

NYSARC, INC. COMMUNITY TRUST III

(A Trust for Persons with Disabilities)

INFORMATION & PROCEDURES

NYSARC Trust Services

P.O. Box 1531

Latham, NY 12110

518-439-8323

800-735-8924

www.nysarctrustservices.org

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

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NYSARC, Inc. Community Trust III Information and Procedures

The Trust:

The NYSARC, Inc. Community Trust III is a pooled trust established pursuant to Federal and State law that permits a disabled person to shelter his/her own resources in order to remain eligible for governmental benefits that are subject to means testing. 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 sole 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
P.O. Box 1531
Latham, New York 12110
E-Mail Correspondance to: trustdept@nysarc.org
Phone: 518-439-8323 or 800-735-8924
Fax: 518-439-2670
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.

Suitability:

The Beneficiary and his/her representatives are solely responsible for determining whether this 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. Funds deposited become the property of the Trust. All disbursement requests are approved or denied at the sole discretion of the Trustees. The Trustees do not know the individual 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:

A completed Joinder Agreement (signed and notarized), together with documentation currently required, and funds made payable to NYSARC, Inc. Community Trust, fbo Beneficiary's name, must be sent to:

NYSARC Trust Services

P.O. Box 1531

Latham, NY 12110

The Joinder Agreement and other documentation are occasionally updated. Please refer to our website or contact our office to make sure you have the most recent documents and requirements.

Items currently required when submitting an application:

- Submission Checklist
- Copy of Social Security Card
- Copy of Social Security Award letter indicating benefit type and claim number
- Copy of POA or Guardianship if Joinder Agreement signed by agent or guardian
- If account is established pursuant to a Court Order, a copy of the Court Order is required

NYSARC Trust Services will contact the Beneficiary and/or his/her representative regarding any questions or concerns with the submitted information/funds, or if the incorrect Joinder Agreement has been submitted. To ensure the timely review of your application, please submit all required documentation as listed above and on the submission checklist. Missing or incomplete information may delay account approval.

Each individual must establish their own sub-trust account; therefore, we cannot accept a joint trust application.

Once accepted, a start-up binder containing an acceptance letter, a copy of the executed Joinder Agreement, as well as other information regarding administration of the sub-trust account, will be mailed to the Beneficiary or the contact person listed in the Joinder Agreement.

It is the responsibility of the account Beneficiary or representative to submit trust documents to Medicaid, SSA, and/or other government agencies for approval.

Acceptable Joinder Agreement Signatures:

The Joinder Agreement may only be signed by one of the following: The disabled Beneficiary (must have capacity), a parent, grandparent, or Guardian. A Power of Attorney may also sign, provided the appropriate language is contained in the POA document. Applications signed by a POA or Guardian must be reviewed by our legal department and require additional review time.

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The following must be submitted if not being signed by the account Beneficiary:

- Signed by the Guardian → Proof of Guardianship is required and must be submitted with the Joinder Agreement.
- Signed by Power of Attorney → A copy of the Power of Attorney must be submitted with the Joinder Agreement. Please note government benefit agencies may require additional information regarding a Joinder signed by Power of Attorney.
- Account established by Court Order → Contact the NYSARC Trust Services office for instructions regarding the completion of the Joinder Agreement.

Minimum Amount to Establish an Account:

The minimum deposit to establish a Community Trust III account is **\$250,000.00**. The initial funds to establish the account are non-refundable after acceptance.

An enrollment fee is charged to establish a NYSARC, Inc. Community Trust III per the fee schedule in effect at the time the account is opened.

The first month's administrative fee will be charged in the month the account is established.

Subsequent Deposits:

Subsequent deposits may be made at any time. If you plan to make additional deposits, please contact NYSARC for the appropriate mailing address.

Please note any checks returned for insufficient funds will result in an additional fee, refer to the current fee schedule.

If subsequent deposits are resulting from a structured settlement or annuity, please provide our office with a copy of such contract/agreement.

