

**MIDWEST
SPECIAL NEEDS TRUST**



**GUIDE FOR CO-TRUSTEES
AND BENEFICIARIES**

- **BASICS OF A SPECIAL NEEDS TRUST**
- **ROLE OF THE TRUSTEE AND CO-TRUSTEE**
- **USE OF TRUST FUNDS**
- **RELATIONSHIP BETWEEN A SPECIAL NEEDS TRUST AND PUBLIC BENEFITS**

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INTRODUCTION

What information is included in this Guide?

This guide is provided as a courtesy to assist co-trustees and beneficiaries to understand basic requirements and processes for using a trust administered by Midwest Special Trust (MSNT).

Because special needs trusts protect important public benefits for the person with a disability, MSNT has established processes that are consistent with applicable federal and state requirements. Among other topics, this guide provides essential information about –

- Requesting a distribution from the trust for the sole benefit of the beneficiary with a disability;
- Reporting to MSNT regarding changes in status for the donor, co-trustee or beneficiary; and
- Reporting the trust as an exempt asset to public benefit specialists and requesting MSNT's assistance to provide necessary information to public benefit eligibility workers at the Social Security Administration (SSA) or the state Medicaid agency for eligibility determination, annual review or reinvestigation.

Cautions & Disclosures

Although this guide summarizes the most important information that trustees and beneficiaries may need to know, it is difficult to cover every topic or every rule or regulation that MSNT must consider.

Laws and rules change over time, so the requirements are subject to change without notice. MSNT periodically mails updates to co-trustees. It is important that co-trustees read any updates and keep the updates with the original trust document for future reference.

When requesting the first distribution from the trust or when incurring expenses for reimbursement, MSNT encourages co-trustees to review this guide and contact MSNT in advance with any questions or concerns to avoid problems.

TYPES OF SPECIAL NEEDS TRUSTS

MSNT administers two types of special needs trusts as described below.

First Party Trusts

First Party Trusts, also called Self Settled or Medicaid Payback Trusts, are funded with assets or resources belonging to the person with a disability. Many Self Settled Trusts are funded with personal injury settlements, inheritances directly to the person with a disability, Social Security retroactive or back payments, or conserved funds of the beneficiary. This type of trust is **irrevocable**. At the death of the beneficiary, Self-Settled Trusts are subject to retention of 25% of the remainder balance for the MSNT Charitable Trust and include a Medicaid payback requirement.

Third Party Trusts

Third Party special needs trusts are funded with assets or resources from someone other than the beneficiary. For example, the parent of an individual with a disability may use their own resources to establish a Third Party Trust. Third Party Trusts are usually revocable until or unless the donor waives the right to revoke the trust. Upon the donor's death, the trust becomes irrevocable. At the death of the beneficiary, Third Party Trusts do NOT have a Medicaid payback requirement. Any remainder balance in the trust account, after payment of allowable fees and expenses and retention of funds for the Charitable Trust, will be distributed to remainder beneficiaries as directed in the trust agreement.

Why is it important for a co-trustee to know whether a trust is first or third party?

The trust agreements are different for First and Third Party special needs trusts and they are treated differently. MSNT must use different procedures and guidelines for –

- Evaluating distribution requests, especially for travel-related expenses;
- Closing procedures are different since Medicaid payback is required for first party trusts and not for 3rd party trusts; and
- Taxes are handled differently until a third party trust becomes irrevocable.

ROLES & RESPONSIBILITIES for MSNT- Administered Trusts

Trustee

MSNT serves as Trustee for all MSNT trust accounts. The Trustee is responsible for properly administering the trust account for the sole benefit of the beneficiary. State laws give Trustees responsibilities that are called fiduciary duties. Examples of fiduciary duties include:

- *Loyalty to the best interests of the beneficiary*
- *Making prudent distribution and investment decisions*
- *Keeping trust records of trust account transactions*
- *Providing quarterly trust account statements to the co-trustee*

As Trustee, MSNT must review requests for distributions from the trust and either approve or deny the request based on applicable state and federal laws and regulations and consistent with the terms outlined in the MSNT trust agreement. As Trustee, MSNT has the authority to make the final decision regarding distribution requests. See Appendix A for a summary chart.

Co-Trustee

When the trust agreements are completed, the Settlor or Donor may designate co-trustee(s) and successor co-trustee(s). The co-trustee may be a trusted friend, relative, legal guardian, or other service professional that is willing and capable to perform the duties of a co-trustee. The role of the co-trustee is to work with the beneficiary to identify needs of the beneficiary and with MSNT so the trust can be used for supplemental services and needs consistent with applicable state and federal law and the terms of the trust agreement. The co-trustee must be an individual authorized to act as Trustee. The co-trustee must approve all distribution requests indicating approval by signature on the MSNT Distribution Request Form.

Often the trust will name the beneficiary's guardian or conservator as co-trustee. Please note that when a guardian/conservator serves as co-trustee that the trust is a separate legal entity and is not part of the estate. Contact MSNT if you have questions.

Co-Trustees must have time and organizational skills to manage correspondence regarding the trust, tax reporting, tracking distribution requests, providing receipts, invoices and written verification, as well as working with third party vendors who provide services or goods for the beneficiary. **(To help with recordkeeping, see Appendix B for recordkeeping basics).**

MSNT as Sole Trustee

For all trusts without an appointed co-trustee or when named co-trustees are no longer able or willing to serve as co-trustee, MSNT will become sole Trustee for the trust account. When MSNT is sole Trustee, MSNT will work directly with the beneficiary, service provider(s), or their legal representative, to identify beneficiary needs, document expenses and complete trust distribution requests.

USING THE MSNT TRUST ACCOUNT

Introduction

Special needs trust accounts are important to help meet the supplemental needs of the beneficiary that are not covered by their monthly cash benefit, Medicaid/Medicare or other health insurance. When coordinated with public benefits and other community resources, a special needs trust may be helpful to support independent living arrangements and to improve the quality of life of the individual with a disability. Distributions to supplement public benefits and improve the beneficiary's quality of life must be for the sole benefit of the individual with a disability. Examples of permissible distributions include medication co-pays, medical equipment to support independent living, support and rehabilitation services, basic household products, clothing, educational expenses, and recreational interests such as sports, music, art or other hobbies. ***When requesting the first distribution from the trust or when incurring expenses for reimbursement, MSNT encourages co-trustees to review this guide and contact MSNT in advance with any questions or concerns to avoid problems.***

Initiating a Distribution Request

To make a request for distribution from the trust, the co-trustee should complete the MSNT Trust Distribution Request Form included as Appendix C. The form will require completion of the following fields: name of the beneficiary, service or item(s) to be purchased, name of payee for distribution, address check should be mailed to, indication of the type of distribution, signature of the co-trustee, signature date and contact information for the co-trustee. One or two checks may be requested on a single request form. The distribution request form must be accompanied by supporting documents. The co-trustee must sign and date the form indicating approval of the request. If MSNT is sole trustee, the beneficiary, legal representative or other party assisting with the request should sign and date the form, indicating contact information and relationship to the beneficiary.

