

NYSARC, INC. COMMUNITY TRUST III

INFORMATION & PROCEDURES

NYSARC Trust Services

PO Box 1531

Latham, NY 12110

(518) 439-8323

www.nysarctrustservices.org

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**NYSARC, Inc. Community Trust III
Information and Procedures**

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The Trust:

The NYSARC, Inc. Community Trust III is a pooled supplemental needs trust established pursuant to Federal and State law that permits a person with a disability to shelter his/her own funds in order to remain eligible for means-tested government benefits. The Master Trust document governs the entire pool of sub-trust accounts and is already in place. **Disbursements are made at the sole discretion of the Trustees and must be for the primary benefit of the disabled Beneficiary.**

NYSARC, Inc. is the administrator and co-Trustee of the NYSARC, Inc. Community Trust III. A financial institution is appointed as co-Trustee per Master Trust Article V Section 5.1.

Contact Information:

NYSARC Trust Services

PO Box 1531

Latham, NY 12110

Phone: (518) 439-8323

Fax: (518) 439-2670

Email: trustdept@nysarc.org

www.nysarctrustservices.org

Eligibility:

Individuals who are disabled as defined in Social Security Law Section 1614(a)(3)[42USC 1382c(a)(3)] are eligible to establish a NYSARC, Inc. Community Trust III sub-trust account. There are no restrictions with respect to an individual's disability, ethnicity, religious beliefs or geographic location. The ability to shelter monthly income for Medicaid eligibility is determined on a state by state basis.

Suitability:

The Beneficiary and his/her representatives are solely responsible for determining whether the Trust meets the needs of the individual. Prospective Beneficiaries should consult with their attorneys, case managers, and/or other advisors before seeking participation in the Trust. Fees are charged each month, which means that there may be more efficient ways to spend small amounts of money that are in the best interest of the person with a disability. Funds deposited become the property of the Trust. The Trustees do not know the unique circumstances of any individual and cannot determine if the Trust represents the optimal solution for a particular person. The Trust may not be appropriate for everyone.

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Establishing an Account:

In accordance with Federal statute, each individual must establish his/her own sub-trust account. Please refer to the website or contact NYSARC to make sure you have the most recent documents and requirements.

The Joinder Agreement may only be signed by one of the following: The disabled Beneficiary (must have capacity), a parent, grandparent, legal Guardian, or agent under a Power of Attorney (POA).

Items currently required when submitting an application:

- ✓ Completed Joinder Agreement (signed and notarized)
- ✓ Copy of Social Security Card and Social Security Award Letter indicating benefit type and claim number
- ✓ OR SSA-1099 form (if provided, you do not need to send SS card or award letter)
- ✓ Copy of applicant's driver's license or other government issued ID to establish the bank account
- ✓ Fund the trust with a **minimum of \$250,000** by check OR electronic deposit:
 1. A check made payable or endorse to *NYSARC, Inc. Community Trust, fbo Beneficiary's name*. Complete the New Account Deposit slip and mail directly to the bank, separate from the Joinder Agreement. See address on form.
 2. Complete and sign Electronic Deposit form for a one-time deposit and include with your Joinder Agreement.

If someone other than the account Beneficiary is signing, you must also submit:

- ✓ Copy of POA or Guardianship Decree, if signed by agent or guardian
- ✓ Copy of the Court Order, if account is established pursuant to a Court Order

Mail the application packet to:

NYSARC Trust Services
PO Box 1531
Latham, NY 12110

Accounts are typically approved in five (5) business days provided that you submit a complete, notarized Joinder Agreement and all required documentation as listed above. Missing or incomplete information may delay account approval. Once approved, it takes a couple of weeks to establish the sub-trust account with the bank. NYSARC Trust Services

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will contact the Beneficiary and/or his/her representative with any questions or concerns.

