

NYSARC, INC. COMMUNITY TRUST II

(A Trust for Persons with Disabilities)

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 the knowledge and expertise in the estate planning process as it pertains to the special needs of persons with disabilities.

**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 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.**

The Trust is administered by NYSARC, Inc. hereinafter referred to as NYSARC. The Trustees: NYSARC, Inc. and JP Morgan Bank Co-Trustees of the NYSARC, Inc. Community Trust II.

Contact Information:

NYSARC, Inc. Trust Services
P.O. Box 1531
Latham New York 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 II sub-trust account. There are no restrictions with respect to an individual's disability, ethnicity, religious beliefs or geographic location. 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 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.

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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, New York 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.

The funds to establish the account must be “guaranteed” (cashier’s check, money order or certified check drawn on Beneficiary’s bank account).

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
- Copy of any funeral information already in place, i.e. irrevocable pre-need contract, burial plot deed, etc.
- 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, 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 his/her 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 and/or other government agencies for approval.

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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 (POA) 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.

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 → Power of Attorney must specifically grant the powers to establish and fund a trust. 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 a 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 amount to establish a Community Trust II account is **\$300.00**. The funds to establish the account are non-refundable after acceptance and must be “guaranteed” (cashier’s check, money order, or certified check drawn on the Beneficiary’s bank account). Subsequent deposits may begin after approval.

Minimum Balance Requirement:

A minimum balance, equal to one month’s deposit (as indicated in the Joinder Agreement), is required to remain in the account at all times. Therefore, beneficiaries must have deposited a minimum of two month’s deposits before distributions can be made. In addition, the amount available for use each month will be the current month’s deposit received less the monthly administration fee.

Note: The one-time enrollment fee of \$200.00 is deducted from the initial deposit. In addition, the first month’s administrative fee will be charged in the month the account is established. Please keep this in mind when calculating whether you have achieved your required minimum balance.

Subsequent Deposits:

Deposits subsequent to approval of the Trust must be sent to our lockbox with a deposit slip. Deposit slips are provided with the start-up binder. Due to the nature of the pooled trust, **neither cash deposits, ACH, nor wire transfers can be accepted.** Should you require additional deposit slips, please contact our Customer Service Department and they will be sent to you.

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

Future deposits sent directly to the NYSARC, Inc. Trust Services Office may be returned to you.

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Subsequent Deposits (continued):

Please send subsequent deposits payable to:

NYSARC, Inc. Community Trust II
General Post Office
P.O. Box 27900
New York, NY 10087-7900

Please include a deposit slip and also indicate the Beneficiary's name and account number on the memo portion of the check. Your deposit processing will be delayed without proper documentation.

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

Spend-down/Surplus Income/NAMI:

Medicaid determines an individual's spend-down/surplus income/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 income/NAMI or determine their necessary monthly deposit.

Verification of Deposits:

NYSARC, Inc. Trust Services will provide a verification of deposit upon request. Please provide us with the name and fax number and/or mailing address 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 a summary page and detailed monthly activity for your convenience.

Detailed Accountings:

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.

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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 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, the Beneficiary, parent, or Guardian must arrange for appropriate service coordination for this assistance/service. NYSARC acts as fiduciary only and does not provide liaison services or social work services. However, if necessary NYSARC may assign a liaison; the fees associated with this service will be deducted from the sub-trust account.

Monthly Administrative Fees:

Administrative fees are charged monthly according to the current fee schedule. Fees are based on the monthly deposit amount and are subject to change.

A one-time enrollment fee in the amount of \$200.00 will be charged to establish a *Community Trust II* 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. Lack of funds will delay the processing of disbursement requests until funds are received.

Calculating Available Balance:

A pooled supplemental needs trust is very complicated in nature. Since funds are pooled in one account, bank balances are only provided to NYSARC when monthly statements are generated by the bank. Therefore, we suggest that you keep a record of your deposits and disbursement requests submitted. We have provided a balance register in the start up binder for your convenience. Please do not submit disbursement requests in excess of your monthly deposit less administrative fees.

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Calculating Available Balance Cont.:

The formula below will assist you when calculating the amount available for disbursement between statements:

Account balance from last account statement
(+) Deposits made since last statement *Deposit must have been received by NYSARC lockbox*
(-) Disbursements submitted since last statement (include automatic rent payment, if applicable)
(-) Monthly Administrative fee
= Total balance in account
(-) One month deposit (minimum balance requirement)
= Balance available for disbursements

Further explanation regarding available balance is available through our Customer Service Department.

Changes to Joinder Agreement Information after Acceptance:

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

To ensure we have the most current information in our files, 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 spend-down/surplus
- ✓ Living situation
- ✓ Changes to Guardianship or Power of Attorney

Contacting our Customer Service Department:

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
- ✓ Request available balance from processing department
- ✓ Mail disbursement request forms and automatic payment application
- ✓ Mail deposit slips
- ✓ Request verification of deposits to be sent to local DSS office

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

Requests For Disbursement:

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 authorized individual. The authorization is initially given in the Joinder Agreement.

The request and appropriate documentation may be faxed, e-mailed, 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. 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 II 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.

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 must have been incurred within 90 days of submission.
- Required documentation 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).
- Property expenses require that the Beneficiary have some percentage of ownership or have retained a life estate for consideration. Expenses may be pro-rated based on percentage of ownership. Submission of a deed or life estate, as applicable, is required.
- 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.
- **Disbursements will not be made payable to the disabled Beneficiary.** All disbursements must be made payable to third parties only.

