

NYSARC Third Party Community Trust

INFORMATION & PROCEDURES

NYSARC Trust Services
PO Box 1531
Latham, NY 12110
(518) 439-8323

www.nysarctrustservices.org

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The Trust:

A family member, friend, or other entity can establish and fund a NYSARC Third Party Community Trust to provide financial assets to a loved one without affecting their eligibility for means-tested government benefits, including Medicaid and Supplemental Security Income (SSI).

The NYSARC Third Party Community Trust is a **pooled supplemental needs trust (SNT)** that is established pursuant to Federal and State law for persons with disabilities. Separate sub-accounts are maintained for each Beneficiary, however, funds are pooled for investment and management purposes. 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 Third Party Community Trust. 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:

A Grantor/Donor can establish a NYSARC Third Party Community Trust sub-trust account with the Donor's funds for an individual who is disabled as defined in EPTL 7-1.12. There are no restrictions with respect to an individual's disability, ethnicity, or religious beliefs. The Beneficiary must reside in New York or receive government benefits in New York State.

Suitability:

The Donor and his/her representatives are solely responsible for determining whether the Trust meets the needs of the individual. Prospective Donors should consult with their attorneys, and/or other advisors before seeking participation in the Trust. 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.

Establishing an Account:

The Donor must complete the Joinder Agreement (JA) to share your vision for the trust and familiarize us with your loved one. Please refer to the website or contact NYSARC for the most recent documents and requirements. We understand you may need to update this document in the future and we encourage you to do so.

Items currently required when submitting an application:

- ✓ Completed Joinder Agreement (signed and notarized)
- ✓ Copy of Beneficiary's 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)
- ✓ A one-time enrollment fee of **\$750** by electronic deposit or a check made payable to *NYSARC, Inc. Third Party Community Trust, fbo [Beneficiary's name]*
- ✓ A **minimum of \$10,000** at the time the trust is funded
- ✓ Copy of Trust of Donor if directing funds to the trust at death
- ✓ Copy of Beneficiary designations if trust is funded by life insurance policy, retirement accounts, employee benefit, etc.
- ✓ NYSARC may request additional documentation as needed

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

Send the original Joinder Agreement, supporting documents, and/or **Electronic Deposit** form to NYSARC at:

NYSARC Trust Services
PO Box 1531
Latham, New York 12110

Send **check payments** and deposit slips directly to the bank at:

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

***Please send ONLY deposit checks to this address.**

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

Once accepted, the Donor will receive a welcome email with a link to register for the Online Portal to obtain the Joinder Agreement, Acceptance Letter, and the necessary forms to manage the

account. NYSARC will assign a dedicated team of representatives to assist with the administration of the trust account who will contact the Donor to provide a welcome call and review our procedures.

Once an account is funded, the Beneficiary and/or authorized individuals—as noted in the Joinder Agreement—will receive an email with the necessary material to manage the account. NYSARC will provide a welcome call to review the contents of the Online Portal, explain important procedures, and ensure a smooth transition into the trust.

It is the responsibility of the representative noted on the Joinder Agreement to submit trust documents to Medicaid, Social Security Administration (SSA), and/or other government agencies as applicable.

How to Fund the Trust:

A NYSARC Third Party Community Trust can be funded immediately, or established today and funded through your estate plan in the future. Most trust accounts are funded through the Donor's will, estate plan, life insurance policy, or employee benefit. The trust can also be funded during your lifetime by a gift, bequest, or inheritance.

At the time the trust is funded, the **minimum initial deposit is \$10,000**. Once the JA is signed and approved, the account is available to receive funds (check or electronic deposit) from any third party source. No real estate or non-cash assets will be accepted.

The one-time enrollment fee is due at the time the account is established and are non-refundable after acceptance. This fee is deducted from your initial deposit or paid directly to NYSARC if the trust account is funded at a later date. Unfunded accounts are charged a flat annual fee for the administration of the trust until the trust is funded. Please refer to the current fee schedule for more information.

Making Additional Deposits:

Once the trust is funded, additional deposits may be made at any time from any third party source. It is helpful to notify family members and others about your loved one's trust account, so that they may also direct funds to the trust account rather than leaving them to the individual directly. Please see *Sample Letter to Family Members & Friends* on our website or the Online Portal.

You can deposit funds into the trust by check or a one-time electronic deposit:

- Check payment: Make check payable to ***NYSARC Third Party Community Trust fbo [Beneficiary's name]***. Complete a Deposit Slip and mail with payment to the address on the deposit slip.
- Electronic payment: Complete and sign Electronic Deposit form for a one-time electronic deposit, attach a voided check, and send to NYSARC Trust Services by email, fax, or mail.

Cash deposits will not be accepted. You can download the form to make Electronic Deposits and Deposit slips from the Online Portal and on our website at www.nysarctrustservices.org. To request copies of these forms, please contact customer service at (518) 439-8323.