Once accepted, NYSARC will assign you a dedicated team of representatives to assist with the administration of your trust account. The Beneficiary and/or authorized individual listed in the Joinder Agreement will receive a Welcome Packet with the necessary material to manage the account. NYSARC will provide a welcome call to review the contents of this packet, explain important procedures, and ensure a smooth transition into the trust. ***It is the responsibility of the account Beneficiary or representative noted on the Joinder Agreement to submit trust documents to Medicaid, Social Security Administration (SSA), and/or other government agencies for approval.***

Minimum Deposit to Establish an Account:

The minimum deposit to establish a Community Trust III account is **\$250,000**. You can fund the trust with a lump sum and/or structured payments. The funds to establish the account are non-refundable after acceptance.

The one-time enrollment fee and the first month's administrative fee will be deducted from your initial deposit in the month the account is established. Please refer to the current fee schedule.

Subsequent Deposits:

Subsequent deposits may be made at any time following acceptance. If deposits are from a structured settlement or annuity, please provide a copy of such contract/agreement.

Deposit slips are included in the Welcome Packet provided at account establishment. You can also download deposit slips from the NYSARC Trust Portal. For more information, see *Online Access via NYSARC Trust Portal*.

Cash deposits will not be accepted. Checks should be made payable to *NYSARC, Inc. Community Trust, fbo Beneficiary's name* and mailed to the address on the deposit slips:

NYSARC, Inc. Community Trust
PO Box 1788
Albany, NY 12201

Please note, a fee will be charged to the trust account for any deposits that are returned for insufficient funds. Refer to the current fee schedule for more information.

Electronic Deposits:

You can make one-time electronic deposits into the trust and/or set up monthly electronic deposits where the trust withdraws your deposit from your bank account each month on a

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scheduled day. Please complete the *Electronic Deposit* form to use this service. The form is included in the Welcome Packet provided at account establishment and is also available on our website at www.nysarctrustservices.org.

Pass-through Accounts (Spend-down/Surplus Income/Net Available Monthly Income (NAMI)):

Account beneficiaries who make monthly deposits to satisfy a Medicaid income spend-down/surplus income, will be deemed a pass-through account and the pass-through fee schedule will apply.

Medicaid determines an individual's spend-down/surplus income/NAMI amount. NYSARC Trust Services cannot advise individuals in regards to their spend-down/surplus income/NAMI or determine their necessary monthly deposit.

If Medicaid determines there is a change in the spend-down amount, please notify NYSARC and provide a copy of the Medicaid Notice of Decision. If you are making Electronic Deposits, submit a new *Electronic Deposit* form requesting the change in amount.

Minimum Balance Requirement (Pass-through Accounts ONLY):

As of October 1, 2024, pass-through accounts that make monthly deposits must always maintain a minimum balance of \$100. No disbursements will be approved from a sub-trust account until it is accepted, and the minimum balance requirement is satisfied. For accounts with a \$100 minimum, deposits will be held for four (4) business days to allow ample time for the funds to clear before the deposit is available for disbursement.

If you do not wish for your deposit to be held for four (4) business days, you must maintain a minimum balance equal to one month's deposit up to a maximum of \$3,000.

Verification of Deposits:

NYSARC Trust Services will provide a verification of deposit upon request. To verify a deposit, email trustdept@nysarc.org or contact customer service to provide us with the name and fax number and/or mailing address of the recipient. You can also download a report of deposit history from the NYSARC Trust Portal. See *User Tips Guide* for more information.

Fees:

A **one-time enrollment fee** will be deducted from the initial deposit in the month the account is established. Administrative fees are charged monthly according to the current fee schedule. Fees are subject to change.

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Pass-through accounts will receive a copy of the appropriate fee schedule following account acceptance and/or upon beginning monthly deposits.

Trust expenses and fees are deducted before requested disbursements. Lack of funds will delay the processing of disbursement requests until funds are received.

Disbursements:

Trust funds are intended to enhance the quality of life of persons with disabilities by making direct payments to third parties to pay for items and services that are for the primary benefit of the trust beneficiary. Each disbursement request is reviewed individually to consider the impact on a person's eligibility for means-tested government benefits.