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Helping individuals with disabilities remain in their community is our objective. Our preference would be to pay living expenses before considering other types of requests for the beneficiary. Listed below are examples of disbursements that may be made from the Community Trust II sub-trust account and the documentation required. In addition, all submitted invoices must be itemized, legible, reflect date of service, and indicate that the service is for the beneficiary. Proof of payment is required for all disbursements requesting reimbursement.

What type of documentation is required for my disbursement request to be considered?

Sample Eligible Items for Disbursement (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.

NOTE: Property ownership with a non-spouse may result in a pro-rata share.

- ✓ ***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.
- ✓ ***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 vehicle title and registration demonstrating beneficiary as owner is required.
- ✓ ***Insurance*** – Renters and homeowner - Policy and invoice indicating primary residence as insured property, refer to documents needed to pay rent, or property expenses.

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Sample Eligible items for Disbursement (this list is not inclusive nor does it guarantee payment will be approved):

- ✓ ***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 entire monthly credit card statement. Beneficiary must be account holder. Failure to submit receipts will result in reduction in payment.
- ✓ ***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 Master Trust, account terminates at death.

Per Federal and State statute, no funeral or related expenses may be paid after death.
- ✓ ***Court approved payments directing disbursement from sub-trust account*** – A copy of the Court Order is required.
- ✓ ***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.

New sub-trust accounts: NO disbursements will be approved from a sub-trust account until it is accepted and the minimum balance requirement is satisfied.

Additional Information regarding Disbursements:

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

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Automatic Payment for Rent/Mortgage/Maintenance Fees:

What types of items can I request to be processed on a monthly basis without having to send a disbursement request each month? Answer: Rent, Mortgage, or Maintenance Fees

Once the Beneficiary has made three (3) monthly deposits, automatic payment for rent/mortgage/maintenance fees may be requested. An *automatic payment application* must be completed. This information is provided in the start-up binder once accepted. Also, you may contact a Customer Service Representative at the NYSARC, Inc. Trust Services Office for the application.

Automatic Payment Guidelines:

- Monthly deposits must be received at least three (3) business days prior to issue of the automatic payment. Failure to do so may result in cancellation of payment with little or no notice.
- Automatic payment amount must be the same each month.
- Minimum balance requirement must be met at all times. If the account balance falls below this amount, automatic payment may be cancelled with little or no notice.
- If a monthly deposit is missed or returned for insufficient funds, the automatic payment will be cancelled. Prior to re-starting, three additional consecutive monthly deposits will be required, and a new application must be submitted for automatic payment.
- 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.

Automatic payment application is valid for twelve (12) months. A new form must be completed and submitted annually.

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.

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Sample Non-Eligible Items for Disbursements (this list is not inclusive):

The following items are **not** eligible for disbursement from Community Trust II sub-trust accounts:

- *Disbursements payable to the Beneficiary*
- *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*
- *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*
- *Any expense incurred after death*
- *Requests for expenses incurred greater than 90 days prior to submission*
- *The Trust does not employ individuals to provide any service to the Beneficiary; therefore, all third party service providers and vendors must be registered businesses or documented employees in which all employment taxes and filings are prepared.*

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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:

Primary Fax: (518) 439-2670
Secondary Fax: (518) 439-3910
(Both are available 24 hours)

E-Mail Correspondence To: Trustdept@nysarc.org

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, NYSARC, Inc. Trust Services should be notified immediately and monthly deposits stopped. A written letter stating that the Beneficiary is in or has entered a nursing home must be submitted to NYSARC, Inc. Trust Services by an authorized individual.

Upon receipt of the written letter, the minimum balance requirement will be made available for disbursements. The full balance, less unpaid fees and expenses, may be used for disbursement until the account is fully expended. There will be no change to the procedures regarding disbursements. Nursing home bills for spend-down/surplus/NAMI cannot be paid. The minimum monthly administrative fee will be charged until the account is fully expended.

Beneficiary No Longer has a Spend-down/Surplus/NAMI Income:

If the Beneficiary no longer has a spend-down/surplus/NAMI, NYSARC, Inc. Trust Services should be notified. A written letter stating that the Beneficiary no longer has a spend-down/surplus/NAMI or a copy of the Medicaid determination must be submitted to our office.

Upon receipt of the written letter and/or Medicaid determination letter, the minimum balance requirement will be made available for disbursement. The full balance, less unpaid fees & expenses, will be made available for use. There will be no change to the procedures regarding disbursements. The minimum monthly administrative fee will be charged until the account is fully expended.

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Beneficiary's Death:

****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-trust account shall remain with the Trust to further its purposes.

The authorized representative is required to submit a copy of the death certificate as soon as possible. In addition, no disbursements will be made until the death certificate has been received. Final disbursements may be considered for expenses incurred up to 90 days prior to death. Final disbursements must be received by our office no later than 90 days after the date of death.

All disbursement requests must be submitted by an individual authorized to make disbursement requests.

Per Federal Statute, no disbursements may be made for expenses incurred after death. Any disbursements paid to an individual or agency for expenses incurred after the death of the Beneficiary must be returned to NYSARC, Inc. Community Trust.

All invoices will be individually reviewed and pro-rated as applicable for services rendered prior to death. **The NYSARC, Inc. Community Trust II is an Irrevocable Supplemental Needs Trust; therefore we cannot refund any balance remaining in the sub-trust account.**

Funeral Expenses:

An Irrevocable/Medicaid eligible pre-need agreement may be considered during the beneficiary's lifetime. A copy of the pre-need contract is required. The sub-trust account can make disbursements toward eligible pre-need arrangements up until death.

Per Federal and State statute, no funeral or related expenses may be paid after death.