

# THE BEGLEY LAWYER ALERT

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***Begley, Begley &  
Bookbinder, PC***  
ATTORNEYS AT LAW  
COMMITTED TO EXCELLENCE  
Specializing in Elder & Disability Law

November 7, 2008

Please visit us on the World Wide Web at: [www.begleylawyer.com](http://www.begleylawyer.com)

## ***ASSIGNMENT OF INCOME TO SPECIAL NEEDS TRUSTS*** ***By Thomas D. Begley, Jr., Esquire***

Some payments are assignable by law while others are not. Payments that are assignable may be assigned to special needs trusts.

- *Nonassignable Payments.* Certain payments are nonassignable by law and, therefore, are income to the individual entitled to receive the payment under regular income rules. They may not be paid directly to a special needs trust. Nonassignable payments include:

- Temporary Assistance to Needy Families (TANF);
- Railroad Retirement Board–Administered Pensions;
- Veteran’s pensions and assistance;
- Federal employee retirement payments (CSRS, FERS) administered by the Office of Personnel Management;
- Social Security title II and SSI payments; and
- Private pensions under the Employee Retirement Income Security Act (ERISA) (29 U.S.C.A. §1056(d)).<sup>1</sup>

These payments cannot be assigned to a trust and protected through the use of a special needs trust.

- *Assignable Payments.* An assignable payment is defined as a legally assignable payment that is assigned to a trust, is income for SSI purposes unless the assignment is irrevocable.

<sup>1</sup> POMS SI 01120.200.F.1.c.

If the assignment is revocable, the payment is income to the individual legally entitled to receive it.<sup>2</sup>

Thus, it would appear that an irrevocable assignment of an alimony payment to a self-settled special needs trust would protect SSI benefits. For example, if a divorced woman is entitled to \$300 per month alimony, the receipt of the alimony would reduce her SSI payment by \$300 per month. However, if the \$300 is paid into a special needs trust, the SSI payment remains unchanged.

There is an issue as to whether worker's compensation benefits are assignable. The Social Security Administration will permit an assignment of worker's compensation to a Self-Settled Special Needs Trust, if state law permits the assignment of worker's compensation benefits.



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## Announcements

"Begley, Begley & Bookbinder, P.C." has expanded its representation of our senior citizen client base to advocate them in claims for veterans benefits, particularly those for Aid and Attendance. Over the past month, Thomas D. Begley, Jr., Thomas D. Begley, III, Dana E. Bookbinder and Austin DuBois have been designated as accredited attorneys authorized to undertake this work.

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## Speakers

If you are interested in having an Elder & Disabilities Law Attorney from Begley, Begley, & Bookbinder speak at an event, please contact Colleen Caruso at (856) 787-4237.

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## Begley, Begley & Bookbinder

Begley, Begley & Bookbinder, P.C. is an Elder & Disability Law Firm with offices in Moorestown, Stone Harbor and Lawrenceville, New Jersey and Huntington Valley, Pennsylvania and can be contacted at 800-533-7227. The firm services southern and central New Jersey and eastern Pennsylvania.

The Firm provides services in connection with protecting assets from nursing home costs, Medicaid applications, Estate Planning and Estate Administration, Special Needs

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<sup>2</sup> *Id.* at G.1.d.

Planning and Guardianships. If you have a legal problem in one of these areas of law, contact Begley, Begley & Bookbinder at 800-533-7227.

Begley, Begley & Bookbinder has prepared **Special Reports** concerning:

- ❖ *Planning for Long Term Care*
- ❖ *Estate Planning for Parents with Children with Disabilities*
- ❖ *Understanding Estate Planning*
- ❖ *Estate Administration*
- ❖ *Blended Families*
- ❖ *Bloodline Trusts*
- ❖ *Vacation Area Homes – Tax and Management Issue*
- ❖ *Special Needs Trusts*
- ❖ *Utilizing Special Needs Trusts in Matrimonial Cases.*
- ❖ *Using Special Needs Trust to Protect Public Benefits*
- ❖ *Resolving Your Nursing Home Medicaid Application Challenge*
- ❖ *Domestic Partners*
- ❖ *Providing for Your Pet*
- ❖ *Providing for Your Grandchildren*
- ❖ *Charitable Giving*
- ❖ *Planning for Your Business*

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If you have any comments, e-mail us at [ccaruso@begleylawyer.com](mailto:ccaruso@begleylawyer.com)

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