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UTMA Accounts Could Cause Problems for SSI Beneficiaries

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Uniform Transfer to Minors Act (UTMA) accounts - also known as Uniform Gifts to Minors Accounts - are an easy, efficient way for family members to set aside money for children, without having to go through the expense of placing funds into a formal trust. But if not properly managed, these accounts can also cause serious problems for younger Supplemental Security Income (SSI) beneficiaries when the account funds suddenly become available resources.

UTMA accounts are custodial accounts set up to hold funds for a minor until he reaches a certain age. Each state has its own regulations governing how UTMA accounts must be established, as well as how long they last, but the basics are the same everywhere. Essentially, an adult creates an account with a bank or brokerage firm, and designates the account as an UTMA account. At the time the account is created, the donor must also pick a custodian for the account, who manages the account for the benefit of the minor, much like a trustee. However, the UTMA account custodian does not have the formal accounting and distribution requirements of a trustee, making UTMA accounts easier, and less costly, to fund and maintain.

Most importantly, especially for parents of children with special needs, at a certain point, often when the minor reaches 18 or 21, state law requires that the UTMA account close. When this happens, all of the funds remaining in the account become the beneficiary's property. Again, the timing of this distribution depends on the state where the account is held, but all UTMA accounts eventually end, often providing a significant financial windfall to the beneficiary. Because this sudden cash gift can cause problems for SSI (and Medicaid) beneficiaries who face strict asset limits, UTMA accounts may not be appropriate for all children with special needs because of the inherent complications involved when the accounts terminate.

The Social Security Administration (SSA) is fairly forgiving when it comes to UTMA accounts - at first. The accounts do not count as a resource for SSI, meaning that the SSA will not count the funds held in UTMA accounts against a young person applying for SSI. Likewise, any income generated by the UTMA account, and added to the funds already in the account, does not count as income for SSI purposes. As always, should a custodian decide to distribute funds from an UTMA account directly to a beneficiary, or to pay for food or shelter for a beneficiary with funds from the UTMA account, those payments could count as a beneficiary's income.

But once the account terminates as required by state law, the funds immediately become an SSI beneficiary's available resource. This means that a child could qualify for SSI, receive benefits for several years, and then



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abruptly lose SSI when her UTMA account dissolves. Unfortunately, it's up to the custodian, and the beneficiary's family, to determine when the account closes and what to do about it. In fact, the SSA often does not know the account has closed until years later, when it will assess penalties and require the beneficiary to pay back benefits already received.

There is a way to avoid this problem. Before the account terminates, the custodian can transfer the remaining funds into what is called a "**first-party special needs trust**", which is a special kind of trust designed to hold an SSI beneficiary's own assets. There are several restrictions attached to these trusts, including what is known as a "payback provision" designed to reimburse the state for Medicaid benefits, but a loss of SSI benefits is often much worse than the restrictions on the trust.

An experienced special needs planner who is familiar with how UTMA accounts work in your state can help you determine what course of action to take if your child with special needs has an UTMA account. To find a qualified attorney near you, click [here](#).

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