Cash deposits will not be accepted.

Spend-down/Surplus Income/NAMI:

In cases where the beneficiary will deposit monthly surplus income, in addition to the lump sum or structured settlement, Medicaid determines an individual's spend-down/surplus/NAMI amount. Please contact your local Medicaid Office to obtain this information. NYSARC Trust Services cannot advise individuals in regard to their spend-down/surplus/NAMI or determine their necessary monthly deposit.

Beneficiaries making monthly deposits to shelter funds for spend-down/surplus income purposes, will be considered "pass-through" accounts and a pass-through fee schedule may be applied. Please contact our office for a copy of the fee schedule.

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Verification of Deposits:

If applicable, NYSARC Trust Services can provide a verification of deposit upon request. Please provide us with the name and fax number of the recipient should you like to use this service.

Monthly Statements:

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

Detailed Accounting:

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

Reporting To Government Agencies:

It is the responsibility of the disabled Beneficiary or their 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.

Reporting Taxable Income:

NYSARC, Inc. Community Trust III Trusts are deemed Grantor Trusts and file Federal forms 1041 and New York State IT-205 for tax purposes. Each Beneficiary will receive a Grantor Tax Information letter containing information reportable on their personal income tax return.

Required Assistance With Trust Transactions:

NYSARC Trust Services may require an intermediary if, in the sole opinion of the NYSARC administrator, the Beneficiary or named contact is unable to appropriately handle or lacks the ability to understand Trust matters or submit a proper request.

Should the disabled Beneficiary require assistance in communicating with NYSARC Trust Services and/or government agencies, the Beneficiary, parent, or Guardian must arrange for appropriate service coordination. NYSARC Trust Services acts as fiduciary only and does not provide service coordination or social work services. If necessary, NYSARC may assign a liaison; the fees associated will be deducted from the sub-trust account.

Fees:

Administrative and investment management fees are charged monthly according to the current fee schedules. Fees are subject to change.

Accounts deemed to be for deposit of surplus income may have the pass-through fee schedule applied.

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A one-time enrollment fee will be charged in the month the account is established.

The first month's administrative fee will be charged in the month the account is established.

Trust expenses and fees are deducted before requested disbursements; therefore, please remember to consider this when submitting disbursement requests. A lack of funds will delay the processing of disbursement requests until funds are received.

Changes to Beneficiary's Information after Acceptance:

Persons authorized to discuss Trust matters and/or submit requests on behalf of the Beneficiary are designated in the Joinder Agreement. Only written changes from an authorized individual will be accepted.

To ensure we have the most current information in our files, please submit any changes in writing to NYSARC Trust Services. Please be specific with updated information regarding individuals authorized to make disbursement requests and who shall receive statements. This information must be submitted by the Beneficiary or other authorized individual. This would include changes pertaining to the Beneficiary and authorized contacts including but not limited to:

- ✓ Telephone numbers
- ✓ Address changes
- ✓ Service providers
- ✓ Change in monthly structured settlement/annuity/spend-down/surplus (if applicable)
- ✓ Living situation
- ✓ Changes in relation to Guardianship or Power of Attorney

Contacting our Customer Service Department:

Our automated telephone system can be accessed when calling our office by pressing "8". This system can address most of your questions including:

- ✓ Verify if a deposit has been received
- ✓ Confirm whether a disbursement has been processed or is pending distribution
- ✓ Confirm receipt of a fax or other information submitted

For confidentiality reasons, only authorized individuals may contact NYSARC Trust Services on behalf of a Beneficiary. When contacting our Customer Service Department you must provide the last four (4) digits of the Beneficiary's Social Security number as well as the six (6) digit account number.

