arrangements. This paper aims to inform counsel and advocates about the evolving risks and responsibilities in the administration of pooled SNTs.

Views expressed in this paper are my own. I have tried to be careful and diligent in my research and to provide references for my information. Please use this work as a starting point (not a substitute) for your own research and analysis.

Fraud, Theft, and Mismanagement of Pooled SNTs

The following case studies reveal troubling patterns of misconduct in the administration of pooled special needs trusts (SNTs), where nonprofit organizations entrusted with managing funds for individuals with disabilities engaged in fraudulent practices, self-dealing, and financial mismanagement. Each case—The Center for Special Needs Trust Administration, the Foundation for Those with Special Needs, and the National Foundation for Special Needs Integrity—demonstrates how blurred lines between nonprofit and for-profit entities, lack of transparency, and inadequate oversight can result in the diversion of trust assets and harm to vulnerable beneficiaries. Our industry needs to be able to answer the question of how fraudulent activity in nonprofit pooled trust administration can be detected in real time to prevent beneficiaries from incurring huge losses.

The Center for Special Needs Trust Administration, Inc. (2024-)

“The Center” is a dramatic example of a nonprofit pooled special needs trust being controlled and manipulated for fraudulent purposes, causing the trust’s beneficiaries to lose their trust funds.

Established in 2000 in Florida by Leo J. Govoni, The Center had pooled SNT accounts in almost every state. As of February 2024, The Center managed more than 2,100 SNT accounts with a total balance of approximately \$200 million.

According to the criminal indictment against him and John L. Witeck, an accountant who participated in the fraud,¹ Govani served as an officer of The Center and as a member of its board

¹ United States v. Govoni, No. 8:25-cr-00299-WFJ-NHA (M.D. Fla. filed June 18, 2025), <https://www.justice.gov/usao-mdfl/media/1404291/dl>.

until mid-2009. At that point, Govoni resigned; however, the indictment alleges that he continued to control CSNT until 2022 through oral directives and his relationships with its board members and employees.

In February 2024, The Center filed for bankruptcy² and revealed publicly for the first time that more than \$100 million was missing from beneficiaries' accounts. According to the criminal indictment later filed against Govoni, a series of transfers characterized as "loans" were made by transfers out of beneficiary accounts to Boston Financial Group, a for-profit financial services company established by Govoni in 2008, while he served on The Center's board. The first transfer to BFG occurred in June 2009 and was for \$2.5 million; however, the total amount transferred increased rapidly to a total of \$100 million in January 2012. The indictment alleges that the loan was represented as an investment in BFG which BFG itself would invest. BFG was supposed to repay the loan in full with interest by January 1, 2017. At the time it filed for bankruptcy, The Centers reported it did not have a copy of the loan agreement(s) in its records.

However, BFG was not investing the money it received from the Center. Instead, it distributed it to Govoni and others and to companies Govoni controlled, including:

- Boston Asset Management, inc., a for-profit investment advisory firm founded by Govoni in 1992 and for which he served as CEO;
- Austin Colby Co., an administrative services company founded and largely operated by Govoni that handled HR and IT for The Centers from at least 2009-2022. Austin Colby

² Chamberlin v. Boston Finance Group LLC, Docket No. 8:24-cv-00438 (M.D. Fla.), <https://www.classaction.org/news/class-action-alleges-more-than-100m-in-special-needs-trust-assets-misappropriated-over-a-decade>.

received approximately \$31 million from BFG, which it used to pay overhead and operating costs, including Govoni's salary.

- Fiduciary Tax and Accounting Services, LLC, (FTAS), a for-profit financial services firm co-owned by Govoni and Witeck that purported to provide tax and accounting services to trustees but allegedly was used to funnel beneficiaries' money to Govoni and Witeck;
- BroadLeaf Properties, LLC, a for-profit real estate holding company which allegedly was used to purchase residential properties for Govoni and others;
- BCL Aviation, LLC, a for-profit aviation company that held and operated at least one jet used by Govoni and others for their personal benefit;
- Big Storm Brewery, LLC, a craft brewery and distillery whose president was Leo "LJ" Govoni, Jr. and which never generated net positive returns for The Center's beneficiaries.

According to the indictment, there was never any real intent to repay the loans. Govoni kept questions at bay by strategically making minimal and intermittent interest payments which were significantly less than the loans' terms required. Also, it was alleged that several times money from Center trust accounts was funneled through FTAS to BFG, and then sent by BFG back to the Centers as an "interest payment" on BFG's loan.

Govoni also is alleged to have instructed Center employees to produce fraudulent account statements that indicated beneficiaries' money was still in their Center account, when in fact it had been "loaned" to BFG. If a beneficiary's account had a shortfall and money was needed for a disbursement, Center employees made it up with money from another pooled trust account.

In April 2022, Govoni's daughter, Caitlyn Janicki, resigned from her position as The Center's vice president. Subsequent to her departure, Center staff found an unsigned letter dated

November 2021 that referenced the loan. As it investigated, the Center discovered the loan should already have been repaid. Ultimately, The Center filed for bankruptcy in February 2024, and shortly afterward sent notices to beneficiaries whose funds had been stolen, reportedly telling them that they were unlikely to receive any money back.³

A class action lawsuit⁴ was filed against Govoni, other individuals believed to be involved, five companies controlled by Govani, and American Momentum Bank, the custodian for the Center's accounts, as well as accounts for BFG which received "loan" funds transferred from the Center's trust accounts. The complaint alleges that American Momentum Bank was "asleep at the switch despite numerous red flags that any reasonable bank account would have acted to address a decade ago."

As The Center ceased operations, beneficiaries with money left in their accounts were transferred to CPT Institute, located in Florida, or to another provider of their choice. CPT was selected by the bankruptcy trustee as the default successor trust.

Govoni and Witeck were arrested on June 23, 2025; Govoni currently is being held in custody.⁵ He faces 260 years in prison. His case is set to be tried in January 2026.

