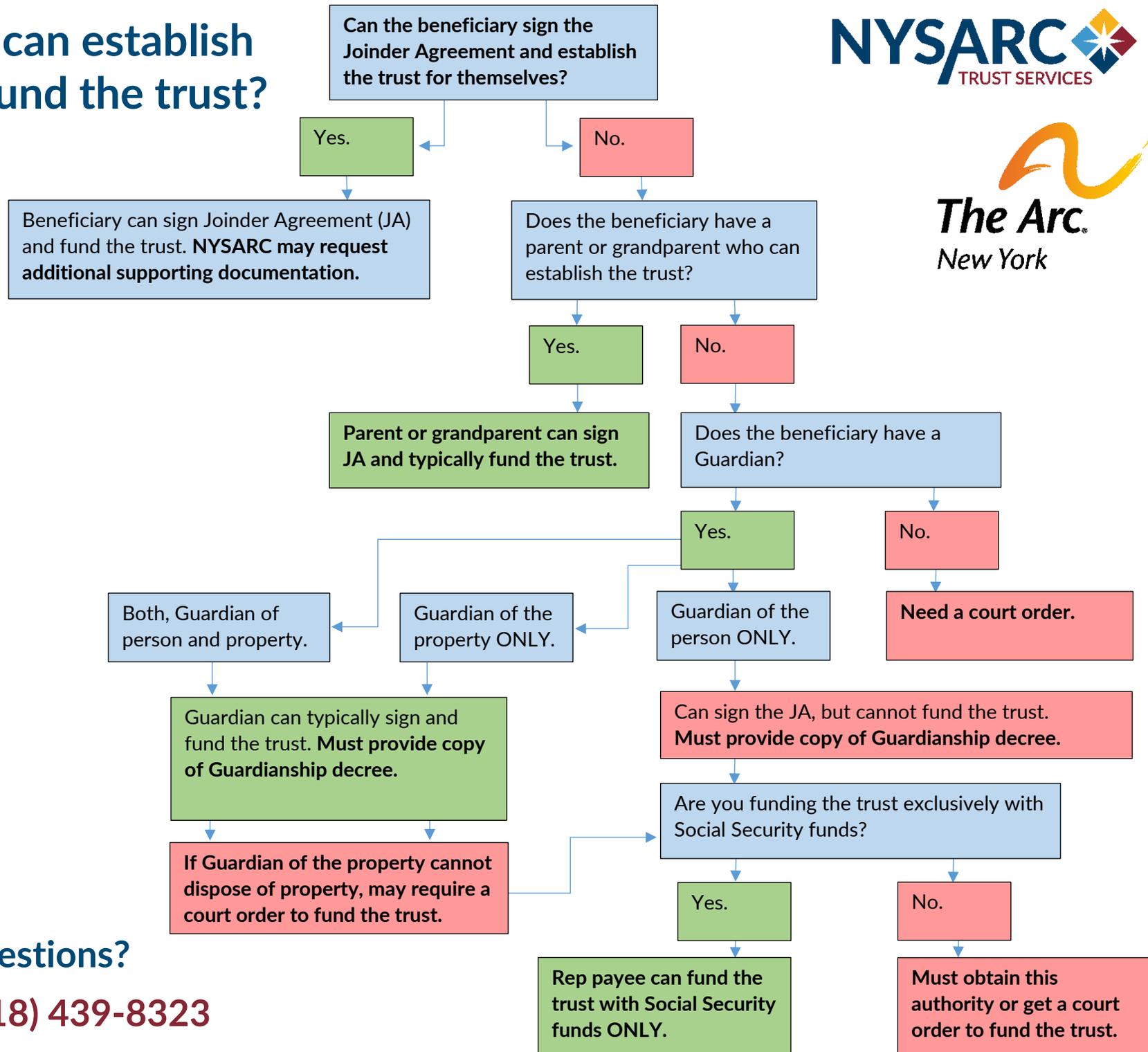


Who can establish and fund the trust?



Got questions?

Call (518) 439-8323

What are some options to spend-down funds when a person is over the resource limit for SSI/SSP or Medicaid/OPWDD services?

1. Spend the money within designated timeframe on purchases for the person at fair market value
 - a. Items and services the person wants or needs
 - b. Purchases that will improve the person's quality of life
 - c. Pay for an irrevocable funeral arrangement
2. Deposit funds into an First-party Special Needs Trust (under 65 only) or Pooled SNT (any age)
3. Deposit up to \$15,000 into an ABLE account for qualified disability expenses if onset of disability was prior to age 26

What are the steps to establish a NYSARC Community Trust (Pooled SNT)?

Items currently required when submitting an application:

1. Completed Joinder Agreement (signed and notarized). **If someone other than the account Beneficiary is signing**, you must also submit:
 - a. Copy of Guardianship Decree or POA, if signed by guardian or agent
 - b. Copy of the Court Order, if account is established pursuant to a Court Order
2. Copy of Social Security Card and Social Security Award Letter indicating benefit type and claim number
3. Mail complete enrollment package to NYSARC at:

**NYSARC Trust Services
PO Box 1531
Latham, NY 12110**
4. Two options to fund the trust:
 - a. Mail a check for a minimum of **\$300.00** made payable to **NYSARC, Inc. Community Trust, fbo Beneficiary's Name** to the address listed on the **New Account Deposit Slip**
 - b. Complete the **Electronic Deposit form** for a one-time electronic funds transfer and submit to NYSARC with your Joinder Agreement

Who can establish the trust and sign the Joinder Agreement?