Current requirements to submit a disbursement request:

- ✓ A completed disbursement request form
- ✓ An authorized individual must sign the disbursement request form
- ✓ An invoice, bill, or receipt in the Beneficiary's name
- ✓ Attach additional documentation as needed
- ✓ Adequate funds "available" in the sub-trust account

Upload Online/Fax Disbursement Requests to:

Online: portal.nysarctrustservices.org
Fax: (518) 439-2670
(available 24 hours)

Mail Disbursement Requests to:

NYSARC Trust Services
PO Box 1531
Latham, NY 12110

Complete and accurate documentation is required in order to consider any disbursement request. Lack of documentation or availability of funds will delay processing time.

Please allow **up to 14 days** for processing of approved requests. NYSARC Trust Services is not responsible for late charges which may be incurred.

In accordance with Federal statute, no disbursements will be made after the death of the Beneficiary. Requests and supporting documentation must be received by NYSARC prior to the death of the Beneficiary.

All disbursements are made at the sole discretion of the Trustees and must meet the below criteria:

- ✓ Request is for the primary benefit of the account Beneficiary
- ✓ Expense must have been incurred within 90 days of submission
- ✓ Invoice must be in Beneficiary's name

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- ✓ All submitted invoices must be itemized, legible, reflect date of service, and indicate that the service is for the Beneficiary.
- ✓ All disbursements must be made payable to third parties only
- ✓ All third party service providers and vendors must be legitimate registered businesses or documented employees in which all employment taxes and filings are prepared.
- ✓ Disbursement requests relating to a family or other type of Trust require submission of the Trust document for our legal department to review prior to consideration.

Electronic Payments to Individuals and Vendors:

NYSARC can pay disbursements electronically, rather than mailing a check. NYSARC already pays many national and regional vendors electronically, which requires no action by the beneficiary or contact. Payments to individual people, or vendors not already set up by NYSARC, can be paid electronically if the payment recipient is willing to provide their bank account information. To request electronic payments, complete the *Electronic Payment Authorization Form* and submit with a *Disbursement Request Form* or *Autopay Application*.

Sample Eligible Disbursements:

This list is not inclusive nor does it guarantee payment will be approved.

For Beneficiary's who receive Supplemental Security Income (SSI) benefits, payments made by the trust to third parties for shelter expenses are considered in-kind support and maintenance (ISM) and may reduce SSI payments.

These items are marked with an asterisk (*) below. Refer to *Disbursement Limitations/In-kind support and maintenance* for more information.

- ✓ ***Cable/internet, cell phone, telephone*** – Invoice in the Beneficiary's name and indicating primary residence as service address.
- ✓ ***Vehicle related expenses*** – A copy of a bill in the Beneficiary's name or proof that the vehicle is the Beneficiary's primary mode of transportation. We may request proof of ownership, including vehicle title and registration, at the trustee's discretion.
- ✓ ***Income tax*** - State and Federal income taxes will be considered for payment. Any request for income tax relating to jointly filed return(s) must include an allocation of income from an independent tax preparer or submission of tax documents (i.e. 1099). Only a pro-rata share of tax may be paid. A copy of the Federal and State returns must be submitted with request.

Estimated income taxes will be considered for quarterly payment. A copy of previous year return(s) is required.

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- ✓ **Credit cards** – Only current month eligible charges will be considered. Beneficiary must be the account holder. All charges must be for the primary benefit of the Beneficiary.
 - You must submit a complete detailed statement plus ALL itemized receipts for the purchases you are requesting the trust to pay. Failure to submit receipts or other necessary documentation will result in reduction of payment.
 - For fixed recurring charges (e.g. Netflix, LifeAlert, etc.), you must provide a copy of the bill initially to show proof that the expense is for the Beneficiary's primary benefit. NYSARC may request an updated copy of the bill annually.
 - NYSARC cannot pay more than what is actually owed on the card. Requests to pay an amount that is greater than the balance owed will be reduced.
- ✓ **Reimbursements** – to a third party for making a purchase on your behalf require proof of payment. Contact our office prior to making purchases and/or obtaining services to ensure they are eligible for reimbursement. NYSARC cannot reimburse the trust beneficiary, their spouse, or a beneficiary's legal Guardian.
- ✓ **Funeral arrangement** – An Irrevocable/Medicaid eligible pre-need agreement may be considered during the Beneficiary's lifetime. A disbursement request and copy of the pre-need contract is required. Requests for payment toward contract will only be made prior to Beneficiary death.