³ Brittany Muller, *St. Pete non-profit responds to what happened to missing \$100 million*, Nexstar Media Inc. (March 8, 2024), <https://www.wfla.com/8-on-your-side/st-pete-non-profit-responds-to-what-happened-to-missing-100-million/>.

⁴ Chamberlin v. Boston Finance Group, LLC, No. 24-cv-00428 (M.D. Fla). A copy of the complaint is available at <https://www.classaction.org/news/class-action-alleges-more-than-100m-in-special-needs-trust-assets-misappropriated-over-a-decade#embedded-document>.

⁵ Information about the criminal case's progress can be found at the U.S. Attorney's Office for the Middle District of Florida's website at <https://www.justice.gov/usao-mdfl/Govoni>.

Foundation for Those with Special Needs Inc. (2022-2024)

This case began with a civil lawsuit filed May 2, 2022⁶ by the Securities and Exchange Commission in federal district court against Synergy Settlement Services, Inc. and others.

According to the complaint⁷ and amended complaint that were filed, the nonprofit at issue was the Foundation for Those with Special Needs, Inc., which was incorporated in Florida in February 2012. Florida attorney Jason D. Lazarus was the Foundation's director and president. Certified Financial Planner Anthony F. Prieto, Jr. was serving as a director at the time the suit was filed. Both Lazarus and Prieto were also named individually as defendants. The Foundation served as trustee for two pooled SNTs: Settlement Solutions National Pooled Trust and Settlement Management National Pooled Trust.

In addition to their roles at the Foundation, Lazarus and Prieto both worked at (and owned interests in) Synergy Settlement Services, Inc., a for-profit Florida company that sold structured financial products used in personal injury cases. Lazarus was Synergy's CEO and largest shareholder, and Prieto was president of Synergy and a minority shareholder. Lazarus also was the sole owner of and attorney at Special Needs Law Firm PLLC, a Florida law firm.

The SEC alleged that the Foundation was a shell corporation with no operations or employees, "or even a single email address[.]" and that Synergy officers and employees were actually the parties operating the trust.⁸ SEC rules exempt charities from having to register under

⁶ SEC v. Synergy Settlement Servs., Inc., No. 6:22-cv-820-WWB-DCI (M.D. Fla.).

⁷ Available at <https://www.sec.gov/files/litigation/complaints/2022/comp-pr2022-76.pdf>.

⁸ Except for 2015-2017, during which time the Amended Complaint alleged Synergy delegated management of the trust to another for-profit company, National Trust and Fiduciary Services Company, Inc. d/b/a Eastern Point Trust Company.

securities laws, but the SEC argued that the Foundation wasn't eligible for the exception because Synergy, a for-profit corporation, actually operated it.

Despite representing that joinder and trustee fees were being paid to the Foundation, the Foundation's share of fees actually was paid to Synergy under "sham" marketing agreements between it and the companies managing the trust's investments (National Trust and Fiduciary Services Company, Inc. d/b/a Eastern Point Trust Company and True Link Financial Advisors, LLC). Synergy was alleged not to have performed any significant marketing under these contracts, but received payments equal to the Foundation's trustee fees as compensation. Additionally, the complaint alleges that National Trust and Fiduciary Services Company, Inc. d/b/a Eastern Point Trust Company, the for-profit investment management company managing the trust from 2015-2017, received a return equal to approximately 1% of the funds it invested through "12b-1 fees" charged on Class C mutual fund shares, which are paid to broker-dealers. Eastern Point wholly owned a broker-dealer which collected these fees and sent them to Eastern Point. Emails indicated that the Eastern Point and Synergy viewed these fees as a way of embedding fees in the expenses of investment funds so that they were hidden from "end client[s]."

Finally, the complaint alleges that funds retained by the pooled trusts were not used to further the trusts' mission of serving people with disabilities, as the Foundation claimed in its 501(c)(3) application and corporate documents. Rather, retained funds were alleged to have been used by Lazarus and Prieto to further their own for-profit interests. The complaint provided the following examples of how retained funds were allegedly used:

- \$132,000 to pay trust administrative expenses, after having collected trustee fees that exceeded the actual cost of these expenses;

- Paying premiums on Synergy’s business insurance policy;
- Donations to organizations “that have nothing to do with assisting disabled persons,” some of which were for-profit, to promote Synergy’s business interests, including sponsoring golf tournaments, parties, and judicial luncheons
- Sponsoring a project involving a trial lawyer for construction activities in a Beber Village in Morocco “unrelated to the disability community.”

The suits against True Link Financial Advisors, LLC and its CEO, were settled in May of 2022 for civil monetary penalties totaling \$220,000.⁹ In its Final Judgment issued March 11, 2024, the court assessed the other parties fines as follows:

- Synergy Settlement Services, Inc was ordered to pay the SEC \$43,743.68 in net profits gained as a result of the alleged conduct, plus \$400,000 as a civil penalty.
- Lazarus was ordered to pay a civil penalty of \$95,000 to the SEC.
- Prieto was ordered to pay a civil penalty of \$85,000 to the SEC.

National Foundation for Special Needs Integrity (2015-2019)

This nonprofit was established in 2007 by then-attorney Kenneth Shane Service. In 2015, the Foundation was sued by the estate of a Missouri beneficiary, Theresa A. Givens; however, this civil suit turned out to be just the tip of the iceberg. Service was subsequently prosecuted for theft from individual special needs trusts for which he served as trustee (and sued civilly in connections with those thefts), and the Foundation was sued for using beneficiaries’ accounts to pay large attorneys’ fees and for charging excess fees.

⁹⁹⁹ Press Release, U.S. Sec. & Exch. Comm’n, *SEC Charges CEO and President of Synergy Settlement Services with Fraudulent Operation of Special Needs Pooled Trusts* (May 2, 2022), <https://www.sec.gov/newsroom/press-releases/2022-76>.