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.

Fees:

The **one-time enrollment fee** to establish a NYSARC Third Party Community Trust is due at the time you submit the Joinder Agreement. Unfunded Accounts will incur an annual administrative fee each year until the trust is funded. Once the account is funded, administrative and financial management fees are charged monthly according to the current fee schedule. Trust expenses and fees are deducted before requested disbursements. Fees are subject to change. Please refer to the current fee schedule for more information.

Additional fees may apply if the trust incurs expenses related to proceedings for judicial settlement, contesting distributions to residual beneficiaries, and/or other direct expenses. Fees will be deducted from the trust account balance.

Accounts that require special accommodation may be assessed an additional fee. This fee will be determined on a case-by-case basis and will be disclosed to the account Beneficiary (or other contact) at the time assessed.

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 beneficiary. Each disbursement request is reviewed individually to consider the impact on a person's eligibility for means-tested government benefits.

All requests must be for the **primary benefit** of the account Beneficiary and incurred within **90 days** of submission. Unusual or special circumstances may be given consideration.

Current requirements to submit a disbursement request:

- ✓ A completed disbursement request form
- ✓ An invoice, bill, or receipt in the Beneficiary's name or proof that the disbursement is for the Beneficiary
- ✓ An authorized individual must sign the disbursement request form
- ✓ Attach additional documentation as required
- ✓ 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

The disbursement request will be reviewed by NYSARC and upon approval the requests may take up to **fourteen (14) days** for processing. Approval is at the sole discretion of the Trustees. The primary consideration in all request reviews is to protect the Beneficiary's government benefits. Lack of documentation will result in delayed processing time of disbursement requests.

Electronic Payments:

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:

Listed below are examples of common disbursement requests and the documentation required. 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 and must be legitimate registered businesses or documented employees in which all employment taxes and filings are prepared.

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

There may be limitations on disbursements for SSI recipients. These items are marked with an asterisk (*) below. Refer to *Disbursement Limitations/In-kind support and maintenance* for more information.

- ✓ ***Personal items for the Beneficiary**** (non-food items for SSI recipients) – Detailed documentation of item(s) must be submitted for payment directly to vendor.
- ✓ ***Cable/internet, cell phone, telephone*** – Invoice in the Beneficiary's name and indicating primary residence as service address.
- ✓ ***Travel/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.

- ✓ ***Recreation/Leisure Activities*** - Documentation of expense or invoice detailing services provided is required.
 - ✓ ***Service animal related expenses*** – Documentation of expense must be submitted.
 - ✓ ***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.
 - ✓ ***Bus/train/cab fare*** – Direct payment to carrier with documentation must be submitted.
 - ✓ ***Reimbursements*** – Payment to a third party for making a purchase on the Beneficiary’s 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.
 - ✓ ***Credit cards*** – 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.
 - ✓ ***Care management*** – Invoice indicating dates and hours worked and rate of pay and/or copy of pay stubs are required. NYSARC may request additional documentation as needed.
 - ✓ ***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.
- ✓ ***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. Payments towards funeral expenses after death, which are made solely at the Trustee’s discretion, will be paid directly to the funeral home and prior to the distributions to remainder beneficiaries of the trust.
 - ✓ ***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, or proof that the service is for the Beneficiary
- ✓ **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 or proof that the purchase or service is for the Beneficiary. If approved, payment will be made directly to the third party vendor.

Automatic Payments:

If the Beneficiary has a sufficient balance in the trust, you may request automatic payments for fixed recurring expenses. Reference the *Automatic Payment Application* on our website for more information.

Disbursement Limitations:

Every request for disbursement is individually reviewed. Approval is at the sole discretion of the Trustees in conjunction with the terms of the Master Trust document. The primary consideration in all request reviews is to protect the Beneficiary’s government benefits. Requests that may adversely affect government benefits, or are not for the primary benefit of the account Beneficiary may be denied.

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

- × Disbursements payable to the Beneficiary or someone acting on his or her behalf such as a guardian or legal representative 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
- × Reimbursement for purchases made from a joint checking account held with the Beneficiary, Guardianship account or Representative Payee account
- × Tobacco
- × Alcohol
- × Any expenses related to criminal charges (bail, restitution, and legal fees)
- × Firearms
- × Item/s for an individual other than the Beneficiary may be denied
- × Gift cards

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 or able 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 may 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

Monthly Statements:

Account statements are prepared monthly and mailed to the Beneficiary and/or individual(s) designated on the Joinder Agreement. You can also download copies from the Online Portal. Statements are mailed approximately three (3) weeks after the end of the previous month.

