

NYSARC, INC. COMMUNITY TRUST I

INFORMATION & PROCEDURES

NYSARC, Inc. Trust Services

P.O. Box 1531

Latham, NY 12110

518-439-8323

800-735-8924

www.nysarctrustservices.org

*This document is distributed with the understanding that **NYSARC, INC.** is not rendering legal, accounting or other professional advice or opinions on specific facts or matters, and, accordingly, assumes no liability whatsoever in connection with its use. Persons with disabilities and their families are strongly encouraged to consult with an attorney who has knowledge and expertise in the estate planning process as it pertains to the special needs of persons with disabilities.*

Copyright 1997 © NYSARC, Inc.

Revised June 2015

Any redistribution or reproduction of part or all of the contents of this document is prohibited other than printing or downloading for your personal and non-commercial use. You may not, without our express written permission, reproduce this document.

NYSARC, Inc. Community Trust I
Information and Procedures

Table of Contents

<u>Description</u>	<u>Page Number</u>
The Trust	2
Contact Information.....	2
Eligibility	2
Suitability	2
Establishing an Account	3
Acceptable Joinder Agreement Signatures	4
Minimum Amount to Establish an Account	4
Subsequent Deposits	4
Pass-Through Accounts (Spend-down/Surplus Income/NAMI)	5
Verification of Deposits	5
Monthly Statements	5
Detailed Accountings	5
Reporting to Government Agencies	5
Reporting Taxable Income	5
Required Assistance with Trust Transactions	6
Fees	6
Changes to Beneficiary's Information after Acceptance	6
Contacting our Customer Service Department	7
Disbursements	8
Sample Eligible Disbursements (Individuals Receiving SSI or SSDI)	9
Sample Eligible Disbursement (Individuals Not Receiving SSI)	10
Automatic Payment Guidelines	11
Disbursement Request Checklist	11
Disbursement Limitations	12
Death the Beneficiary.....	13
Funeral Arrangements.....	13

NYSARC, Inc. Community Trust I Information and Procedures

The Trust:

The NYSARC, Inc. Community Trust I is a pooled supplemental needs 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 I. A financial institution is appointed as co-Trustee per Master Trust Article V Section 5.1.

Contact Information:

NYSARC, Inc. Trust Services
P.O. Box 1531
Latham, NY 12110
E-Mail Correspondence 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 I 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. Fees are charged each month, which means that there may be more efficient ways to spend small amounts in the interest of the disabled person. 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.

NYSARC, Inc. Community Trust I Information and Procedures

Establishing an Account:

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

NYSARC, Inc. 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:

- 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

Please allow up to 30 days for the processing of the application. NYSARC, Inc. Trust Services will contact the Beneficiary and/or his/her representative regarding any questions or concerns with the submitted information/funds. To ensure the timely review of your application, please submit all required documentation as listed above. Missing or incomplete information may delay account approval.

In accordance with Federal statute, each individual must establish his/her own sub-trust account.

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.

NYSARC, Inc. Community Trust I Information and Procedures

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.

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, Inc. 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 I account is **\$300.00**. The initial funds to establish the account are non-refundable after acceptance.

Note: The one-time enrollment fee will be deducted from the initial deposit. In addition, 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.

NYSARC, Inc. Community Trust I Information and Procedures

Pass-Through Accounts (Spend-down/Surplus Income/NAMI):

In cases where the beneficiary will deposit monthly surplus income, in addition to the lump sum or structured settlement, these will be deemed a *pass-through* account. A pass-through account is one that receives deposits of excess monthly income to satisfy a monthly Medicaid income spend-down. The pass-through fee schedule will apply. Please contact our office for a copy of the fee schedule.

Medicaid determines an individual's spend-down/ surplus/NAMI amount. Please contact your local Medicaid Office to obtain this information. NYSARC, Inc. Trust Services cannot advise individuals in regards to their spend-down/surplus/NAMI or determine their necessary monthly deposit.

Verification of Deposits:

If applicable, NYSARC, Inc. 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 his/her representative to report Trust activity to applicable government agencies. If necessary, NYSARC, Inc. 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 I files Federal forms 1041 and New York State IT-205 for tax purposes. Any Beneficiary with distributed taxable income will be issued a form K-1 that must be reported on their personal income tax return.

NYSARC, Inc. Community Trust I Information and Procedures

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 sub-trust account.

Required Assistance With Trust Transactions:

NYSARC, Inc. 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, Inc. Trust Services and/or government agencies, NYSARC may assign a liaison; the fees associated with the service will be deducted from the sub-trust account.

Fees:

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

Pass-through accounts will be subject to the pass-through fee schedule. A pass-through account is one that receives deposits of excess monthly income to satisfy a monthly Medicaid income spend-down.

A one-time enrollment fee will be charged to establish a *Community Trust I* account. This fee will be deducted from the initial deposit. In addition, 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. Accounts deemed to be for deposit of surplus income will have the pass-through schedule applied.

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.

NYSARC, Inc. Community Trust I Information and Procedures

To ensure we have the most current information on file, please submit any changes in writing to NYSARC, Inc. 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, Inc. 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
- ✓ Mail disbursement request forms
- ✓ Mail deposit slips
- ✓ Request verification of deposits to be sent to local DSS office

NYSARC, Inc. Community Trust I Information and Procedures

Disbursements:

Enhancing the quality of life for our beneficiaries through the use of the NYSARC, Inc. Community Trust I 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 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 or mailed to NYSARC, Inc. 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, Inc. Trust Services is not responsible for late charges which may be incurred.

NYSARC, Inc. Community Trust I 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.

In accordance with Federal and State statute, no disbursements will be made after the death of the beneficiary.

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

- All requests must be for the sole benefit of the account Beneficiary.
- Expense must have been 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.

NYSARC, Inc. Community Trust I Information and Procedures

- Credit card payments will be limited to current charges only (complete detailed statement plus ALL itemized receipts must be submitted).
- 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 or life estate 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 Disbursements (Individuals Receiving SSI or SSDI) (this list is not inclusive nor does it guarantee payment will be approved). All submitted invoices must be itemized, legible, reflect date of service, and indicate that the service is for the beneficiary.

- ✓ ***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*** – Only current month eligible charges will be considered. 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 of 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 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 upon the death of the beneficiary. No distributions can be made after the date of death, including funeral or related expenses.

NYSARC, Inc. Community Trust I Information and Procedures

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

Sample Eligible Disbursements (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.

NYSARC, Inc. Community Trust I Information and Procedures

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, Inc. Trust Services office for the application.

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

Note: Automatic payment is not available for other budgeted payments such as utilities and loans.

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

Mail Disbursement Request To:

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

Fax Disbursement Request To:

Fax: (518) 439-2670
(available 24 hours)

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

NYSARC, Inc. Community Trust I Information and Procedures

Disbursement Limitations (this list is not inclusive). The following items are not eligible for disbursement:

- 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
- Medicaid eligible expenses incurred after the trust was established
- Gifts or Donations
- Surplus income invoices (NAMI, Spend-down)
- Parties
- Any item for an individual other than the Beneficiary
- Life insurance premiums
- Pet related expenses for non-service animals
- Gift cards
- Requests for expenses incurred greater than 90 days prior to submission
- 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 after the death of the beneficiary

NYSARC, Inc. Community Trust I Information and Procedures

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, Inc. 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, Inc. 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 shall remain with the Trust.

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

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

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.