Givens established her Foundation pooled trust account in 2011 with \$250,000. Tragically, she died just a month later. After Givens died, her family called to ask about the trust funds and was told that the money “would go to the State [for payback].”¹⁰ The 7th Circuit Court of Appeals summarized the facts as follows:

The Foundation's internal records indicate that by November 2013, it had not notified the family it intended to retain the money. None of the Foundation's witnesses could recall ever telling the family how they interpreted the agreement, or even reaching a final decision to keep the remaining money. Yet the Foundation began to transfer money out of Givens's sub-account to other Foundation accounts less than two months after her death. By February 2014, the Foundation had spent it all. But it was not until early 2015 that the Foundation told the Estate that the Foundation itself had kept the money and did not intend to pay either Missouri or the Estate.¹¹

Givens’ family argued that the trust agreement was ambiguous, and that its terms should be construed against the interests of the party that drafted it (i.e., the Foundation). During the civil suit, Service testified that he intentionally drafted the trust’s “Distributions upon the Death of a Beneficiary” article to confuse Missouri Medicaid officials. Noting that “the Foundation intentionally drafted the agreement to confuse readers as sophisticated as government officials [,]” the Court of Appeals concluded that the agreement should be construed to provide the remainder should be paid to Givens’ estate and ordered the Foundation to pay \$234,181.23 to Givens’ estate.

¹⁰ Nat’l. Found. For Special Needs Integrity, Inc. v. Reese, 881 F.3d 1023 (7th Cir. 2018).

¹¹ Id.

During the controversy, the Foundation's management by Service became an issue. As reported by The Indiana Lawyer,

Tax records for the organization in the years since show [the Foundation] compensated Service in some years with more than one-quarter of total revenue and spent aggressively on legal fees and management costs. For example, records for the following tax years show:

- In 2010 and prior years, Service reported no compensation, but the organization paid up to 42 percent of revenue in some years to Special Needs Trust Consultants LLC — a Carmel-based entity registered by Service.
- In 2011, Service took no salary. The nonprofit collected \$593,424 in revenue, but costs under the management category were \$289,769, compared with staff wages of \$104,477.
- In 2013, Service took a salary of almost \$238,000 on revenue of almost \$936,000. In addition to other salaries of more than \$451,000, the nonprofit also reported management costs of more than \$134,000, legal expenses of nearly \$124,000, and almost \$66,000 spent on conferences, conventions and meetings.

- In 2014, the nonprofit collected \$1.12 million, and Service was paid \$170,525. Management costs rose to more than \$476,000, and legal fees were listed at more than \$76,000.¹²

At oral argument, the estate argued that the Foundation had spent Givens' money on "completely illicit and inappropriate things such as lavish hotels [and] lavish restaurants[.]"¹³ In 2014, the Foundation fired Service (and filed a lawsuit against him).¹⁴

Service later was charged with theft from several individual special needs trusts for whom he served as trustee¹⁵ and was incarcerated for 7 months in 2002-2023, according to the Indiana Department of Correction.¹⁶ These thefts also resulted in civil suits against him. He was suspended from practicing law in Indiana on June 1, 2017, after failing to cooperate with the Court's Disciplinary Commission regarding a grievance filed against him.¹⁷

In November 2015, a lawsuit seeking class action status was filed against the Foundation in Marion, Indiana by its beneficiary Timothy Todd.¹⁸ According to the suit, thousands of dollars had been withdrawn from Todd's pooled trust account, purportedly as his proportionate share of fees paid to an Indianapolis, Indiana law firm for "various legal services." The lawsuit estimated that the Foundation had paid \$2.4 million to the firm from 2011-2015, although a review of IRS filings by the Indy Star newspaper found payments identified as legal fees in 2011-2014 totaled

¹² *Suspended special needs trust attorney, foundation's legal woes continue*, The Indiana Lawyer (September 28, 2017), <https://www.theindianalawyer.com/articles/44955-suspended-special-needs-trust-attorney-foundations-legal-woes-continue>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Lawyer suspended for alleged trust thefts faces new charges*, The Indiana Lawyer (June 10, 2019), <https://www.theindianalawyer.com/articles/50525-lawyer-suspended-for-alleged-trust-thefts-faces-new-charges>.

¹⁶ See <https://offenderlocator.idoc.in.gov/idoc-ofs-1.0.2/ofc>.

¹⁷ *In re Service*, 84 N.E.3d 629 (Ind. 2017).

¹⁸ Marisa Kwiatkowski, *Special Needs Integrity accused of having none*, IndyStar (Nov. 16, 2015), <https://www.indystar.com/story/news/2015/11/16/nonprofit-accused-taking-millions/75886746/>.

much less than that (about \$420,000). The suit also alleged excessive trustee and annual fees. This case likely settled; no additional information was available.

Changes in Benefits and Agency Funding

Recent legislative and administrative developments have significantly reshaped the landscape of public benefits for individuals with disabilities. The enactment of the One Big Beautiful Bill Act (OBBBA) has introduced sweeping changes to Medicaid, including reductions in retroactive coverage, limitations on provider taxes, and delays in implementing long-awaited regulatory reforms. These changes, driven by efforts to offset the cost of permanent tax cuts and increased federal spending elsewhere, are projected to reduce federal Medicaid funding by hundreds of billions of dollars over the next decade—raising serious concerns about access to care and coverage continuity for vulnerable populations.

Simultaneously, the Social Security Administration (SSA) has undergone a dramatic restructuring, marked by budget cuts, staffing reductions, and a shift toward centralized operations and automation. While SSA claims these changes will improve efficiency and customer service, advocates warn that they may further strain an already overburdened system and jeopardize the timely delivery of benefits. Together, these developments reflect a broader trend of retrenchment in the social safety net, with potentially profound consequences for individuals with disabilities who rely on Medicaid and Social Security programs for essential support.

Changes to Medicaid for Persons with Disabilities Under the One Big Beautiful Bill Act

Introduction

Enacted July 4, 2025, the One Big Beautiful Bill Act (OBBBA) was the culmination of months of work by Congressional Republicans. As finally passed, the Act makes permanent the tax cuts of the Tax Cuts and Jobs Act of 2017 which passed during Trump’s first term.