Monitoring Trust Account Activity:

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. To create an account, visit portal.nysarctrustservices.org/signup. Select whether you are the trust beneficiary or an authorized contact and provide your name and email. You will need the beneficiary's account code and 4-digit PIN to sign up. Contact customer service for assistance.

Balance information for new accounts will be displayed once the account is funded and 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 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.

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.

Role of Beneficiary Liaison:

NYSARC Trust Services encourages the Donor to designate a Beneficiary Liaison who may serve as the primary contact person to NYSARC Trust Services. The Beneficiary Liaison works in an advisory capacity providing recommendations to the Trustee in regards to disbursements from the

sub-trust account and assists in communicating with NYSARC Trust Services and/or government agencies, the Beneficiary, parent, or Guardian. The Beneficiary Liaison will receive a copy of the Joinder Agreement as well as monthly bank statements and annual tax information. The Trustee retains full and absolute discretion in regards to approving and denying disbursements.

NYSARC Trust Services retains the full authority to remove and/or replace the named Beneficiary Liaison. NYSARC Trust Services retains the right to retain a professional advocacy agency. The advocacy agency will be paid from trust funds.

The Donor may provide a Beneficiary Liaison as per the Master Trust and designated in the Joinder Agreement. The Donor may serve as the Beneficiary Liaison during their lifetime. A successor Beneficiary Liaison can only be appointed by the Donor or current Beneficiary Liaison or as prescribed in the Master Trust Article II section 2.5. If both are deceased, NYSARC reserves the right to appoint a Beneficiary Liaison at the discretion of the Trustees.

Add/Remove Authorized Contacts:

NYSARC requires that you designate at least one authorized contact in the Joinder Agreement. The Beneficiary or other authorized individuals 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:

- ✓ Receive monthly statements
- ✓ Submit disbursement requests
- ✓ Allow online access to the NYSARC Trust Portal

Changes to Contact Information:

It is important that NYSARC have up-to-date contact information for Beneficiaries, Beneficiary Liaison(s), authorized contacts, and Residual and Contingent beneficiaries. We will accept changes to information from the Beneficiary, Beneficiary Liaison(s), or authorized individual by fax, email, mail or by contacting customer service. For changes to Residual or Contingent beneficiaries, see *Residual Beneficiaries* section on page 12.

Detailed Accountings:

Accountings required for benefit recertification and by Court Order are prepared upon request. Please allow appropriate processing time which can vary depending on the manner of the request.

Reporting to Government Agencies:

It is the responsibility of the Beneficiary, Beneficiary Liaison(s), or authorized individual 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:

In addition to the primary benefit of protecting government benefits, NYSARC Third Party Community Trust beneficiaries receive the added value derived from pooling funds for investment and management purposes. 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.

Each sub-trust account owns a pro-rata share of the investments, which are subject to market fluctuations.

Reporting Taxable Income:

NYSARC Third Party Community Trust files Federal Form 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 within the Trust is allocated to the appropriate beneficiaries and will be deducted from their sub-trust account.

Residual Beneficiaries:

The Donor who establishes the trust account is solely responsible for making residual beneficiary designations in the Joinder Agreement upon account establishment. A residual beneficiary can be a family member, friend, charitable organization, trust, or other entity. For example, if a person receives services from a Chapter of The Arc New York, they could choose to leave those funds to The Chapter or to NYSARC Inc. to benefit people with disabilities served by all chapters of The Arc New York.

Changes to the Residual Beneficiary designations may be made only during the Donor's lifetime and are limited to one time per year, or due to a qualifying life event. To update Residual Beneficiary designations, the Donor must complete, sign and notarize a *Residual Beneficiary Change Form*, which you can download from our website or the NYSARC Trust Online Portal.

Death of Beneficiary:

The individual authorized to speak with us on behalf of the Beneficiary must notify NYSARC Trust Services upon the Beneficiary's death as soon as possible and will be required to provide a copy of the death certificate.

Funds that remain in the account after final distributions and closing fees, will be paid to residual beneficiaries whom the Donor has designated in the Joinder Agreement. NYSARC will make documented attempts to reach residual beneficiaries over a 12-month period as specified in the Master Trust Article VIII Section 8.2.

If a residual beneficiary is deceased, their portion will be paid to the contingent beneficiary as listed in this Joinder Agreement. If a contingent beneficiary is deceased, their portion, if any, will be divided and paid to the surviving residual beneficiary(ies) in equal shares. If all parties are deceased, NYSARC, Inc. Third Party Community Trust will retain the funds.

Funeral Arrangements:

NYSARC Trust Services encourages the purchase of a Medicaid eligible irrevocable prepaid burial contract during the Beneficiary's lifetime. Submission of a disbursement request and copy of the pre-need contract is required. Funeral expenses after the death of the Beneficiary will be paid directly to the funeral home and prior to the distributions to residual beneficiaries of the trust at the discretion of the Trustees.