Items our Customer Service Department can assist the beneficiary and/or representative with:

- ✓ Verify if a deposit has been received
- ✓ Confirm receipt of disbursement request
- ✓ Status of a submitted disbursement request
- ✓ Available balance

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- ✓ Mail disbursement request forms
- ✓ Mail deposit slips
- ✓ Request verification of deposits to be sent to local DSS office

Requests For Disbursement:

Enhancing the quality of life for our beneficiaries through the use of the NYSARC, Inc. Community Trust III is a key goal. Disbursements requested that will supplement rather than supplant government benefits and/or entitlements will be considered.

Requests for disbursement must be submitted in writing (on a disbursement request form) and include appropriate substantiation (receipt, price quote, invoice, etc.). The request must be signed by the disabled Beneficiary or other individual authorized by the Beneficiary. The authorization is initially given in the Joinder Agreement.

The request and appropriate documentation may be faxed, e-mailed, or mailed to NYSARC Trust Services. All disbursement requests are approved or denied at the sole discretion of the Trustees. Please allow up to fourteen (**14**) days for processing of approved requests. A primary consideration in all request reviews is to protect the Beneficiary's government benefits. Requests that may adversely affect government benefits or do not appear to be for the sole benefit of the beneficiary may be denied. Lack of documentation or availability of funds will result in delayed processing time of disbursement requests. Please plan accordingly; NYSARC Trust Services is not responsible for late charges which may be incurred.

NYSARC, Inc. Community Trust III undergoes an annual audit by an independent CPA firm to ensure accuracy and is subject to review by regulatory agencies. Therefore, complete and accurate documentation is required in order to consider any disbursement request.

In order to help protect the Beneficiary's enrollment in government programs, limitations have been set on disbursements.

Considerations for Requests:

- All disbursements are made at the sole discretion of the Trustees.
- All requests must be for the sole benefit of the account Beneficiary.
- Expense was incurred within 90 days of submission.
- Documentation as required has been provided.
- Invoice is in the name of Beneficiary.
- Reimbursements to a third party require proof of payment. Contact our office prior to making purchases and/or obtaining services to ensure they are eligible for reimbursement.
- Credit card invoices limited to current charges only (complete detailed statement plus ALL itemized receipts must be submitted).

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- Property expenses require that the Beneficiary have some percentage of ownership or life estate for consideration. Expenses may be pro-rated based on percentage of ownership. Submission of a deed is required.
- **Disbursements will not be made payable to the disabled Beneficiary.** All disbursements must be made payable to third parties only.
- Request and supporting documentation was received by NYSARC prior to the death of the beneficiary.

Sample Eligible Items For Disbursement (Individuals Receiving SSI or SSDI) (this list is not inclusive nor does it guarantee payment will be approved):

- ✓ **Cable/satellite television, cell phone, telephone** - Invoice must be in the beneficiary's name and indicate primary residence as service address.
- ✓ **Vehicle related expenses** - Copy of vehicle title and registration demonstrating beneficiary as owner is required.
- ✓ **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.
- ✓ **Credit cards** - Current month eligible charges, all itemized receipts must be submitted along with the entire monthly credit card statement (**Food and Shelter items are prohibited for SSI recipients**). Failure to submit receipts will result in reduction in payment. All charges must be for the sole benefit of the beneficiary.
- ✓ **Funeral arrangement** – An Irrevocable/Medicaid eligible pre-need agreement may be considered during the beneficiary's lifetime. A copy of the pre-need contract is required. Payments toward contract will only be made prior to beneficiary death. Per Federal and State statute and as stated in the Master Trust, account terminates at death.
- ✓ **Personal items for the Beneficiary** (non-food items) – 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 provided by an agency** – Invoice detailing services provided is required.
- ✓ **Bus/train/cab fare** – Direct payment to carrier with documentation must be submitted.

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- ✓ **Court ordered payments directing disbursement from sub-trust account** – Copy of Court Order must be submitted.
- ✓ **Service animal related expenses** – Documentation of expense must be submitted.