Consistent with Federal statute, the sub-trust account terminates up the death of the Beneficiary. No distributions can be made after the date of death, including funeral or related expenses
- ✓ **Court approved payments directing disbursement from sub-trust account** – A copy of the Court Order is required.
- ✓ **Personal items for the Beneficiary*** (non-food items for SSI recipients) – Detailed documentation of item(s) must be submitted for payment directly to vendor.
- ✓ **Vacation** - Invoices pertaining to vacation (i.e. airfare, hotel) must be submitted. Direct payment to vendors(s) will be made for Beneficiary only, unless independent certification is on file. Limitations may be imposed based on individual circumstances and government benefits.
- ✓ **Care management** – Invoice indicating dates and hours worked and rate of pay is required. NYSARC may request additional documentation as needed.
- ✓ **Bus/train/cab fare** – Direct payment to carrier with documentation must be submitted.

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- ✓ ***Service animal related expenses*** – Documentation of expense must be submitted.
- ✓ ***Property expenses**** – Deed, life estate, or trust document must be submitted. The Beneficiary must have some ownership in the property or have retained a life estate for consideration. These expenses include property taxes, repairs, maintenance, and property insurance.

NOTE: Expenses may be pro-rated based on percentage of ownership.
(e.g. property ownership with a non-spouse)

- ✓ ***Rent**** – A current signed lease indicating the Beneficiary as tenant must be on file. Rental amount must not exceed “market” rent.

NOTE: Beneficiaries residing with a non-spouse may result in a pro-rata share.

NOTE: A lease between spouses will not be honored.

- ✓ ***Mortgage**** – A residential loan agreement and payment coupon in the name of the Beneficiary must be submitted. Beneficiary must be listed as mortgagor.
- ✓ ***Maintenance fee**** – HOA agreement and a payment coupon in the name of the Beneficiary must be submitted.
- ✓ ***Assisted living facility**** – A current signed lease, or other documentation provided by facility, indicating the Beneficiary as tenant must be on file. In addition, a monthly invoice must be submitted.
- ✓ ***Utility bills**** - Invoice in the Beneficiary’s name, indicating primary residence as service address.
- ✓ ***Insurance**** – Renters and homeowner - Policy and invoice indicating primary residence as insured property, refer to documents needed to pay rent, or property expenses.
- ✓ ***Other*** – A dated, detailed invoice or price quote is required in the Beneficiary’s name from a third party vendor. If approved, payment will be made directly to the third party vendor.

Automatic Payment Guidelines for Rent/Mortgage/Maintenance Fees:

If the Beneficiary has a sufficient balance in the trust and/or is making monthly deposits, you may request automatic payments of rent, mortgage, monthly maintenance fees, pre-need funeral arrangements, and car loans/lease payments.

You must complete and send an *Automatic Payment Application* to our office for review. The application is available on our website at www.nysarctrustservices.org and also in the Welcome Packet you received following acceptance.

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- Automatic payment amount must be the same each month.
- Monthly deposits must be received at least four (4) business days prior to the date of your scheduled automatic payment to ensure the availability of funds.
- Missed monthly deposits or deposits returned for insufficient funds may result in cancellation of payment. Prior to re-starting, you must make three (3) additional consecutive monthly deposits and submit a new *Automatic Payment Application*.
- If the Beneficiary is not making monthly deposits and the account balance falls below the amount necessary to cover three (3) month's payments, automatic payment may be cancelled.
- Please allow up to three (3) weeks for approval and processing of an automatic payment request. You must continue to submit a disbursement request form monthly to process rent while awaiting approval of automatic payments.