Co-trustee Responsibilities for Distribution Requests

The co-trustee shares responsibility with MSNT to preserve the benefit of the trust for the beneficiary by using it wisely, setting priorities, identifying cost-effective options and maximizing the benefit of each distribution. Each distribution request warrants review of past use of the trust and current and future needs of the beneficiary.

In some instances, it may be advisable to consider a monthly distribution for a regularly occurring, predictable expense paid to a third party. If the co-trustee wishes to arrange such a distribution, MSNT requires additional information to evaluate the request and, if approved, to set up the distribution. The co-trustee should contact MSNT to discuss options and necessary forms if the co-trustee believes such a distribution is warranted.

When the co-trustee signs the request form, the co-trustee is verifying their approval and support of the request including but not limited to –

- Attestation that the distribution is for the sole benefit of the beneficiary;
- That the documentation is accurate and complete; and
- That the distribution issued will be used as requested and represented in the request.

Failure to provide required documentation after a distribution has been made for the expense may result in denial of future requests. If MSNT learns of misrepresentation, misuse or misappropriation by the co-trustee, the beneficiary or other involved parties, MSNT will take appropriate action to protect the assets of the trust and carry out its duties as Trustee. Such actions may include but are not limited to reports to law enforcement or other applicable authorities.

Submitting a Distribution Request

The completed form and associated documentation can be mailed, faxed or emailed to MSNT as directed at the bottom of the request form. Please make sure the form is current by periodically checking the MSNT website to download a current form. MSNT is not responsible for delays caused by use of an outdated form or inaccurate contact information. MSNT can mail current forms for use if the co-trustee does not have access to the internet.

Timely Distribution Requests

MSNT strongly encourages submission of reimbursement requests within 30-45 days after the expenses are incurred. The following distribution requests are not eligible for payment:

- Payment of expenses that pre-date the establishment of the trust;
- Reimbursement of the co-trustee or others for expenses incurred more than 90 days prior MSNT receipt; or
- Requests received after the beneficiary's death regardless of date expenses were incurred.

Supporting Documentation Required for a Distribution Request

Distribution requests must be supported by detailed verification of the expenses to be paid and, if reimbursement of a third party is requested, verification that the expense has been paid in full. MSNT is subject to audit by the Social Security Administration or state Medicaid authorities and must have documentation to verify that distributions are permissible, appropriate and legitimate for payment.

DISTRIBUTION PAYEE	
<p>Third Party Vendor</p> <p><i>Payment to the individual or agency providing the service or goods requested</i></p>	<p><u>Before purchase</u></p> <ul style="list-style-type: none"> • Voided and dated itemized receipts, layaway documentation & receipt, copies of online cart screen/checkout page, store ads that document the amount of the requested purchase • Signed & dated estimates on company/business/store letterhead or official estimate form <ul style="list-style-type: none"> ○ handwritten estimates not on official letterhead or invoice are not acceptable ○ MSNT may require the business tax identification number of the company or other verification of the legitimacy of the business, when applicable <p><u>After purchase, additional documentation to be submitted to MSNT</u></p> <ul style="list-style-type: none"> • Itemized receipts and invoice showing items by name, cost, tax and other information related to the purchase • Zero balance must be indicated on the receipt or appropriately authenticated paid in full statement on the invoice with transaction date
<p>Reimbursement</p> <p><i>Payment to an individual who made a purchase or payment to a third party for goods/services for the sole benefit of the beneficiary.</i></p>	<p><u>Supporting Documentation</u></p> <ul style="list-style-type: none"> • Dated, authenticated store/vendor/service provider invoice or receipt verifying payment in full has been made and showing the method of payment and the name of the party who paid • Credit card statement(s) including the name and address of the cardholder showing the transaction(s) with amount, name of vendor and date to be accompanied by copies of the itemized receipts for requested transaction(s) • Cleared check image from bank with the account holder name/address along with the dated, itemized receipt <p><u>Cautions</u></p> <ul style="list-style-type: none"> • MSNT reserves the right to deny reimbursement requests and encourages the co-trustee to contact MSNT for discussion and consideration before incurring expenses, especially large purchases to avoid problems • MSNT may not be able to authorize reimbursement for certain items such as pre-paid funeral expenses, a vehicle purchase, or experimental medical treatment • Federal policies prohibit distributions for reimbursements after the death of the beneficiary, even for expenses incurred prior to date of death

Distribution Review Standards and Requirements

MSNT will review applicable state and federal requirements to determine whether a trust distribution is permissible. To make responsible decisions that comply with established policies, MSNT requires relevant information for a thorough review including but not limited to:

- A completed MSNT distribution request form signed by the co-trustee;
- Estimates, invoices, and receipts documenting the distribution amount;
- Other supporting documents as requested by MSNT that justify the distribution including but not limited to doctor's orders, a current treatment plan, or other assessments relevant to the request; and
- Current information about the beneficiary regarding eligibility for public benefits, living arrangements, legal status (guardianship, marital status, etc.), and other information relevant to the specific request.

Submission of incomplete or unsigned forms or failure to submit required documentation may result in delays or denials.

MSNT is careful to authorize distributions that are in the best interest of the beneficiary, are for the sole benefit of the beneficiary and will not adversely impact public benefits for the beneficiary. MSNT will attempt to preserve the assets of the trust for as long as practicable for the beneficiary, taking into consideration the beneficiary's health, life expectancy, known or anticipated lifetime needs and the size of the trust account. MSNT encourages conservative use of the trust whenever possible with an expenditure rate of 3-4% per year. Additional documentation may be requested and requests may be denied when utilization rates exceed this standard.

MSNT Distribution Procedures

Once review is completed and approval is given, MSNT must authorize the bank to issue a check to the party designated on the request form. The report is sent electronically to the bank each business day and the bank issues the check on the following business day. The check can either be mailed directly from the bank or returned to MSNT to attach the check to invoices or other paperwork and mail to the requested party. Some important limitations and reminders are –

- MSNT cannot process a request immediately. Co-trustees are advised to plan for 7-14 days before the intended recipient will receive the check.
- MSNT cannot make electronic payments or deposits to bank accounts.
- MSNT will not order catalogue or online items for the beneficiary.
- Distributions are processed daily. Review of a complex or multiple requests can take 1-3 business days. Incomplete requests will be delayed to obtain additional information.
- MSNT holiday, vacation and training schedules may result in additional review time and delays in checking for distribution requests sent to the MSNT general email account.
- Although rare, MSNT reserves the right to charge additional administrative fees for extraordinary time or effort associated with one or more distribution requests.

- With MSNT approval, the co-trustee or life beneficiary may arrange with MSNT for some bills to be sent directly to MSNT for payment. Pre-approval is required as well as a completed Trust Distribution Request Form to authorize MSNT to make distributions for the ongoing expenditure.
- Large requests will require review by the MSNT Distribution Committee. See page 12 for further information.

Using a Trust Distribution Check to Make a Purchase

MSNT authorizes distributions in the form of paper checks made out to the party designated as payee on the MSNT Trust Distribution Request form. The check is written against an account in the bank's trust department. The check is printed as a three-part single page format with the perforated check in the middle part of the page. The memo line for the distribution including the beneficiary's trust account name is found on the top third of the page.

