

Irrevocable Asset Protection Trusts

Elder Law of East Tennessee

For many individuals and families, paying for long-term care is an overwhelming burden. With limited resources and an increasing number of health care needs, it is difficult to figure out how to pay for necessary care from dwindling private funds. Long term care insurance may be out of reach because it is too expensive or because of a health history that prevents obtaining a policy. If you plan ahead, an Irrevocable Asset Protection Trust can be a valuable tool for helping you or your loved one qualify for Medicaid or VA benefits in order to pay for future care.

What is an Irrevocable Asset Protection Trust? A trust is a legal entity that holds ownership of assets. Because it is irrevocable, it provides a protective shield around the property.

What kinds of Irrevocable Asset Protection Trusts exist?

The Family Asset Protection Trust (FAPT) is used for people who want to receive income from their trust during their lifetime and pass the trust assets to others at death. The FAPT is appropriate for persons applying for Medicaid or TennCare benefits. The Veterans Asset Protection Trust (VAPT) is to help you or your loved one meet the financial requirements for either Medicaid or VA benefits at some time in the future when care is needed. Both the FAPT and the VAPT can hold a variety of assets, including your home or farm.

Who needs an Irrevocable Asset Protection Trust? Individuals who need to receive public benefits such as VA or Medicaid but whose assets or income are too high to meet the qualifications for those programs may need an Asset Protection Trust in order to qualify. Also, individuals who cannot qualify for long term care insurance can benefit from such a trust.

How does an Irrevocable Asset Protection Trust work? Funds held within these trusts are not counted as assets of the person applying for Medicaid or VA benefits. By planning ahead and moving assets into a trust well before benefits are needed, you or your loved one set the stage for a successful public benefits application further down the road.

When can an Irrevocable Asset Protection Trust be used? The best time to establish an Asset Protection Trust is long before benefits are actually needed, when you expect to have at least five years before it becomes necessary to apply for Medicaid benefits. Medicaid/TennCare programs have a five-year lookback period. Currently, the VA has no lookback, but it has proposed a rule to impose a three-year lookback. Planning ahead can ease worry and frustration and give you more flexibility down the road. It can also save you money.



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