In addition to making the Tax Cuts and Jobs Act’s tax cuts permanent, OBBBA reduces federal income tax revenues further by allowing significant deductions against income from tips and overtime pay, and by offering a \$6,000 “senior bonus” deduction. These cuts will expire in 2028 unless renewed.

According to the Congressional Budget Office (CBO), the cost of all OBBBA’s tax cuts is approximately \$4.5 trillion over the next 10 years.¹⁹ OBBBA also included spending increases of \$325 billion, mostly attributable to the military and immigration enforcement.²⁰ CBO projects that passage of OBBBA will increase the deficit by \$3.4 trillion over the next 10 years.²¹ For scale, the American Rescue Plan Act enacted March 11, 2021 in response to COVID added \$1.9 trillion to the deficit.²²

¹⁹ Estimated Budgetary Effects of Public Law 119-21, to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14, Relative to CBO’s January 2025 Baseline, Cong. Budget Off. (July 21, 2025), <https://www.cbo.gov/publication/61570>.

²⁰ Andrew Lautz, *What Does the One Big Beautiful Bill Cost?*, Bipartisan Policy Center (July 23, 2025), <https://bipartisanpolicy.org/explainer/what-does-the-one-big-beautiful-bill-cost/>.

²¹ Estimated Budgetary Effects of Public Law 119-21, to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14, Relative to CBO’s January 2025 Baseline, Cong. Budget Off. (July 21, 2025), <https://www.cbo.gov/publication/61570>.

²² Estimated Budgetary Effects of H.R. 1319, American Rescue Plan Act of 2021, Cong. Budget Off. (Mar. 6, 2021), <https://www.cbo.gov/publication/57056>.

OBBBA was passed as a budget reconciliation bill. Reconciliation bills were established by the Congressional Budget Act of 1974 and allow for expedited passage of legislation treating spending, revenues, or the debt limit. Unlike legislation passed through “regular order,” the Senate can pass a budget reconciliation bill with a simple majority (51 votes); otherwise, up to 60 votes may be required.²³

While OBBBA was being crafted, legislators considered options to reduce the bill’s cost by cutting federal spending in other areas. House GOP members considered cutting up to \$2.3 trillion from Medicaid, which is a third of its federal budget.²⁴ Most of these savings would have come from the federal government capping the amount it pays for Medicaid coverage.²⁵ Obviously, if the price of health needs remained the same, a large reduction in federal spending would require states to pay a larger share of expenses -- or would require states to cut services.

Ultimately, Medicaid cuts enacted in OBBBA totaled less than \$1 trillion. Congress chose to finance the majority of OBBBA’s cost by borrowing.

The basis of my research into OBBBA’s effect upon disability categories of Medicaid came from “Health Provisions in the 2025 Federal Budget Reconciliation Law” (August 22, 2025), a report produced by the Kaiser Family Foundation available online at <https://www.kff.org/medicaid/health-provisions-in-the-2025-federal-budget-reconciliation-law/#68484706-46ba-4731-9eca-ed01d7a86899>.

²³ Budget reconciliation process in U.S. Congress, Ballotpedia, https://ballotpedia.org/Budget_reconciliation_in_U.S._Congress.

²⁴ House GOP Eyeing Cuts of Nearly One-Third in Projected Federal Medicaid Spending, KFF Quick Takes, <https://www.kff.org/quick-take/house-gop-eyeing-cuts-of-nearly-one-third-in-projected-medicaid-spending/>.

²⁵ House GOP Eyeing Cuts of Nearly One-Third in Projected Federal Medicaid Spending, KFF Quick Takes, <https://www.kff.org/quick-take/house-gop-eyeing-cuts-of-nearly-one-third-in-projected-medicaid-spending/>; Elizabeth Williams et al., *A Medicaid Per Capita Cap: State by State Estimates*, KFF (Feb. 26, 2025), <https://www.kff.org/medicaid/a-medicaid-per-capita-cap-state-by-state-estimates/>.

Changes to Medicaid under OBBBA

Preventing adopted rules from taking effect

OBBBA prevents the CMS secretary from implementing, administering, or enforcing until October 1, 2034 all provisions of its Eligibility and Enrollment Final Rule dated April 2, 2024 that had not yet taken effect. The purpose of the rule as adopted was to simplify the eligibility and enrollment processes for Medicaid, CHIP, and the Basic Health Program (BHP) by:

- aligning enrollment and renewal requirements for most individuals in Medicaid;
- establishing beneficiary protections related to returned mail;
- creating timeliness requirements for redeterminations of eligibility;
- facilitating transitions between programs;
- prohibiting premium lock-out periods, benefit limitations, and waiting periods for children enrolled in CHIP; and
- modernizes recordkeeping requirements to ensure proper documentation of eligibility determinations.²⁶

OBBBA also similarly delayed implementation of CMS' Medicare Savings Plan final rule, adopted September 21, 2023 to simplify the processes for individuals to enroll and retain eligibility in Medicare Savings Plans (MSPs), which pay or subsidize low-income MA beneficiaries' premiums for Medicare. According to CMS, the rule

²⁶ Medicaid Program; Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Processes, 89 Fed. Reg. 22780 (Apr. 2, 2024), <https://www.federalregister.gov/documents/2024/04/02/2024-06566/medicaid-program-streamlining-the-medicaid-childrens-health-insurance-program-and-basic-health>.

- better aligns enrollment into the MSPs with the requirements and processes for other public programs; and
- reduces the complexity of applications and reenrollment for eligible individuals.²⁷

OBBBA also delayed implementation of MCS' and HHS' long-awaited staffing rule for long-term care facilities, adopted May 10, 2024. The purposes of this rule were to ensure safe and quality care in long-term care facilities and to require states to report the percentage of Medicaid payments spent on compensation for direct care workers and support staff. Among other provisions, the rule required a registered nurse be present in a long-term facility 24/7, and also required that staff be scheduled so as to provide a minimum of 3.48 total nurse staffing hours per resident day (0.55 from registered nurses, and 2.45 from nurse aids). This OBBBA provision is estimated to reduce federal Medicaid spending by \$23 billion over 10 years.²⁸

Reduced Retroactive Medicaid Coverage

Current law provides that states are required to provide Medicaid coverage for qualified medical expenses incurred up to 90 days prior to date of a recipient's Medicaid application. Effective January 1, 2027, retroactive coverage is limited to 30 days for Medicaid expansion program participants and 60 days for recipients of other Medicaid programs. This provision is expected to reduce federal spending by \$4 billion over 10 years.

