

# New Jersey Law for Special Needs Children

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## First Party Special Needs Trusts Should be Reviewed in Light of a Recent New Jersey Court Ruling

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A New Jersey appeals court upheld Medicaid's denial of benefits after finding that the First Party Special Needs Trust for the benefit of the applicant did not shelter the applicant's assets.

Medicaid determined, and the court agreed, that a First Party Special Needs Trust will not shelter an applicant's assets unless and until the [Social Security Administration](#) or the [New Jersey Disability Review Team](#) determines that the beneficiary of such trust meets the federal definition of "disabled." In other words, the fact that the applicant may meet the definition of "disabled" is irrelevant unless the Social Security Administration or the state Disability Review Team actually makes this determination.

In addition, the court agreed with Medicaid's determination that the Special Needs Trust was not an irrevocable trust as required by law because the terms of the Special Needs Trust allowed the trust to terminate if it was deemed an available resource to the beneficiary for purposes of obtaining state or federal benefits.

Interestingly, this Special Needs Trust was previously approved by a New Jersey Law Division judge in connection with the applicant's workers' compensation case.

If you or a loved one is the beneficiary of a New Jersey First Party Special Needs Trust, you should have an attorney review the trust in light of this case in order to avoid a similar result.

For the full text of the case, see [J.C. v. Division of Medical Assistance and Health Services](#) (N.J. Super. Ct., App. Div., Nos. A-5632-07T25632-07T2, A-6297-07T2, Feb. 8, 2010).

Cole, Schotz, Meisel, Forman & Leonard, P.A.

Court Plaza North, 25 Main Street  
Hackensack, NJ 07601  
Phone:  
(201) 489-3000

900 Third Avenue, 16th Floor  
New York, NY 10022  
Phone:  
(212) 752-8000

500 Delaware Avenue, Suite 1410  
Wilmington, DE 19801  
Phone:  
(302) 652-3131

300 East Lombard Street, Suite 2000  
Baltimore, MD 21202  
Phone:  
(410) 230-0660

301 Commerce Street, Suite 1700  
Fort Worth, TX 76102  
Phone:  
(817) 810-5250