

CAN A THIRD PARTY SPECIAL NEEDS TRUST PAY FOR A VACATION?

By Sheri R. Abrams, Attorney at Law

In general a Special Needs Trust can pay for a vacation. However, the rules vary by which type of Special Needs Trust that you have. If you have a Third Party Special Needs Trust, which is a trust that is funded by money that does not belong to the disabled person, you should have no problem paying for the entire vacation. However it is far easier to do this if you are vacationing on a cruise ship or another all-inclusive option.

Using Third Party Special Needs trust money to pay for a vacation has been known to cause problems since a vacation normally includes elements of both food and shelter. The fear is that food and shelter could be considered in-kind support and maintenance (ISM), which would reduce the trust beneficiary's SSI benefit. However, even though a cruise ship cabin, hotel, or other vacation housing option, is technically considered "shelter", an ISM penalty is not imposed during a temporary absence from their primary residence. Food, however, could still be a problem, that is why a cruise or other all-inclusive vacation is so great, since food is included with the "shelter" so there is no ISM penalty.

It is often difficult for a disabled person to travel by themselves. Normally if the disabled person who is the beneficiary of a Third Party Special Needs Trust requires assistance, a trustee can pay for one individual to accompany them on the vacation. More than one caregiver can also be paid for as long as there is documentation that the disabled person needs such assistance.

It is important to make payments from the Third Party Special Needs Trust for a vacation very transparent. That is why it is better to have the Trustee of a Third Party Special Needs Trust pay vacation expenses directly to the vacation provider. Any incidental expenses can be paid by a co-traveler who will then be reimbursed from the Third Party Special Needs Trust. The trustee should require receipts for all purchases.

One ideal way to use Third Party Special Needs Trust money is to pay for a vacation through an organization that offers vacations specifically designed for the disabled. One such group that I have worked with and have seen in person work their magic is "Autism on the Seas". "Autism on the Seas" is the Leading Developmental Disability Service Supplier to the Cruise Industry. They provided cruise vacation services to accommodate adults and families living with children with Special Needs, including, but not limited to, Autism, Asperger Syndrome, Down Syndrome, Tourette Syndrome, Cerebral Palsy and all Cognitive, Intellectual and Developmental Disabilities. "Autism on the Seas" provides cruises with their professional Staff (educated, experienced, background checked and sanctioned by the cruise lines) to assist adults and families

in accommodating the typical cruise services, as well as providing specialized Respite and Private Activities/Sessions that allow their guests the use of the ships entertainment venues in an accommodated and assisted manner.

For more information contact:

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