²⁷ Streamlining Medicaid; Medicare Savings Program Eligibility Determination and Enrollment, 88 Fed. Reg. 65230 (Sept. 21, 2023), <https://www.federalregister.gov/documents/2023/09/21/2023-20382/streamlining-medicaid-medicare-savings-program-eligibility-determination-and-enrollment>.

²⁸ Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting, 89 Fed. Reg. 40876 (May 10, 2024), <https://www.federalregister.gov/documents/2024/05/10/2024-08273/medicare-and-medicaid-programs-minimum-staffing-standards-for-long-term-care-facilities-and-medicaid>.

Limiting States' Ability to Raise Money for Medicaid Through Provider Taxes

Provider taxes are one available means by which states raise money to finance their share of Medicaid spending. States tax medical providers and use the revenue to fund Medicaid. Because the federal government currently matches State Medicaid program expenditures, using taxes to increase state Medicaid funding also results in a larger match from federal Medicaid dollars.²⁹ Tax revenue then is used to pay providers serving Medicaid recipients. States may not guarantee that providers receive their money back in payments, unless their tax is 6% or less of net patient revenues (this is called the “safe harbor”). Provider taxes must be broad-based and uniform (i.e., it cannot apply only to Medicaid providers).

OBBBA prohibits states from establishing any new provider taxes or increasing rates of existing taxes. It also revises waiver processes in a way that will eliminate some taxes that were previously allowed.

Additionally, for states that adopted Medicaid expansion, the safe harbor tax rate is reduced by 0.5% annually, beginning FY 2028, until 2032, when the limit is reduced to 3.5%. The affected states are Arizona, California, Connecticut, Illinois, Indiana, Iowa, Louisiana, Michigan, Missouri, Nevada, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, and Virginia. Payments to skilled nursing and intermediate care facilities are not subject to the reduced safe harbor.

These changes are estimated to reduce federal spending by \$191 billion over 10 years and increase the number of uninsured by 1.1 million during the same period.

²⁹ See Andrew Patzman and Andrew Loutz, *Paying the 2025 Tax Bill: Medicaid Provider Taxes*, Bipartisan Policy Center (April 11, 2025), <https://bipartisanpolicy.org/explainer/paying-the-2025-tax-bill-medicaid-provider-taxes/>.

Penalties for States that Make Erroneous Medicaid Payments

Under current law, CMS must recoup from the State federal funds for erroneous payments if the state's eligibility error rate exceeds 3%, but may waive recoupment if a state Medicaid agency demonstrates good faith efforts to get below the 3% threshold. Effective October 1, 2029, the definition of "improper payments" is expanded to include payments where insufficient information is available to confirm eligibility. OBBBA also reduces federal financial participation to states for improper payment errors. These changes are projected to save \$8 billion and increase the number of uninsured by 100,000 in the next ten years.

HCBS Expansion

Under OBBBA, state Medicaid programs may propose new home and community-based service programs for people who do not qualify as needing an "institutional level of care." State submissions for waivers must demonstrate that the new waivers will not increase the average amount of time that people who require an institutional level of care will wait for services. This change is projected to save \$7 billion over the next 10 years.

Rural Health Transformation Program

This grant program for fiscal years 2026-2030 provides payments to rural health providers. Adopted amid legislators' concerns that rural hospitals would close due to cuts imposed by OBBBA, the \$50 billion program is about 37% of the estimated loss of federal Medicaid funding in rural areas. As adopted, CMS will have broad discretion in how it allocates funds among states, and the law does not direct transparency by CMS or states regarding how funds are allocated or used.

Expansion of ABLE Accounts

The Tax Cuts and Jobs Act of 2017 included legislation introduced earlier in the year as the “ABLE to Work Act.”³⁰ These provisions allow ABLE accountholders with earned income who do not participate in employer-sponsored retirement plans to make contributions in excess of the limit that usually applies (\$19,000 in 2025). The additional amount that can be contributed is the accountholder’s earned income or \$15,060 (in 2025), whichever is less.³¹ Under the Tax Cuts and Jobs Act, the change would have expired December 31, 2025; OBBBA made it permanent. Tax-free rollovers to ABLE accounts from 529 educational savings accounts were also set to expire in 2025; OBBBA made these permanent.³²

Beginning January 1, 2026, the ABLE Age Adjustment Act, enacted as part of the Consolidated Appropriations Act of 2023,³³ dramatically expands class of people eligible for ABLE accounts. Currently, only people with qualifying disabilities which onset prior to age 26 are eligible for ABLE accounts. Next year, the deadline for onset of disability will be raised to age 46, allowing many more people access to these accounts.³⁴

Other OBBBA Provisions Less Relevant to Persons with Disabilities

OBBBA eats around the edges of Medicaid programs for the disabled. Changes to other Medicaid programs include:

- Work requirements for persons age 19-64 receiving MA or MA expansion who are not disabled

³⁰ H.R. 1896, 115th Congress, <https://www.congress.gov/bill/115th-congress/house-bill/1896> (2017).

³¹ “ABLE to Work Act,” ABLE National Resource Center, <https://www.ablenrc.org/able-to-work-act/>.

³² Public Law No. 119-21 § 70117.

³³ Pub. L. 117-328 (2022).

³⁴ See “The ABLE Age Adjustment Act Fact Sheet,” ABLE National Resource Center, <https://www.ablenrc.org/the-able-age-adjustment-act-fact-sheet/>.