In most instances, trust distribution checks are accepted by doctors, dentists, home health agencies, pharmacies, and retail outlets without problems. However, with increased concerns about check and identity fraud, MSNT encourages the co-trustee, beneficiary or case manager assisting with a purchase to make pre-arrangements to assure that the check will be accepted when making a purchase at any retail outlet for the first time. The following information may be helpful to a co-trustee or beneficiary when using a distribution check and may prevent unnecessary problems or delays.

- If the beneficiary or co-trustee will be using the check for a purchase at a retail store never used before, it is advisable to contact customer service or store manager before presenting the check at the checkout register.
- The check is payable to the retail outlet and does not require endorsement.
- Remove the tear-away portions around the check before presenting it to the checkout cashier.
- The check is drawn on a valid investment account in the trust department of the bank, not a checking account.
- When store policy requires the use of Tele-check or another electronic verification service, it may be helpful if the checker processes the check as a paper check or cash transaction.
- If the store manager wishes to contact MSNT to verify the check, MSNT will provide verification over the phone during MSNT business hours.
- Unfortunately, Best Buy routinely rejects checks issued from individual trust accounts. It is advisable to utilize another store or to contact MSNT about reimbursement alternatives.
- Sometimes layaway may be another option for making purchases with a trust distribution check.
- A store may refuse the check if the individual making the purchase has a poor personal credit history unrelated to the trust distribution check.
- It is best to avoid comments such as, "You may not accept this check..." or "I hope this isn't a problem." to increase likelihood that the store will accept the check.

GENERAL GUIDELINES FOR TRUST DISTRIBUTIONS

The following chart provides general guidelines and expense categories for trust use. It is not a comprehensive list and is not a guarantee of payment for any trust distribution request.



NOT PERMISSIBLE

- Rent or mortgage payments
- Basic utilities
- Groceries, food items, or dining out
- Room and board or base rate for a residential facility
- Cash or payment to the beneficiary
- Alcohol
- Gambling
- Weapons, firearms or explosives
- Charitable donations or gifts to others
- Anything covered by another funding source (Medicaid, Medicare)



ALLOWABLE

(With documentation & co-trustee approval)

- Clothing
- Transportation expenses to necessary services and community outings
- Necessary supplemental or support service costs not paid by Medicaid or Medicare (co-pays, chore services, hours exceeding caps, adult dental)
- Furniture or household items
- Cleaning Supplies
- Necessary home modifications for accessibility or equipment for home care
- Communications or other assistive devices not covered by Medicaid
- Expenses to visit family for pre-approved vacations
- Pre-paid funeral or burial plan subject to state Medicaid and SSA requirements

Large Distribution Requests

Large distributions are subject to additional review. MSNT encourages co-trustees to contact MSNT as soon as possible when large requests are being contemplated or when a request will deplete the trust below \$500. Large requests will be considered by the Distribution Committee. The Committee's review process requires 10-30 days AFTER receipt of all necessary information. Pre-paid funeral plans, home improvements, vacations and vehicle purchases are also subject to Distribution Committee review. The co-trustee will be advised in writing of MSNT's decision approximately 3-5 business days after the Distribution Committee meets.

Other Important Considerations

Over the years, MSNT has learned that the following information can be helpful to the co-trustee to establish clear expectations and promote a positive working relationship. A phone call to MSNT is always advisable when you have questions or when you are considering a large distribution, a reimbursement, or an unusual request.

Don't wait too long to submit distribution requests - If all other requirements are met, MSNT will consider distribution requests for expenditures within the previous three months. Items that pre-date the establishment of the trust account typically do not qualify for reimbursement or payment.

Payee for distribution checks - MSNT must make checks payable to a third party, preferably the vendor providing the service or goods requested. For example, checks may be made payable to the dentist or doctor's office providing services to the beneficiary or to the cable or phone company for their services. MSNT will not authorize a distribution payable to the beneficiary because any payment to the beneficiary may be counted as income that can result in a reduction or loss of public benefits.

Spendthrift clause - Neither the co-trustee nor the beneficiary can obligate the trust assets for payment for any purpose. The trust assets should not be listed as collateral for a loan.

Sole benefit - Trust distributions cannot be made for the benefit of other parties including spouse, children, parents or others living in the beneficiary's household. Requests for items that may benefit other parties may be denied or MSNT may pro-rate payment consistent with the number of people living in the household.

Minimum balance - MSNT requires a minimum balance of \$500. When a distribution request is received for trust accounts that are nearing the minimum balance, MSNT will contact the requesting party to determine whether the co-trustee/beneficiary want to proceed with a distribution that will result in a closure of the trust account due to low balance.

Home improvements - Requested distributions for home improvements require advance review and pre-approval by the MSNT distribution committee. The committee will examine issues of sole benefit, ownership or the property, estimates, credentials of the contractor, necessary permits, any taxes owed, liens or loans on the property, and other considerations before the distribution can be authorized. To protect assets, MSNT may require security interest in the property for high-cost repairs or equipment.

Distributions for vehicle purchases - These distributions will require advance review and pre-approval by the MSNT Distribution Committee to examine issues of sole benefit, preservation of trust assets, insurance coverage, past driving record, legal status, source of payment for fuel and maintenance of the vehicle and other relevant factors. MSNT will require completion of a security agreement and security interest in the vehicle.

Death of the beneficiary - MSNT is not permitted to make distributions from the trust account after the beneficiary has died other than allowable fees, expenses, retained funds for the Charitable Trust, Medicaid payback and, if there is a remainder balance, to other named remainder beneficiaries. Funeral expenses cannot be paid from the trust after the beneficiary has died. MSNT encourages purchase of an irrevocable funeral plan for the beneficiary that qualifies as an exempt asset. See the next item.

Pre-paid burial and funeral plans - These distributions will typically require review by the MSNT distribution committee. The committee will review to determine the contract complies with state Medicaid agency requirements (i.e. non-refundable, non-transferable and cannot be converted to cash), appropriateness of any cash advance items and other matters.

Vacations - Require advance authorization and some items cannot be paid by the trust. Frequency of vacations and their cost will also be considered and may result in denial. Only beneficiary vacation expenses will be authorized for the beneficiary of a first party trust. MSNT has greater flexibility for vacation expense distributions for third party trusts. ***(See Appendix D for a table summarizing SSA POMS travel expense limitations.)***

Caregiver expenses - MSNT must comply with all applicable law and federal requirements for tax responsibilities for any independent individuals paid by the trust, including caregivers, child care providers, housekeepers, and lawn care services. Direct payment to these individuals is not permissible from the trust, since the trust cannot serve as employer and pay necessary taxes associated with wages and other requirements for employees. MSNT advises that only agency-based caregivers and service providers can be paid with trust distributions. **(See Appendix E, Midwest Special Needs Trust Caregiver Policy.)**

Credit card statements - Credit card statements alone are not adequate to authorize distributions. They must be accompanied by itemized receipts. MSNT reserves the right to deny payment for some or all of amount due.

Legal fees - MSNT requires an itemized invoice provided by the attorney, detailing the services and hours of service to justify the amount billed.

