



62 P.S. §1414 (Act 42 of 2005) In *Lewis v. Alexander*, \_\_\_\_\_ F.Supp. 3d \_\_\_\_\_, 2011 U.S. Dist. LEXIS 95101 (E.D. Pa. 2011), the United States District Court for the Eastern District of Pennsylvania found that various sections of 62 P.S. Section 1414 (Special Needs Trusts) were impermissibly more restrictive than the federal law with respect to Pooled Special Needs Trusts under 42 U.S.C. 1396p(d)(4)(C). The Court held that the following sections are pre-empted by federal law; while the court only held these sections to be pre-empted and thus void as to Pooled SNTs, the rationale of the court appears equally applicable to all Self-Funded Special Needs Trusts.

- Section 1414(c) - allowing DPW to petition the Court to terminate an SNT that violates 1414(b);
- Section 1414(b)(2) - the beneficiary must have "special needs that will not be met without the trust"
- Section 1414(b)(1) - a person over age 65 cannot participate in a pooled trust
- Section 1414(b)(3)(ii) - any expenditure must have a "reasonable relationship" to the needs of the beneficiary
- Section 1414(b)(3)(iii)- after the death of a beneficiary the state may recover up to 50% of the remaining corpus to repay the state for Medical Assistance provided to the beneficiary, and the pooled trust can retain only the remaining 50%.

The Court upheld Section 1414(b)(3)(i) - that all distributions from the trust must be for the sole benefit of the beneficiary.

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## McAndrews Law Offices, P.C.

30 Cassatt Avenue  
Berwyn, PA 19312  
Phone: (610) 648-9300  
FAX: (610) 648-0433

Wyomissing, PA ● Phone: (610) 374-9900  
Harrisburg, PA ● Phone: (717) 221-1422  
Scranton, PA ● Phone: (570) 969-1817  
Wilmington, DE ● Phone: (302) 380-4975  
[www.mcandrewslaw.com](http://www.mcandrewslaw.com)