- Reducing the maximum home equity limit to \$1 million, regardless of inflation (homes located on farms are treated differently)
- Changes to Medicaid expansion categories of MA
 - Mandatory biannual recertifications (rather than annual) This change is estimated to save \$63 billion and cause 700,000 people to become uninsured over 10 years
 - Requiring states to impose cost-sharing of up to \$35 per service (with exemptions for primary care, mental health, addiction treatment, rural health clinics). This provision will be effective October 1, 2028.
 - Beginning October 1, 2028, States may allow providers to deny services for a patient's failure to pay cost sharing
 - Work requirements
- Cuts applicable solely to MA expansion states
 - American Rescue Plan Act (P.L. 117-2; 3/11/2021) increased the share the federal government pays of Medicaid expenditures for states that adopted MA expansion for 2 years. OBBBA eliminates this incentive.
 - Discussions *were* to reduce base FMAP from 90% to 50%!!! If all states that had expanded MA dropped it as a result of this funding cliff, 20 million people would have lost medical coverage.
 - Reduced FMAP for emergency Medicaid for persons who would be eligible for MA under MA expansion, but for immigration status, to 50% from 90%. This means emergency care providers and the states will bear more costs of treatments.

Conclusion

OBBBA's cuts to the social safety net are likely not the last. In August, it was reported³⁵ that SSA was considering proposing a rule to change SSI's definition of "public assistance household" to exclude households receiving SNAP. The effect of the change meant that SSI recipients living with others receiving food stamps would be subject to ISM rules and required to provide detailed information about each household member's income and payment of household expenses.

(Currently, as public assistance households, families receiving SNAP are presumed to be unable to provide ISM, avoiding this analysis.) In a 2024 analysis, SSA estimated that the change would reduce SSI benefits for 275,000 people and result in eligibility loss for over 100,000 more.³⁶

Changes to Social Security Operations

SSA's Proposed 2026 Budget

In July 2025, SSA published its annual report³⁷ presenting the President's request for funding for fiscal year 2026. The proposed budget for SSA in 2026 totals \$14.793 billion. This represents a decrease from President Biden's request for fiscal year 2025 (\$15.402 billion).

The report set out three goals for next fiscal year: improving customer service, fighting fraud and waste, and optimizing and empowering SSA's workforce.

³⁵ Kathleen Romig and Devin O'Connor, *Trump Administration Poised to Cut SSI Benefits for Nearly 400,000 Low-Income Disabled and Older People*, Center on Budget and Policy Priorities (August 7, 2025), <https://www.cbpp.org/research/social-security/trump-administration-poised-to-cut-ssi-benefits-for-nearly-400000-low>.

³⁶ Id. (citing Cong. Budget Office, *Estimated Budgetary Effects of Public Law 119-21, to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14, Relative to CBO's January 2025 Baseline* (July 21, 2025), <https://www.cbo.gov/publication/61570>.)

³⁷ Soc. Sec. Admin., *Justification of Estimates for Appropriations Committees for Fiscal Year 2026* (2025), <https://www.ssa.gov/budget/assets/materials/2026/FY26-JEAC.pdf>.

Improving Customer Service

On the one hand, SSA says it is improving customer service by “large-scale restructuring” to focus on direct service, consolidating support functions performed by headquarters and regional staff and increasing the number of employees in frontline service delivery positions (field offices).³⁸ It reports that it is

placing highly qualified professionals in direct-service positions and providing them the necessary tools to serve the public effectively. Many of these employees have years of experience in different types of positions across the agency, making them a tremendous asset in direct-service positions. These efforts will increase the number of staff on the frontlines, despite an overall reduction in the SSA staff headcount.³⁹

However, SSA also mentions efforts to centralize SSA’s work, even as headquarters and regional staff are reassigned to local offices. SSA says the President’s proposed budget will be used to “create and align new centralized Federal disability processing units and disability processing branches, staffed with reassigned employees” to assist states with large disability case backlogs and to “address inconsistencies among the States.”⁴⁰ SSA believes this change, along with providing additional staff and improving technology, will reduce disability decision wait times from the current time of 230 days to 190 days by the end of 2026.⁴¹ Additionally, the report says SSA “will shift

³⁸ Id. at 11.

³⁹ Id. at 11.

⁴⁰ Id. at 10.

⁴¹ Id. at 10.

from localized workloads to portable, national workloads[,]”⁴² but does not describe these plans.

SSA reported that in 2025 it began to expand its use of a new telecommunications platform to field offices, and in 2026 will roll out the platform to processing centers, hearing centers, and state Disability Determination Service offices.⁴³ Once the platform is fully implemented, SSA says it will provide callers more self-service options and will optimize use of Call Back Assist and Estimated Wait Time.⁴⁴

Fighting Fraud and Waste

Beginning in April 2025, SSA increased the default rate withheld to recoup overpayments from 10% to 50% for retirement, SSDI, and survivor payments. Other efforts to fight fraud and waste include expanding SSA’s federal fraud prosecution program, issuing civil monetary penalties, and using the Treasury Offset Program to claw back debts owed to SSA from tax refunds or other payments.⁴⁵

In fiscal year 2026, SSA plans to retire “the majority” of its “maintenance-heavy legacy anti-fraud processes.”⁴⁶ Instead, SSA will use “enhanced technology, data analysis, and fraud-prevention tools” to improve payment accuracy and prevent improper payments.⁴⁷ SSA also mentioned continued use of the U.S. Treasury’s Account

⁴² Id. at 8.

⁴³ Id. at 9.

⁴⁴ Id. at 9.

⁴⁵ Id. at 10.

⁴⁶ Id. at 11.

⁴⁷ Id. at 10.

Verification Service to check bank information provided by SSA claimants against Treasury records “to provide real-time feedback on transactions.”⁴⁸

Optimizing and Empowering SSA’s Workforce

In the report, references to optimizing SSA’s work force included discussions of this year’s large-scale restructuring, elimination of remote work, and reassignments staff from headquarters and regional offices to direct service positions in field offices.⁴⁹ SSA says that these efforts will increase staff “on the frontlines” despite SSA having fewer employees.⁵⁰ SSA also stated it would add additional employees in direct service positions, “particularly in hard-to-fill remote areas throughout the country.”⁵¹

In 2025, SSA introduced a generative AI chatbot for SSA employees to use to assist with “content creation, content summarization, and research tasks.” SSA expects to continue increase employee efficiency in 2026 through automating workloads, IT improvements, and “accelerated investment in AI.”