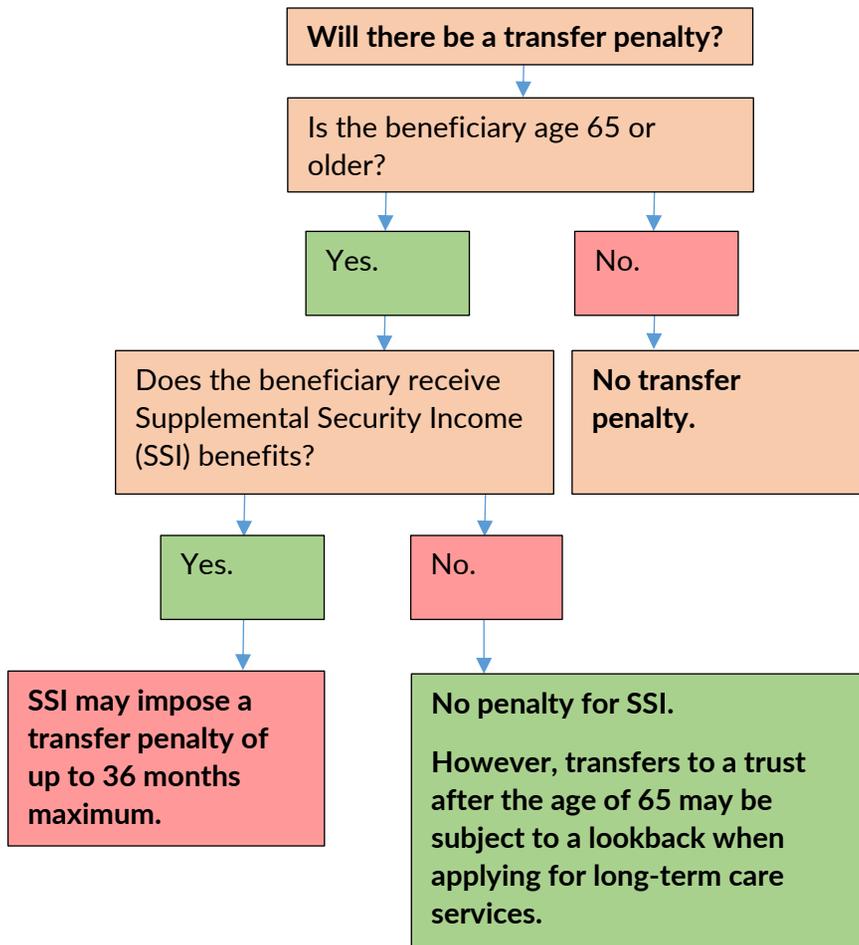
1. **Beneficiary** – may require documentation of capacity
2. **Parent/Grandparent** – must specify relationship to the beneficiary on Joinder Agreement signature page
3. **Legal Guardian** – must provide documentation for approval. Contact Guardian before starting a trust application.
4. **Power of Attorney** – must provide documentation for approval
5. **A trust can also be established by Court Order** – must provide copy of court order

Who can fund the trust?

The person funding the trust must have the legal authority to do so.

1. **Beneficiary** – if beneficiary can sign, they can fund
2. **Parent or grandparent** – can typically fund the trust, regardless of beneficiary's age, depending on the source of funds
3. **Guardian of the property** – can typically fund the trust, courts may limit powers of authority over property. Must provide copy of Guardianship Decree for review.
4. **Representative Payee** – can fund the trust with Social Security funds ONLY
5. **Courts** – can direct a SNT or pooled trust to be funded
6. **Power of Attorney** – if beneficiary has an agent under POA, they may also be authorized to establish and fund the trust

Will there be a transfer penalty?



Transfers to a supplemental needs trust or pooled SNT by persons under the age of 65 are typically exempt for benefit eligibility purposes.

If the person is over age 65 and receives Supplemental Security Income (SSI) and/or New York State Supplement Program SSP/OTDA benefits, there may be a transfer penalty. The period of ineligibility for SSI can be from 1 month up to a maximum of 36 months depending on the amount of the transfer and the amount of the person’s total monthly SSI/SSP payment.

Therefore, if the person receives a large sum of money, it may still benefit that individual to incur the penalty so that they can preserve those funds for the future. Funds in the trust can pay for items and services that the beneficiary needs during the period of ineligibility.

See [SI 01150.111](#) for instructions for computing the number of months in the period of ineligibility.

Example 1: Johnny is 68 years old and he receives \$794/month from SSI. His mom recently died and named him as the beneficiary of a \$100,000 life insurance policy. Since he is over the age of 65, he will be ineligible to receive SSI for 36 months if he transfers that money to a pooled supplemental needs trust (\$100,000 divided by \$771 = ~~129.70 months~~ 36 month maximum).

Example 2: Monica is 75 years old and she has over \$5,000 in her bank account that she needs to spend-down in order to maintain her SSI benefits. She receives \$794 from SSI and \$23 from SSP each month (\$794 plus \$23 = \$817 total monthly benefit). If she transfers that money into a pooled supplemental needs trust, she would be ineligible for SSI benefits for a period of 6 months (\$5,000 divided by \$817 = 6.12 months).