Preservation of assets and fiduciary considerations - The co-trustee and MSNT will work together to make prudent distributions and preserve the benefit of the trust for the beneficiary by using it wisely, setting priorities, identifying cost-effective options and maximizing the benefit of each distribution. Each distribution request warrants review of past use of the trust and current and future needs of the beneficiary.

Rate of trust use and trust depletion - Taking into account the beneficiary's health, life expectancy and his/her known and anticipated needs as well as the size of the trust account, MSNT attempts to preserve trust assets for as long as possible to benefit the beneficiary. Although it cannot be guaranteed, financial advisors recommend a trust usage rate of less than 4% to promote availability of assets for lifetime benefit.

Trust distributions for minor children living with a parent - MSNT must evaluate parental support obligations as an additional consideration in determining the appropriateness and permissibility of trust distributions for minor life beneficiaries.

Respectful communication – MSNT staff are instructed to politely disconnect calls with any parties who use profanity or are verbally abusive. If threats are made, MSNT staff may contact law enforcement authorities and future communication may be limited.

APPEALS OF MSNT DISTRIBUTION DECISIONS

MSNT reviews the information provided by the co-trustee (or beneficiary if MSNT is sole trustee) to determine the appropriateness of the distribution and to verify consistency with applicable federal and state rules and regulations.

- If a distribution request is denied or reduced, the MSNT Trust Specialist will advise the co-trustee or life beneficiary (if MSNT is sole trustee) of the reason for denial.
- If the co-trustee or life beneficiary (only when MSNT is sole trustee) disagrees with the decision, he/she may contact the MSNT Trust Specialist for an informal review.
- If the co-trustee or life beneficiary (only if MSNT is sole trustee) continues to disagree with the decision after discussions with the Specialist, he/she may request, in writing, that the Executive Director review and reconsider the decision. When making the appeal request, the appellant must provide additional information that demonstrates why he/she believes the decision should be reversed. Only the co-trustee (or the beneficiary, if MSNT serves as sole trustee) may appeal a decision.
- The Executive Director will provide a written reply to the appellant for appeals made in writing, either upholding the original decision, or altering the decision and citing the reasons for the decision.
- If the appellant is dissatisfied with the Executive Director's decision, he/she may appeal the decision in writing to the MSNT Board of Trustees at its business address. The Board will review the appeal and communicate its decision in writing to the appellant. The Board's decision is final.

Appeals of decisions made by the MSNT distribution committee should be submitted in writing, directly to the MSNT Board of Trustees at its business address for action.

TRUST TAX BASICS FOR CO-TRUSTEES¹

Taxes and First Party Trusts

Upon opening the account, MSNT obtains a tax identification number for irrevocable trusts. First party trusts are irrevocable and are a separate taxable entity. MSNT contracts with an accounting firm to review earnings for all irrevocable trusts to determine if a tax return is required for the year and to prepare the tax return for any trust that must file a return.

- MSNT may require additional information about the source of funds for the initial deposit and subsequent deposits for tax accounting purposes.
- If the co-trustee receives any tax forms or notices related to the initial trust deposit or subsequent deposits for tax accounting purposes, the co-trustee should forward a copy to MSNT for review by the accounting firm. Such forms include but are not limited to a Schedule K-1, 1099 or other information.

Using the trust tax identification number, MSNT files state and federal trust returns prepared by the accounting firm. Tax preparation fees are passed through as an expense to the trust and will be reflected on the next quarterly trust account statement. At the death of the beneficiary, MSNT may be required to file a final tax return for the trust.

When prepared by MSNT's accountant for trusts subject to a return, MSNT will forward a Schedule K-1 to the co-trustee or, if MSNT is sole trustee, to the beneficiary/guardian. Typically, MSNT distributes the completed Schedule K-1 forms in late March and early April. The Schedule K-1 should be provided to the tax advisor by the beneficiary. The beneficiary is solely responsible for filing their personal tax returns if subject to filing. MSNT suggests that life beneficiaries file returns after receipt of the Schedule K-1 to avoid the need to file an amended return.

Taxes and Third Party Trusts

If the third party trust donor waives the right to revoke or at the death of all donor(s), third party trusts become irrevocable, at which time MSNT will apply for a trust account tax identification number and will handle tax responsibilities as outlined above for first party trusts.

The income for all revocable third party trusts continues to be taxable to the trust account donor(s). The bank holding MSNT trust accounts will send a 1099 to the donor(s)/co-trustee(s) each year, typically in February for the donor to give to their tax advisor. If the tax preparer requires more detailed information than the 1099 provides, the donor may contact MSNT to request a more detailed accounting.

¹ *Co-trustees and beneficiaries should consult with a tax professional regarding personal tax matters.*

INVESTMENTS

All MSNT trust accounts are invested in one of a variety of mutual fund portfolios. When the trust is established, the completed trust agreement specifies whether mutual fund selections will be made by the donor when the trust balance exceeds \$10,000 or delegates responsibility to MSNT to direct investments for the account. MSNT makes investment decisions for all trusts with balances of less than \$10,000. Investment portfolio performance information is updated quarterly and is available on MSNT's website.

If the settlor chooses the investment portfolio, the settlor may also specify whether the co-trustee has authority to change investment direction and portfolio selection for the account. If the trust agreement authorizes the co-trustee to make investment decisions, the co-trustee can contact MSNT to request a copy of the form to change investments. Changes can be made no more frequently than every 90 days.

MSNT REPORTING TO CO-TRUSTEES

A quarterly trust account statement will be mailed to the co-trustee or other party authorized to receive the account statement when the trust was established. The account statement provides extensive information about the account including beginning and ending balance, investment earnings and transactions, distributions, deposits and fees. The co-trustee should review the statement for accuracy and contact MSNT with any concerns or questions. A fact sheet to help understand the format and contents of the Quarterly Account statement is included as Appendix F.

The trust agreement allows MSNT as trustee to amend the trust from time to time as necessary to comply with applicable state and federal statute, regulation and policy requirements. MSNT will send written notice of amendments to co-trustees when such amendments are approved by the MSNT Board of Trustees. A copy of the current trust language can be accessed on the MSNT website or is available upon request.

TRUST ACCOUNT FEES

A description of fees and fee schedules for trust administration are provided when each trust account is opened. Administrative fees are subject to change without notice and current fee schedules are posted on the MSNT website. Additional information can be requested by calling MSNT.

PUBLIC BENEFITS & TRUST REPORTING

It is important that the co-trustee understand which public benefits the beneficiary receives and that the co-trustee assists the beneficiary to maintain eligibility for all public benefits for which the beneficiary qualifies. Special needs trusts are designed to protect the beneficiary's means-tested public benefits. The co-trustee should be aware of the following requirements related to the trust and how the trust is evaluated by public benefit agencies for eligibility purposes.

Trust Reporting for Medicaid and Supplemental Security Income (SSI)²

When the beneficiary applies for public benefits such as Medicaid or Social Security Supplemental Security Income, the special needs trust account **must** be reported as an asset. However, federal rules define a properly administered special needs trust as an exempt asset, which means the trust account value will not be calculated against the asset limit established for the program. However, failure to report the trust as an asset may result in denial of eligibility and can result in overpayment notices and other penalties.