SSA also said it plans to identify “the most error-prone workloads” and create cohorts with special training to handle those workloads nationally.⁵²

Concerns Regarding SSA Operations

Many stakeholders continue to express concern regarding the changes made to SSA this year.

⁴⁸ Id. at 11.

⁴⁹ Id. at 11.

⁵⁰ Id. at 11.

⁵¹ Id. at 11.

⁵² Id. at 11.

Reductions in Staff

In February 2025, SSA announced it planned to reduce its workforce, which it characterized as “bloated [,]” to 50,000 from 57,000.⁵³ To reach this target, it offered SSA employees incentives to retire or resign and told employees that “significant workforce reductions” were imminent.⁵⁴

Previously, the largest staffing cut to SSA was a cut of 4,430 staff (6 %) in 1987.⁵⁵ According to the Center on Budget and Policy Priorities, “The last time SSA had this few employees was 1967, when the agency served 480 beneficiaries for every staff member. In 2025, SSA would be attempting to serve 1,480 beneficiaries for every staff member.”⁵⁶ In April 2025, Social Security News reported 40 field offices were losing 25% percent or more of their staff due to staff accepting separation incentives.⁵⁷ The number of administrative law judges has dropped 14%.⁵⁸

Early in the year, SSA proposed several plans to limit phone support, requiring the public to access it online or in person at field offices.⁵⁹ These plans were later abandoned. In response to long wait times on SSA’s 1-800 number caused by staff shortages, SSA is reported to have sent 4% of its field office workers to help staff the phone line in late July.⁶⁰ While SSA reports the

⁵³ *Social Security Announces Workforce and Organization Plans*, Soc. Sec. Admin. Blog (Feb. 28, 2025; updated Apr. 18, 2025), <https://blog.ssa.gov/social-security-announces-workforce-and-organization-plans/>.

⁵⁴ Id.

⁵⁵ Kathleen Romig and Devin O’Connor, *Reassignment Won’t Fix the Largest-Ever Social Security Staffing Cut*, Center of Budget and Policy Priorities (June 23, 2025), <https://www.cbpp.org/research/social-security/reassignment-wont-fix-the-largest-ever-social-security-staffing-cut>.

⁵⁶ Id.

⁵⁷ *Field Office Losses Under VSIP*, Social Security News (April 4, 2025), <https://socsecnews.blogspot.com/2025/04/field-office-losses-under-vsip.html>.

⁵⁸ Id.

⁵⁹ Jory Heckman, *SSA will get call wait times down to ‘single digits’ using AI, commissioner tells employees*, Federal News Network (May 30, 2025 10:12 a.m.), <https://federalnewsnetwork.com/it-modernization/2025/05/ssa-will-get-call-wait-times-down-to-single-digits-using-ai-commissioner-tells-employees/>

⁶⁰ Elaine Silvestrini, *Need to Call Social Security? Be Ready to Hold*, Kiplinger (August 26, 2025), <https://www.kiplinger.com/retirement/social-security/need-to-call-social-security-be-ready-to-hold>.

average speed of answer on its 800 number as 13 minutes, advocacy organizations allege that SSA has changed its data metrics to prevent direct comparisons.⁶¹ According to statistics last published by SSA in early August, most callers then were waiting over two hours on hold to speak to an employee.⁶²

As part of the reorganization, staff at regional offices and headquarters have been gutted. Regional offices, which traditionally provided support to field offices, have been lost 78% of their staff.⁶³ SSA headquarters has lost 45% of its staff.⁶⁴ The Office of Legislation and Congressional Affairs, responsible for providing technical assistance to lawmakers regarding Social Security Legislation and helping legislators resolve issues with their constituents' benefits, had its staff cut 94%, from 50 to 3.⁶⁵

SSA's proposed 2026 budget would extend a freeze on SSA's customer service budget for a third year.⁶⁶

Use of AI

SSA introduced two new generative AI tools in 2025 to assist with the daily tasks of its administration. The "Agency Support Companion" chatbot was released to enhance employee

⁶¹ Id.

⁶² Kathleen Romig and Devin O'Connor, *Congress Needs to Address the Trump Administration Turmoil at the Social Security Administration*, Center of Budget and Policy Priorities (September 11, 2025), <https://www.cbpp.org/research/social-security/congress-needs-to-address-the-trump-administration-turmoil-at-the-social>.

⁶³ Kathleen Romig and Devin O'Connor, *Reassignment Won't Fix the Largest-Ever Social Security Staffing Cut*, Center of Budget and Policy Priorities, (June 23, 2025), <https://www.cbpp.org/research/social-security/reassignment-wont-fix-the-largest-ever-social-security-staffing-cut>.

⁶⁴ Id.

⁶⁵ Dana George, *Will Massive Cuts to This Social Security Service Impact You?*, The Motley Fool (September 24, 2025), <https://www.fool.com/retirement/2025/09/24/will-massive-cuts-to-this-social-security-service/?msockid=2b88af9aa3d7618e1444ba76a27f6095>.

⁶⁶ Kathleen Romig and Devin O'Connor, *Congress Needs to Address the Trump Administration Turmoil at the Social Security Administration*, Center of Budget and Policy Priorities (September 11, 2025), <https://www.cbpp.org/research/social-security/congress-needs-to-address-the-trump-administration-turmoil-at-the-social>.

efficiency, and an AI-powered phone-based chatbot was introduced to streamline phone inquiries on the national telephone number, which now manages 41% of incoming calls.⁶⁷ The deployment of these technologies, developed but not implemented during the Biden administration, was thought to be used to compensate for SSA's diminished staff.⁶⁸ SSA praises the new Chatbot, but both AI tools have been found to be insufficient in meeting the needs of their users.

