

NYSARC, INC. COMMUNITY TRUST II

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 II
Information and Procedures**

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NYSARC, Inc. Community Trust II Information and Procedures

The Trust:

The NYSARC, Inc. Community Trust II 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 II. 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

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| Hours of Operation: |
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|----------------------------------|
| Monday-Friday: 8:30 AM – 5:00 PM |
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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 II sub-trust account. There are no restrictions with respect to an individual's disability, ethnicity, religious beliefs or geographic location. The Beneficiary must reside in New York or receive government benefits in New York State. 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 documentation of Federal Pension benefits
- ✓ OR SSA-1099 form (if provided, you do not need to send SS card or award letter)
- ✓ If someone other than the account Beneficiary is signing, you must also submit:
 - Copy of POA or Letters of Guardianship, if signed by agent or guardian
 - Copy of the Court Order, if account is established pursuant to a Court Order

Note: Powers of Attorney (POA) executed before September 2010, must also provide an Affidavit of Full Force and Effect.

- ✓ Fund the trust with a **minimum of \$300**. Select one of two options below:
 - Electronic payment: Complete and sign Electronic Deposit form for a one-time electronic deposit, attach a voided check, and include with your Joinder Agreement.
 - Check payment: Make check payable or endorse to ***NYSARC Inc. Community Trust fbo [Beneficiary's name]***. Complete the New Account Deposit Slip and mail with payment to the address on the deposit slip. See separate mailing instructions below.

Please note: Check payment and enrollment package must be mailed separately.

Send the Joinder Agreement, E-Deposit form, and supporting documents to intake@nysarc.org, fax to (518) 439-2670, or mail to the address listed on the Joinder Agreement.

Send check payment and deposit slip directly to the bank at:

NYSARC Inc Community Trust*
PO Box 1788
Albany, New York 12201

Please ONLY send deposit checks to this address.

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Accounts are typically established 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. NYSARC Trust Services will contact the Beneficiary and/or his/her representative regarding any questions or concerns.

Once accepted, the Beneficiary and/or authorized individual—as listed in the Joinder Agreement—will receive a Welcome Packet with all 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 and/or other government agencies for approval.

Initial Deposit to Establish an Account:

You can fund a trust with a **minimum of \$300** by electronic deposit or by mailing a check directly to the bank. See Establishing an Account section, for detailed instructions.

There is a one-time non-refundable enrollment fee. **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 for more information.

Minimum Balance Requirement:

Accounts must maintain a minimum balance at all times of at least \$100 when enrolled in monthly electronic deposits for new accounts established after July 1, 2021. Otherwise you must maintain a minimum balance equal to one month's deposit up to a maximum of \$3,000. 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.

Subsequent Deposits:

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

Deposits sent directly to our office will be returned. Deposit slips are available on the Portal and included in the Welcome Packet provided at account establishment. To request additional deposit slips, please contact customer service at (518) 439-8323.

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Do not include correspondence with deposits. Deposits are received at a bank lockbox; therefore, correspondence will not be received by NYSARC Trust Services.

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 may choose to enroll in electronic deposits where the trust withdraws your deposit from your bank account each month on a scheduled day. Please complete the *Electronic Deposit* form to apply for 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.

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

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 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 *Monthly Electronic Deposit* form requesting the change in amount.

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:

There is a **\$200 one-time non-refundable enrollment fee**. Administrative fees are charged monthly according to the current fee schedule. Fees are based on the monthly deposit amount and are subject to change at any time.

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

Disbursements:

A key goal of NYSARC, Inc. Community Trust II is to help people with disabilities stay in the community, so we typically pay living expenses before considering other requests.

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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

Mail Disbursement Requests to:

NYSARC Trust Services
PO Box 1531
Latham, NY 12110

Fax/Email Disbursement Requests to:

Fax: (518) 439-2670
Email: trustrequest@nysarc.org
(available 24 hours)

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
- ✓ 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.

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Sample Eligible Disbursements:

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 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/program*** – A current signed lease, or other documentation provided by facility, indicating the Beneficiary as tenant with a payment breakdown, payee name and address, and account number must be on file. Or, a monthly invoice must be submitted with each request.
- ✓ ***Cable/satellite television, cell phone, telephone, utilities*** – 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.
- ✓ ***Insurance*** – Renters and homeowner - Policy and invoice indicating primary residence as insured property, refer to documents needed to pay rent, or property expenses.
- ✓ ***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.

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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. 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 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.
- ✓ **Court approved payments directing disbursement from sub-trust account** – A copy of the Court Order is required.
- ✓ **Additional hours of home care or other care services** – All requests to pay for in-home aide services must be to supplement the services provided by Medicaid or to cover the cost of services not provided by Medicaid.
 - **Direct payment for services provided by an agency** – Invoice indicating dates and hours worked and rate of pay is required. Payment will be made directly to the agency and not to an individual.
 - **Reimbursement for services provided by an agency** – Same requirements as above. Must also provide proof of payment made directly to the agency from an account not owned by the Beneficiary. Payment made directly to an aide(s), will not qualify for reimbursement.
 - **Reimbursement for services provided through household employment** – Proof of payment from an account not owned by the Beneficiary. Invoice indicating dates and hours worked and rate of pay and/or copy of pay stubs are required. Must sign attestation and provide proof of Employer Identification Number (EIN). Contact customer service for more information.

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- ✓ ***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

- ✓ ***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:

Certain monthly expenses that are the same amount each month can be paid automatically on a scheduled day. Some of the most common are rent, mortgage, monthly maintenance fees, pre-need funeral arrangements, gas and electric bills, 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 in the Welcome Packet you received following acceptance.

- 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*.
- Minimum balance requirement must be met at all times. If the account balance falls below this amount, 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 for expenses where the amount changes each month. Contact customer service if you have questions about whether or not an expense is eligible for automatic payment.

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Disbursement Limitations:

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
- × Tobacco
- × Alcohol
- × Bail, restitution, and related legal fees
- × Fire arms
- × 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**

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 a summary page and detailed monthly activity for your convenience.

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Calculating Available Balance:

Account balances are provided to NYSARC when monthly statements are generated by the bank. Check balances between monthly statements using the automated phone system and the NYSARC Trust Portal. See *Monitoring Trust Account Activity* for more information.

Please do not submit disbursement requests in excess of your monthly deposit less administrative fees. The formula below will assist you when calculating the amount available for disbursement:

Account balance from last account statement
+ Deposits received by NYSARC since last statement
- Disbursements submitted since last statement (including automatic payments)
- Monthly Administrative fee
= Total balance in account
- One month deposit (minimum balance requirement)
= Balance available for disbursements

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 can also monitor trust accounts online using the NYSARC Trust Portal. To create an account, visit portal.nysarctrustservices.org/signup. There are detailed instructions on how to sign up in the Welcome Packet provided at account establishment. Balance information for new accounts will display 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 from 8:30 AM – 5:00 PM to answer your questions and can assist you with matters not supported by the automated phone system or Online Portal. NYSARC also offers multi-lingual customer support upon request.

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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.

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.

Reporting Taxable Income:

NYSARC, Inc. Community Trust II 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.

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

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within the Trust is allocated to the appropriate beneficiaries and will be deducted from their sub-trust account.

Change in Status of Trust:

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 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. Monthly fees will be charged until the account is fully expended. We encourage beneficiaries to expend the account as quickly as possible to avoid additional costs.

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-trust account shall remain with the Trust. 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.