Determining that the Trust Qualifies as an Exempt Asset

In order to determine that the trust qualifies as an exempt asset, the eligibility worker will request additional information about the trust. Typically, the worker will request a copy of the trust agreement to evaluate against established criteria or for internal review by a supervisor or specialist, who is familiar with trusts. The beneficiary, guardian or representative payee –

- may provide the requested information directly to the eligibility worker, making sure to attach any trust amendments subsequent to the date the trust was signed; or
- may request that MSNT provide trust related information to the appropriate agency.

Available MSNT Assistance

If MSNT assistance is needed, the co-trustee should contact MSNT to make the request as soon as possible since eligibility workers typically work on strict deadlines and can deny eligibility for failure to provide timely information. MSNT has prepared a standardized letter and attachments to share with the worker that references applicable state and federal laws and policy requirements for exempt assets. MSNT suggests allowing 10-14 days to compile the information and transmit the information. To expedite the request, provide the name, title and contact information (postal and email addresses, fax and phone) for the eligibility worker and any other party who should receive the information for review. For Medicaid, the beneficiary's birthdate and DCN (or designated client number) is also helpful to expedite Medicaid review. If the co-trustee wishes to authorize the eligibility worker to discuss information with MSNT for

the eligibility or redetermination review, a completed and signed authorization for release of confidential information should be submitted to the benefit agency and to MSNT.

Other Public Benefits Programs

MSNT can also provide information for other public benefit programs, such as rental subsidies, housing assistance, or food stamps. To expedite the request, provide the name, title, and contact information (postal and email addresses, fax and phone) for the eligibility worker and any other party who should receive the information for review. Note that these programs may have different policies than Medicaid and SSA and, in some instances, may count trust distributions as income. If a beneficiary receives other benefits in addition to Medicaid and SSI, the co-trustee should advise MSNT so distribution practices can be adjusted to protect public benefits for the beneficiary.

Public Benefit Denials, Adverse Action and Appeals

If the beneficiary, representative payee, legal guardian or other legal representative is advised in writing of denial of benefits, or receives an adverse determination, the beneficiary or legal representative, should follow instructions in the letter to request a review or hearing to maintain appeal rights. MSNT should be notified immediately and a copy of the written notice should be submitted to MSNT for review. If the denial or adverse determination relates to the trust, MSNT can provide additional information to the beneficiary or legal representative to resubmit to the agency and/or present at the appeal hearing. MSNT cannot represent the beneficiary during the appeal or provide an attorney for the beneficiary.

CLOSURE OR TERMINATION OF A SPECIAL NEEDS TRUST

When a trust is closed, MSNT follows the requirements and terms of the trust agreement as well as applicable state and federal laws and regulation. MSNT trusts are closed for the reasons described in the chart below.

<i>Trust Type</i>	<i>Reasons for Trust Closure</i>
Revocable Third Party Trusts	<ul style="list-style-type: none"> • Revoked at the request of the donor • Revoked by a co-trustee so authorized by the donor in the trust agreement • Trust account balance falls below the MSNT minimum balance requirement • Death of the beneficiary • MSNT determines that the trust should be terminated because it is no longer practicable or consents to transfer to a successor trust
Irrevocable First and Third Party Trusts	<ul style="list-style-type: none"> • Trust account balance falls below the MSNT minimum balance requirement • Death of the beneficiary • MSNT determines that the trust should be terminated because it is no longer practicable

Closure Timeframes

For each circumstance, the timeframes and requirements will vary. Typically, closing activities require 60-90 days to complete but may take longer. If you have questions regarding closing procedures or status of closing, contact MSNT. After closing, the co-trustee will receive a quarterly trust account statement reflecting final distributions.

Closure Activities

The most common reasons for trust closure are low fund balance and the death of the beneficiary. The following information is provided to prepare the co-trustee for what to expect for the most common trust closures.

Low Balance Closure

MSNT requires that a minimum balance of \$500 must be retained in the trust account. When the trust account balance falls below \$500, the donor, co-trustee, or beneficiary is advised and given the opportunity to deposit additional funds. If no additional funds are received, MSNT initiates closing procedures.

- **First Party Trust:** MSNT notifies the bank, tax preparers, and the Medicaid cost recovery unit in any state in which the beneficiary has received benefits that the trust must be closed due to low fund balance. Federal regulation allows payment of

administrative fees, tax preparation expenses, and trust taxes due (if applicable), before Medicaid payback claims are paid. If the Medicaid cost recovery does not make a claim, the remainder funds are paid to the life beneficiary.

- **Third Party Trusts:** MSNT notifies the bank and tax preparers that the trust must be closed due to low fund balance. Federal regulation allows payment of administrative fees, tax preparation expenses, trust taxes due (if applicable), and the retained funds for the MSNT charitable distribution authorized in the trust agreement before MSNT distributes the remainder funds to either the beneficiary if the trust is irrevocable or to the settlor if the trust is revocable.

Closure at Beneficiary's Death

The co-trustee is responsible for notifying MSNT of the death of the beneficiary as soon as possible. MSNT cannot authorize distribution requests from the co-trustee received after the death of the beneficiary. MSNT requires a copy of the beneficiary's death certificate for its records. Once MSNT receives a copy of the death certificate, MSNT will initiate closing procedures.

- **First Party Trusts:** MSNT notifies the bank, tax preparers, and the Medicaid Cost Recovery Unit in each state where the beneficiary has received Medicaid benefits of the death of the beneficiary. Federal regulation allows payment of administrative fees, tax preparation expenses, trust taxes due (if applicable), and the retained funds for the MSNT charitable distribution authorized in the trust agreement before MSNT processes Medicaid payback to all states that make claims to the extent that remainder funds cover the claims. If any funds are available after Medicaid payback, MSNT distributes the remainder balance to the named remainder beneficiaries in the trust agreement in accordance with the terms of the trust agreement.
- **Third Party Trusts:** MSNT notifies the bank and the tax preparers of the beneficiary's death. MSNT will authorize payment of administrative fees, tax preparation expenses, trust taxes due (if applicable), and retained funds for the MSNT charitable distribution authorized in the trust agreement before the remainder funds are distributed to the named remainder beneficiaries in accordance with the trust agreement.

MIDWEST SPECIAL NEEDS TRUST GLOSSARY OF TERMS

The language of public benefits and special needs trusts uses legal and technical terms that may be unfamiliar to many people. These definitions are provided as a resource for co-trustees to improve communication and understanding. Our intent was to assure that these definitions are consistent with applicable statutes and the trust agreement. If any conflicts or discrepancies exist, they are unintentional and statutory or contractual language shall prevail.

Beneficiary – The person with a disability for whom the trust is established. May also be referred to as the *life beneficiary*.

Co-Trustee – The person or entity designated in the trust document who is responsible for working with MSNT as the Trustee to make appropriate to increase the quality of the beneficiary’s life by supplementing public benefits or other available resources.

Disability – An individual must have been determined to meet the federal definition of disability in order to qualify as a beneficiary of a special needs trust. MSNT accepts written verification of disability by Social Security for either the Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) programs or Medicaid classification as Permanently and Totally Disabled (PTD) to verify a qualifying disability.

Distribution – Expenditure of trust funds for the sole benefit of the beneficiary. May also be referred to as a *disbursement or check request*.