The release of the “Agency Support Companion” chatbot for agents included a training video that was meant to educate employees on the integration of the technology into their daily work.⁶⁹ This training video raised immediate concerns as it did not provide critical information and featured simplistic videos and outdated graphics.⁷⁰ When utilized, many agents found the chatbot's responses to be vague or inaccurate.⁷¹

Most users who call the Social Security 1-800 number find the bot unhelpful and frustrating as it provided only canned responses to complex or nuanced questions.⁷² The bot is known to have issues with accessibility, making it more difficult for users who need American Sign Language interpreters or translators.⁷³

⁶⁷ Darius Tahir, *Social Security Praises Its New Chatbot. Ex-Officials Say It Was Tested but Shelved Under Biden*, KFF Health News (Sept. 2, 2025), <https://kffhealthnews.org/news/article/social-security-chatbot-customer-complaints-glitches/>.

⁶⁸ Id.

⁶⁹ *Introducing the Social Security Administration's New AI Training Video: A Deep Dive into Innovation!*, IT Magazine (Apr. 26, 2025), <https://itmagazine.com/2025/04/26/introducing-the-social-security-administrations-new-ai-training-video-a-deep-dive-into-innovation>.

⁷⁰ Id.

⁷¹ Id.

⁷² Darius Tahir, *Social Security Praises Its New Chatbot. Ex-Officials Say It Was Tested but Shelved Under Biden*, KFF Health News (Sept. 2, 2025), <https://kffhealthnews.org/news/article/social-security-chatbot-customer-complaints-glitches/>.

⁷³ Id.

Lawmakers expressed concerns at difficulties constituents may have accessing benefits. Critics argue that SSA has removed key performance metrics from its website to obscure the impact and effectiveness of the chatbot in daily SSA activity.⁷⁴

SSA Operations and Data Security

Allegations are coming to light that the Trump Administration, through DOGE, largely ignored SSA's systems and processes to protect confidential beneficiary information in a rush to grant unprecedented access to government data to DOGE and others.⁷⁵

In February, the American Federation of State, County & Municipal Employees, AFL-CIO and the American Federation of Teachers sued SSA over data practices used by the Trump Administration.⁷⁶ The Alliance for Retired Americans (an advocacy organization founded by the AFL-CIO) also joined as a plaintiff. A declaration filed in the suit by Tiffany Flick, then acting chief of staff, recounts the deviation from procedure and law taken early this year to meet DOGE employees' demands for near-immediate access to all of SSA's data, and details concerns raised by SSA leadership, who were not advised of how the data would be used or who would have access to it.⁷⁷

⁷⁴ Id.

⁷⁵ Jacob Leibenluft, Devin O'Connor & Kathleen Romig, *Trump Administration, DOGE Activities Risk SSA Operations and Security of Personal Data*, Ctr. on Budget & Pol'y Priorities (Apr. 1, 2025), <https://www.cbpp.org/research/social-security/trump-administration-doge-activities-risk-ssa-operations-and-security-of>.

⁷⁶ *American Federation of State, County and Municipal Employees, AFL-CIO v. Social Security Administration*, No. 1:25-cv-00596-ELH (D. Md. Feb. 21, 2025), https://storage.courtlistener.com/recap/gov.uscourts.mdd.577321/gov.uscourts.mdd.577321.1.0_1.pdf.

⁷⁷ See *Exhibit J: Declaration of Tiffany Flick, American Federation of State, County and Municipal Employees, AFL-CIO v. Social Security Administration*, No. 1:25-cv-00596 (D. Md.), <https://storage.courtlistener.com/recap/gov.uscourts.mdd.577321/gov.uscourts.mdd.577321.22.10.pdf>

Additionally, SSA's Chief Data Officer, Charles Borges, filed a whistleblower disclosure in August,⁷⁸ alleging that the SSA faced significant risks due to unauthorized access and potential misuse of sensitive data by DOGE officials. Allegations included abuse of authority, gross mismanagement, and violations of federal privacy laws by DOGE personnel.⁷⁹ Mr. Borges claimed that DOGE officials sought hasty, improper access to sensitive Social Security data under the pretext of investigating fraud and outlined how specific individuals within DOGE created an unmonitored copy of SSA's data, raising serious security vulnerabilities and violating multiple laws. If compromised, this data could lead to widespread identity theft and loss of vital benefits for Americans.⁸⁰

Congress initiated investigations and oversight actions in response to the disclosures.⁸¹ The lawsuit mentioned above resulted in a temporary restraining order (TRO) preventing DOGE from accessing SSA's personally identifiable information and also prohibited SSA from granting DOGE access to sensitive data, requiring the deletion of non-anonymized personally identifiable information.⁸²

Conclusion

Recent cases illustrate a troubling and recurring pattern of misconduct in the administration of a number of pooled special needs trusts. Individuals have been able to exploit pooled trusts and nonprofits operating them for personal gain at the expense of the beneficiaries

⁷⁸ Dana L. Gold & Andrea Meza, *Letter to U.S. Congressional Committees and the Office of Special Counsel, Gov't Accountability Project* (Aug. 25, 2025), <https://whistleblower.org/wp-content/uploads/2025/08/08-26-2025-Borges-Disclosure-Sanitized.pdf>.

⁷⁹ Id.

⁸⁰ Id.

⁸¹ Id.

⁸² Id.

the trusts were meant to protect. As an industry, we should consider our suggestions for how bad actors can be more readily detected and stopped so that impacts to beneficiaries are avoided.

Sweeping policy changes under the One Big Beautiful Bill Act and restructuring within the Social Security Administration have introduced new risks to the public benefits system. Cuts to Medicaid funding, delays in implementing protective regulations, and reductions in SSA staffing and support services easily could threaten the stability and accessibility of essential benefits for individuals with disabilities. These developments reflect a broader retrenchment in the social safety net, raising urgent questions about the future of disability support in the United States.

Circumstances demand a renewed commitment to transparency, accountability, and advocacy on behalf of our constituents.