Please contact NYSARC or check the NYSARC Trust Portal to verify that an automatic payment has been established before discontinuing monthly disbursement requests.

Note: Automatic payment is not available at this time for budgeted payments, such as utilities, and expenses where the amount changes each month. Contact customer service if you have questions about whether or not a fixed recurring expense is eligible for automatic payment.

Disbursement Limitations:

A primary consideration when reviewing each disbursement request is to protect the Beneficiary's eligibility for government benefits. Requests that may adversely affect government benefits or do not appear to be for the primary benefit of the Beneficiary may be denied.

This is not an inclusive list. The following items are not eligible for disbursement:

- × Disbursements payable to the Beneficiary in order to protect benefit eligibility
- × Cash advances taken on credit cards and related fees
- × Payments to financial institutions for debit card charges, and overdraft fees/expenses, lines of credit
- × Rent/lease between spouses will not be honored or amounts that exceed market rent
- × Reimbursement for purchases made from a joint checking account held with the Beneficiary
- × Reimbursement to spouse

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- × Tobacco
- × Alcohol
- × Any expenses related to criminal charges (bail, restitution, and legal fees)
- × Firearms
- × Medicaid eligible expenses incurred after the Trust was established
- × Any item for an individual other than the Beneficiary
- × Gifts, gift cards, parties, or donations
- × Surplus income invoices (NAMI, Spend-down)
- × Life insurance premiums
- × Requests for expenses incurred greater than 90 days prior to submission
- × **Any disbursement after the death of the Beneficiary**

Other Limitations:

- × **In-kind support and maintenance for SSI recipients:**
Expenses paid for shelter (i.e., room, rent, mortgage payments, real property taxes, heat/gas/electric, water, sewerage, and garbage collection services), as listed in the POMS section: SI 00835.465 for SSI recipients will only be considered under special circumstances. Please contact NYSARC for more information and to discuss the requirements for consideration. As of September 30, 2024, SSA no longer considers food expenses as ISM.
- × **Disbursement limitations for individuals in supportive or supervised housing:**
Disbursement requests must be for item(s) and/or service(s) that are not the responsibility of the agency to provide. For requests for purchases that are the responsibility of the agency, you must submit documentation stating that an item(s) is above and beyond what the agency is required to provide.
- × **Disbursements of interest/earnings for HUD/Subsidized Housing residents:**
 - Disbursements from principal do not affect rent or HUD benefit eligibility.
 - Disbursements of interest/earnings from the trust may be treated as income and may increase beneficiary's rental cost in accordance with the Housing Opportunity Through Modernization Act of 2016 (HOTMA). Disbursements of significant income may affect HUD eligibility.
- × **Disbursement limitations for minors:**
 - Items that a parent or Guardian is required to provide will not be considered
 - Court Order may direct payment from the Trust for specific items and/or put limitations on what the trust funds can be used for

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Required Assistance with Trust Transactions:

The Trustees in their discretion may require an intermediary to assist in the administration of the Beneficiary's sub-trust account. The cost of which may be charged to the sub-trust account.

Monthly Statements:

Account statements are prepared monthly and mailed to the individual(s) designated on the Joinder Agreement. Statements are mailed approximately three (3) weeks after the end of the previous month. Statements include detailed monthly activity for your convenience.

Monitoring Trust Account Activity:

Automated Phone System:

Call the automated phone system 24/7 to listen to a recording of recent transactions:

- **Dial (518) 439-8323 and PRESS 8** during the greeting
- Enter the account number and the Beneficiary's pin number
- Follow the menu prompts to check the account balance, verify deposits received, and check the status of a disbursement request.

Online Access via NYSARC Trust Portal:

Beneficiaries and authorized individuals have access to a 24/7 Online Portal to check account balances, make disbursement requests, upload documents and forms, and track trust activity. There are detailed instructions on how to sign up in the Welcome Packet provided at account establishment. **Balance information for new accounts will be displayed once the first bank statement is available.** To remove a contact from having access to the Online Portal, please contact customer service or submit a request in writing.