Donor – The person whose resources are used to fund the trust. Same definition as *settlor*.

Exempt Asset – Any resource of the beneficiary that is *not* counted as an available resource by Social Security officials or state Medicaid authorities and therefore does not disqualify the recipient for Medicaid or (SSI).

Fiduciary Duties – A trustee or co-trustee has a broad range of responsibilities and obligations to the beneficiary as established in the trust agreement as well as state law. A partial list of general fiduciary duties includes proper and prudent administration of the trust, recordkeeping and duty to inform, safekeeping of assets and loyalty to the interest of the beneficiary. Administration and distributions from a special needs trust must also comply with federal regulations or SNTs.

First Party Trust – A trust created by or for the beneficiary with the assets of the beneficiary. Must include a provision for Medicaid payback at termination of the trust to qualify as an exempt asset for Medicaid and Social Security. This is also called a self-settled trust.

Irrevocable – A trust that cannot be changed or terminated by the settlor.

Master Trust – Includes the provisions of the MSNT declaration of trust (often called the trust agreement), applicable Missouri statutes, and any rules and regulations promulgated by MSNT’s Board in Chapter 21 of the Code of State Regulations (CSR).

Means-Tested – A public program is means-tested if it requires that an applicant demonstrate financial need for the program. Any change in recipient income or assets must be reported to public benefit agencies in a timely manner. Medicaid, Supplemental Security Income (SSI), food stamps and many other financial assistance programs are means-tested. Social Security Disability Insurance (SSDI) benefits are administered by the Social Security Administration (SSA) and eligibility is not means tested. SSDI is an insurance program for eligible individuals who qualify based on their work history.

Medicaid Payback – In order for a first party special needs trust established with assets of the person with a disability to be excluded from counting as a disqualifying asset, the trust remainder at closing is subject to claim by Medicaid for any expenses paid for the beneficiary in their lifetime. If medical expenses have been paid by multiple states, all states that paid eligible medical expenses may claim Medicaid payback on remainder funds. After payment of allowable expenses and fees, retention of funds for the MSNT Charitable Trust, and Medicaid payback, *if* any assets remain, the remaining balance may be paid to remainder beneficiaries as named in the trust agreement.

Program Operations Manual System (POMS) – Online website with policies established by the Social Security Administration (SSA) to provide guidance to eligibility workers, in part, to determine whether trusts are exempt and trust distributions are allowable. The POMS is subject to changes as SSA clarifies or amends policy positions related to trusts. MSNT must adhere to policy changes to protect public benefits for beneficiaries.

Public Benefits – Typically includes the Supplemental Security Income (SSI) program operated by the Social Security Administration or Medicaid as administered by the single state agency responsible for the program. Missouri statute also specifies that a properly administered special needs trust will not disqualify individuals from Department of Mental Health services.

Remainder Beneficiary – The person(s) or entity named by the donor in the trust agreement to receive remainder funds remaining at closure of the trust account after all allowable expenses and fees are paid.

Retained Funds for MSNT Charitable Trust – As permitted by federal and state statute and regulation and as outlined in the terms of the Trust Agreement, MSNT is authorized to retain a portion of the trust remainder funds when the trust is closed after the death of the beneficiary and final trust distributions have been made. Retained funds are deposited into the MSNT Charitable Trust and are used to benefit indigent persons with disabilities.

Revocable – A revocable trust allows the settlor or co-trustee, if authorized in the trust document, to withdraw or terminate the trust, upon request.

Self-Settled Trust – See definition for *First Party Trust*.

Settlor – The person whose resources are used to fund the trust. Same definition as *donor*.

Sole Benefit – A trust must be administered only for the benefit of the beneficiary based on criteria established by SSA and outlined in **POMS**. Other parties cannot enjoy the benefit of distributions made by the trust, or SSA may treat trust assets as a disqualifying asset, which can result in reductions in the amount of the monthly cash benefit, ineligibility for public benefits or overpayment demands.

Sole Trustee – If the trust document does not name a co-trustee, or if all co-trustees and/or successor co-trustees are unwilling, unable or unavailable to serve as co-trustee, then MSNT will serve as sole trustee.

Special Needs Trust (SNT) – A category of trust that, if properly structured and administered consistent with federal requirements, is an exempt asset and will not jeopardize a beneficiary's public benefits.

Third Party Trust – A trust created for the beneficiary with the assets of a third party, such as a family member or friends. Does not require payback to Medicaid at termination.

Trust – A legal arrangement whereby property is held by one party for the benefit of another.

Trust Account – The account established by MSNT to hold the assets of a special needs trust for a beneficiary.

Trust Administration Fees – Expenses charged to the trust account for trust administration services provided by Midwest Special Needs Trust (MSNT) or its contract agents. May include but is not limited to enrollment fees, asset value fees, check fees, closing fees, sole trustee fees, tax preparation fees and banking fees.


Trust Agreement – The legal document that sets forth the terms under which the trust must operate. Titled and may be referred to as the Declaration of Trust.

Trustee – The person or agency that holds trust assets and has legal authority and responsibility for administering the trust. MSNT is trustee for all MSNT trust accounts.



APPENDIX A

Co-Trustee Role Summary Chart

	Midwest Special Needs Trust (MSNT) Co-trustee Role	
ACTIVITY	CO-TRUSTEE WILL -	MSNT, AS TRUSTEE, WILL -
Distribution Requests	<ul style="list-style-type: none"> • Identify beneficiary needs for trust fund distributions • Complete and sign MSNT Trust Distribution Request Forms for services and goods for the sole benefit of the trust beneficiary • Submit estimates, receipts or other documentation to justify and document the distribution 	<ul style="list-style-type: none"> • Review the distribution request to determine compliance with SSA requirements • Notify the co-trustee of denials and the reasons for denial • Authorize distributions for the sole benefit of the beneficiary as documented in the request and associated receipts and other documentation
Public Benefits	<ul style="list-style-type: none"> • Assist beneficiary to maintain public benefits eligibility • Provide information requested by the state Medicaid agency, SSA or other public benefits programs • Request assistance from MSNT with any information needed for the state Medicaid agency, SSA or other public benefit programs • If the beneficiary receives an adverse action such as denial or reduction of benefit, assist the beneficiary to reply in a timely way to appeal to avoid interruption of benefits and retain all appeal rights • Obtain legal assistance or advocacy for the beneficiary, as needed • Notify MSNT if the trust is cited as cause for the denial and provide to MSNT a copy of the notice of adverse action 	<p>MSNT will provide information to the specified public benefit agency, the co-trustee and beneficiary, as requested</p>
Trust amendments or other updates	<ul style="list-style-type: none"> • Review any correspondence and communication received from MSNT • Retain for future reference and trust records 	<ul style="list-style-type: none"> • Amend the trust as necessary consistent with changes in applicable statutes and regulations to protect public benefits for trust beneficiaries and notify co-trustees of amendments • Notify trust parties of changes in address or other contact information for MSNT • Post updates and other information on the MSNT website
Quarterly Statement	<ul style="list-style-type: none"> • Review statement for accuracy • Retain for records • Notify MSNT of any discrepancies or questions regarding the statement 	<p>Provide quarterly account statement with detail regarding the balance, investments, transactions for the period, and administrative fees</p>