Sample Eligible Items for Disbursement for (Individuals NOT Receiving SSI) (this list is not inclusive nor does it guarantee payment will be approved):

- ✓ **Property expenses** - Deed, life estate, or trust document must be submitted. The beneficiary must have some ownership in the property. These expenses include property taxes, repairs, maintenance, and property insurance.
- ✓ **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 to monthly invoice being submitted.
- ✓ **Insurance** – Renters and homeowner: Refer to documents needed to pay rent, or property.
- ✓ **Credit cards** - Current month eligible charges, all itemized receipts must be submitted along with the entire monthly credit card statement. Failure to submit receipts will result in reduction in payment.

Automatic Payment Guidelines for Rent/Mortgage/Maintenance Fees:

If the Beneficiary has a sufficient balance and/or is making monthly deposits, automatic payment for rent/mortgage/maintenance fees may be requested. An *automatic payment application* must be completed. Please contact a Customer Service Representative at the NYSARC Trust Services.

Automatic Payment Guidelines:

- Automatic payment amount must be the same each month.
- If the account balance falls below the amount necessary to cover three (3) months payments, automatic payment may be cancelled.

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- Please allow three (3) weeks for approval and processing of the automatic payment request. A disbursement request form is required monthly to process rent while awaiting approval of automatic payments.

Please contact NYSARC Trust Services to verify that automatic payment of rent, mortgage or maintenance fees has been established before discontinuing monthly disbursement requests.

Disbursement Request Checklist:

- ✓ I have submitted a completed disbursement request form
- ✓ I have submitted an invoice, bill or receipt in the Beneficiary's name
- ✓ I had an authorized individual sign the disbursement request form
- ✓ I have submitted additional documentation as needed
- ✓ I have adequate "available" funds in my sub-trust account
- ✓ The beneficiary is alive at the time of the request

Mail Disbursement Request To:

NYSARC Trust Services
P.O. Box 1531
Latham, NY 12110

Fax Disbursement Request To:

(518) 439-2670 (available 24 hours)

E-Mail Correspondence To: Trustdept@nysarc.org

***ALL DISBURSEMENTS ARE MADE AT THE SOLE DISCRETION OF THE TRUSTEES.
ALL DISBURSEMENTS MUST BE FOR THE SOLE BENEFIT OF THE BENEFICIARY.***

Disbursement Limitations (this list is not inclusive). Items below are not eligible for consideration:

- Disbursements payable to the Beneficiary
- Cash advances taken on credit cards and related fees
- Payments to financial institutions for debit card charges, 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
- Tobacco
- Alcohol
- Bail, restitution, and related legal fees
- Fire arms

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- Medicaid eligible expenses incurred after the trust was established
- Gift or Donations
- Surplus income invoices (NAMI, Spend-down)
- Parties
- Any item for another individual other than the Beneficiary
- Life insurance premiums
- Gift cards
- All third party service providers and vendors must be legitimate registered businesses or documented employees in which all employment taxes and filings are prepared
- Any disbursement requests received after the death of the beneficiary

Other Limitations:

- **In-kind support and maintenance for SSI recipients:**
Household costs, as listed in the POMS Section: SI 00835.465 for SSI recipients will only be considered under special circumstances. Please contact NYSARC Trust Services regarding the specific needs of the Beneficiary and to obtain information regarding the required supporting documentation. The individual request will be reviewed, however, please remember that all disbursements are made at the sole discretion of the Trustees.
- **Disbursement Limitations for Individuals living in supportive or supervised housing:**
Verification that any item(s) requested is not the responsibility of the agency and/or documentation stating that the item(s) is above and beyond what the agency is required to provide.
- **Disbursement Limitations for Minors:**
 - Items that a parent or Guardian is required to provide will not be considered
 - Court Order directing payment from Trust for specific items may be required

Death of Beneficiary:

Please Notify NYSARC Trust Services immediately.

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.

The authorized representative is required to submit a copy of the death certificate as soon as possible.

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

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Funeral Expenses:

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.