Live Customer Service:

Our responsive and knowledgeable staff are available weekdays to answer your questions and can assist you with matters not supported by the automated phone system or Online Portal. Beneficiaries are also assigned a dedicated team of representatives to assist with the day-to-day management of trust assets.

For confidentiality and the security of our Beneficiaries, only authorized individuals may contact NYSARC Trust Services on behalf of a Beneficiary. Each time you contact customer service you must provide the last four (4) digits of the Beneficiary's Social Security number as well as the six (6) digit account number.

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Add/Remove Authorized Contacts:

NYSARC requires that you designate at least one authorized contact in the Joinder Agreement. The Beneficiary or other authorized individual may request to add or remove an authorized contact after acceptance by mail, email, or by contacting customer service. Please specify which of the following permissions you authorize the individual/agency to do:

- ✓ Communicate/obtain account information
- ✓ Receive monthly statements
- ✓ Submit disbursement requests
- ✓ Allow access to NYSARC Trust Portal

Changes to Contact Information:

It is important that NYSARC have up-to-date contact information for Beneficiaries and authorized contacts. We will accept changes to information from the Beneficiary or authorized individual by mail, email, or by contacting customer service.

Detailed Accountings:

Accountings required for benefit recertification and by Court Order are prepared upon request. Please allow up to 30 days for processing.

Reporting to Government Agencies:

It is the responsibility of the Beneficiary or his/her representative to report Trust activity to applicable government agencies. If necessary, NYSARC Trust Services may provide, upon request, documentation to the Beneficiary, or directly to the government agency for assistance with reporting requirements.

Investing Funds:

Trust funds are invested according to the Trust investment policy, which is administered by the co-Trustee, a financial institution appointed by NYSARC, and approved by NYSARC, Inc. The investment objective is subject to market fluctuations.

Reporting Taxable Income:

NYSARC, Inc. Community Trust III files Federal forms 1041 and New York State IT-205 for tax purposes. Any Beneficiary with distributed taxable income will be issued a Grantor Tax Information Letter that must be reported on their personal income tax return.

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Taxable income earned but not distributed via disbursements during the year will be calculated at the Trust tax rate and reported on the Trust's tax return. Any tax incurred within the Trust is allocated to the appropriate beneficiaries and will be deducted from their trust account.

Change in Status of Trust (Pass-through Accounts ONLY):

Beneficiary Permanently Admitted into a Nursing Home:

If the Beneficiary enters a nursing home and is not expected to return home, notify NYSARC immediately and stop making monthly deposits. Nursing home bills for spend-down/surplus/NAMI cannot be paid.

Beneficiary No Longer has a Spend-down/Surplus/NAMI Income:

If the Beneficiary of a pass-through account no longer has a spend-down/surplus/NAMI, notify NYSARC Trust Services.

In either of these scenarios, the minimum balance requirement will be made available, so that the full balance, less unpaid fees and expenses, may be used for disbursement. There will be no change to the procedures regarding disbursements. The minimum monthly administrative fee will be charged until the account is fully expended.

Death of Beneficiary:

Please notify NYSARC Trust Services immediately. The authorized representative is required to submit a copy of the death certificate as soon as possible.

Consistent with Federal statute, the sub-trust account terminates upon the death of the Beneficiary and all funds remaining in the sub-account will be distributed per the executed Joinder Agreement.

Any disbursements paid after the death of the Beneficiary **must be returned to NYSARC, Inc. Community Trust III.**

Funeral Arrangements:

Payment toward an Irrevocable/Medicaid eligible pre-need agreement may be considered during the Beneficiary's lifetime. Submission of a disbursement request and copy of the pre-need contract is required and must be received by NYSARC at least 24 hours prior to the Beneficiary's death.

Consistent with Federal statute, the sub-trust account terminates upon the death of the Beneficiary. No distributions can be made after the date of death, including funeral or related expenses.