ACTIVITY	CO-TRUSTEE RESPONSIBILITIES	MSNT, AS TRUSTEE, WILL -
Changes in Status and Contact Information	Using the MSNT form and submitting required documentation, immediately notify MSTN of changes in address, contact information, public benefits, death of the donor(s) or beneficiary, guardianship status or other information necessary for proper administration of the trust	<ul style="list-style-type: none"> • Record changes in MSNT database • Take appropriate actions as follow-up to the specific changes such as but not limited to changing from irrevocable to revocable status, changing address for statement delivery, initiating closing, etc.
Change in Co-trustee	<ul style="list-style-type: none"> • Notify MSNT if unable or unwilling to continue to serve as co-trustee and perform duties • Complete resignation form and have it notarized for submission to MSNT for MSNT documentation • Share trust files with successor co-trustee 	<ul style="list-style-type: none"> • MSNT will record resignation and notify successor co-trustee • MSNT will change address for quarterly statements to the successor co-trustee • If no successor co-trustees named in the trust or if all are exhausted, MSNT will become sole trustee
At Closing for Low Balance Closures	<ul style="list-style-type: none"> • Make additional deposits or identify priorities among pending distribution requests, if any • Notify any vendors/services that are sending bills directly to MSNT and advise them to redirect bills to the beneficiary or beneficiary’s guardian/conservator, if applicable 	<ul style="list-style-type: none"> • Notify co-trustee that the account will be closed unless additional deposits are received • Prioritize any pending distribution requests • MSNT will process the closing according to the terms and conditions of the MSNT trust agreement and pay fees and any necessary expenses such as but not limited to taxes • If any trust balance remains after expenses and Medicaid payback, if any, the remainder balance will be issued to the beneficiary • A final statement will be issued to the co-trustee at the next regularly scheduled quarterly statement
At Closing When the Beneficiary Dies	Notify MSNT immediately of the death of the beneficiary and provide a copy of the death certificate for MSNT records	<ul style="list-style-type: none"> • MSNT cannot authorize distributions after beneficiary’s death • MSNT will process the closing according to MSNT trust agreement terms and conditions, paying fees and any necessary expenses such as tax preparation or taxes due • If a trust balance remains after expenses and Medicaid payback, the remainder balance will be issued to the beneficiary • Final statement will be sent at the quarter subsequent to final closing distributions



APPENDIX B

RECORDKEEPING BASICS FOR CO-TRUSTEES & HELPFUL FORMS

RECORDKEEPING BASICS FOR CO-TRUSTEES

Serving as co-trustee for a beneficiary with a trust account administered by MSNT is a serious responsibility. The beneficiary and Trustee rely on the co-trustee to work with MSNT to identify beneficiary needs and appropriate distributions consistent with the beneficiary's needs and circumstances. Co-trustees should set up a paper and/or electronic filing system with the following documents:

- the original trust agreement and any amendments to the trust since it was established
- a copy of the Beneficiary Background Information (BBI) form submitted to MSNT and any updates provided to MSNT
- this co-trustee guide booklet
- distribution related materials such as blank request forms and copies of all trust distribution requests and back-up documentation
- correspondence from public benefit agencies about the life beneficiary and eligibility notice and contact information for the eligibility worker or benefits specialist
- a blank copy of the status change form and copies of any change forms sent to MSNT for the trust
- copies of correspondence or written communication with or from MSNT about the trust
- tax related information such as returns (for a 3rd party trust), schedule K-1 forms, 1099 or other information
- quarterly trust account statements; and
- backup documentation that supports co-trustee fees, if authorized in the trust agreement
- a completed copy of the Trust Information Summary form for quick reference. A blank form follows for completion.

RECORDKEEPING TIPS

- Do not send original receipts to MSNT should they be lost or destroyed in the mail
- Consider use of a scanner or an “app” to help you track receipts and expenditures for distribution requests
- A distribution log can be a helpful tool and reference to pinpoint any problems or to resolve any issue with delays or lost mail
- Although each trust is assigned an account number by the bank, remember that, when contacting MSNT, our database search uses the life beneficiary's full name to “look up” information
- Current addresses, phone numbers and other information about the donor, co-trustee and life beneficiary are critical for successful and timely delivery of distribution checks, notice of trust amendments, tax-related mailings, and timely closing of the trust and final trust distributions. **Use the attached MSNT Contact and Status Change form to report changes.**

	<h2 style="margin: 0;">TRUST INFORMATION SUMMARY for Co-Trustee</h2>
---	--

Trust Name: _____

Date Established: _____ **Type of Trust:** **First Party** **Third Party**

	Donor #1	Donor #2
Donor Name(s)		
Donor Address(es)		
Email Address(es)		
Phone Number(s)		
Date of Death, if applicable		

Trust is:

<input type="checkbox"/> Revocable Tax EIN:	<input type="checkbox"/> Irrevocable Effective date:
Only 3 rd party trusts when the donor retains the right to revoke	All 1 st party trusts are irrevocable. Donors of third party trusts may waive their right to revoke in writing or become irrevocable upon the death(s) of all donor(s).

Trust Investments are : Donor-directed MSNT-directed

Trust is currently invested in: _____ (MSNT model mutual fund portfolio)

Co-trustee: **is** **is NOT** authorized to make investment selections.

Co-trustee Name (in chronological order) & Relationship to life beneficiary	Mailing Address	Phone number(s) & e-mail address	Begin Date	End Date	Reason (resignation, death, incapacity, other)



CONTACT INFORMATION and STATUS CHANGE FORM

Beneficiary Name _____ Birth date: ____/____/____

Instructions: Complete and submit this form to report corrections or changes to MSNT for contact information such as addresses, phone or fax numbers, email addresses, or names. This form can also be used to report changes in status for the donor, beneficiary or co-trustee. Completed forms may be faxed to **1-573-303-5866** or mailed to **MSNT, PO Box 7529, Columbia, MO 65205**.

CHANGES IN CONTACT INFORMATION

The change reported below is for:

Life Beneficiary Co-Trustee Donor Other (Please specify : _____)

	NEW INFORMATION	Effective Date of Change
Name		
Mailing Address		
Home Phone		
Work Phone		
Cell Phone		
Fax		
E-mail address		
Other-specify		

CHANGE IN STATUS

Life Beneficiary	Co-Trustee	Donor
<input type="checkbox"/> Medicaid Eligibility <input type="checkbox"/> SSI Eligibility <input type="checkbox"/> Guardianship <input type="checkbox"/> Living arrangement	<input type="checkbox"/> Resignation <input type="checkbox"/> Death – Specify date:	<input type="checkbox"/> Death* - Specify date:

INCLUDE COPY OF DEATH CERTIFICATE, IF APPLICABLE.

Give date and briefly describe status change(s) indicated above:

Submitted by: _____ Signature: _____ Date: _____



APPENDIX C

Trust Distribution Request Form



TRUST DISTRIBUTION REQUEST FORM

Name of the Beneficiary _____

- A receipt, estimate or statement must be attached for each of the items requested below.
- Any information that justifies the distribution should be attached such as a doctor's recommendation, treatment plan or other information.
- If you have questions regarding distributions, please contact MSNT before making the request.

Check 1: For purchase of _____ **Amount:** _____

Make Check Payable To: _____

- Reimbursement Third Party Vendor

Mail Check To:

Name:		
Street:		Apt #
City:	State:	Zip:

Check 2: For purchase of _____ **Amount:** _____

Make Check Payable To: _____

- Reimbursement Third Party Vendor

Mail Check To:

Name:		
Street:		Apt #
City:	State:	Zip:

Requested by _____ Phone ____/____/____
(Signature)

Relationship to Beneficiary _____ Date ____/____/____
 Co-Trustee of the Account

<i>Please submit completed and signed form with required documentation to MSNT.</i>		
Mail to	By email	Fax to
MSNT PO Box 7629 Columbia, MO 65205	mftbt@midwestspecialneedstrust.org	1 573-303-5866



APPENDIX D

Evaluation Criteria for Distribution Requests for Travel and Vacation Expenses

MSNT Travel-Related Distribution Review Criteria¹

Expense	Permissible for 1st Party Trusts	Permissible for 3rd Party Trusts
VACATION OR OTHER TRAVEL		
Beneficiary travel expenses ONLY <ul style="list-style-type: none"> • Transportation • Lodging • Entertainment (for example, concert tickets or amusement park tickets) 	Yes, payable directly to vendor	Yes, payable directly to vendor or third party with proof of payment
Beneficiary meals during travel	No	No
Spending money or cash to beneficiary	No	No
Family member travel expenses to accompany or assist beneficiary	No	Yes
Licensed medical professional (non-family member) to accompany beneficiary as prescribed by physician and documented in beneficiary's service plan or medical records	Yes	Yes
Agency-based caregiver travel with a physician recommendation and/or documentation in beneficiary's service plan	No	Yes
TRAVEL FOR OTHER PARTIES TO VISIT THE BENEFICIARY		
Family or other third party travel expenses <ul style="list-style-type: none"> • Transportation • Lodging 	Yes, if it meets SSA requirements*	Yes
<p>*Applies to reimbursements to third parties for allowable expenses when <u>both</u> criteria listed below are met–</p> <ul style="list-style-type: none"> • The trust beneficiary lives in an institution, nursing facility or other long term care facility, or other supported living arrangement when a non-family member or entity is paid for protective oversight; <p>AND</p> <ul style="list-style-type: none"> • The visit is for the purpose of ensuring the safety and/or medical well-being of the beneficiary 		

¹ SSA POMS were changed effective 5/15/13 with specific criteria for approval of travel-related distributions from special needs trusts. See SSA POMS SI 01120.201F.2.a. and b. Failure to comply with the revised policies may cause the trust to be counted as an asset and disqualify the beneficiary from public benefits such as but not limited to SSI, Medicaid, and public housing.



APPENDIX E

MSNT Caregiver Expenses Policy

MIDWEST SPECIAL NEEDS TRUST CAREGIVER² POLICY

Policy Statement: *MSNT will authorize trust distributions only to caregivers who are affiliated with an appropriately licensed home health or personal care agency or who are private practitioners with a corresponding corporate registration and tax EIN.*

Why?

State labor agencies and Internal Revenue Service (IRS) authorities have interpreted state and federal regulations to require that independent caregivers must be treated as employees by the entity that pays them, not as contractors. Their decision is based on prevailing practices in the care giving industry. State and federal authorities consider contractual arrangements as an attempt to circumvent protections for employees and avoid employer tax liabilities. Findings of non-compliance are serious and can result in fines and other enforcement measures.

To pay caregivers as employees would require the trust to assume employer responsibilities such as, but not limited to, payment of social security taxes, worker's compensation, unemployment insurance, benefits, and other state and federal liabilities. In addition, an employer must provide training, supervision, quality of care and other performance and delivery standards for caregiver agencies and professionals. MSNT will not authorize distributions that may jeopardize public benefits for the life beneficiary of the trust.

Consequently, MSNT will not authorize distributions for payment directly to caregivers because the practice does not comply with established federal statutory requirements and may also jeopardize public benefits.

Available Alternatives

When medically appropriate and consistent with the functional needs to the life beneficiary with a disability, MSNT will authorize payments to agencies that employ and supervise caregivers. A list of such agencies can be obtained by contacting the local office of Senior and Disability Services or by requesting a Medicare home health provider listing. The agency invoice can serve as the documentation for the distribution request and:

- The distribution payment must be made directly to the agency. MSNT may also require documentation such as time sheets that verify hours worked and the nature of the services provided to the life beneficiary.

² *This policy may also apply to housekeepers, babysitters, yard workers, respite care and other similar instances when trust distributions may be considered wages and applicable Internal Revenue Code applies.*

- Private practice nurses or other professional practitioners may satisfy IRS requirements if their professional license allows independent practice and they are incorporated appropriately with an assigned tax identification number for tax reporting purposes. Documentation of their credentials and a W-9 would need to be completed and provided to determine whether a distribution would be allowable and any arrangements must be pre-approved by MSNT.
- If the life beneficiary of the trust is receiving Missouri Medicaid Home and Community-Based Waiver services under the Self-Directed services option, the co-trustee may provide documentation of the funding source and demonstrate a corporation has been formed that may act as an employer entity and meet all the associated requirements. In those cases the distribution from the trust will only be made to the corporate entity set up to employ caregivers for the specified life beneficiary.
- If the co-trustee or life beneficiary utilizes a qualified fiscal agent to meet federal requirements as employer, pay appropriate tax obligations, and perform associated functions for quality care, MSNT can authorize distributions to the fiscal agent with proper documentation and upon demonstration of fiscal agent qualifications.
- National firms are available to provide the necessary infrastructure to comply with federal requirements. However, such firms charge a significant fee for their services and MSNT would need to pre-approve use of such a firm for this purpose. Parties should contact MSNT if interested in such an arrangement and should allow significant lead time of 90 days or more to work out agreements for such an arrangement. Fees would be paid from the trust and MSNT would evaluate the need to charge an extraordinary service fee to the trust.



APPENDIX F

Trust Account Statement Fact Sheet

Fact Sheet

Navigating the Trust Account Statement

OVERVIEW

The account statement is made up of several sections as listed below, in outline order –

- Account statement header
- Account Activity Summary
- Investment Portfolio Summary
- Portfolio Statement
- Transaction Statement
- Miscellaneous - Fees
- Ending Balance

STATEMENT HEADER

The account statement header includes identifying information about the trust including the trust name and account number as well as the period covered by the statement. This section also indicates the mailing address for the statement recipient, typically the co-trustee for the trust account. Contact information for the MSNT executive director is provided if there are questions or concerns about the statement.

ACTIVITY SUMMARY

The Account Activity Summary provides a review for the quarter covered by the statement plus a year-to-date column showing calendar year-to-date (YTD) totals. (Note that for the January to March quarter, the quarterly and YTD totals will be the same.) The supporting itemized detail for each summary line is included in later sections of the statement. The brief summary shows the beginning market value and any changes due to income, additions, distributions, fees and change in market value which sums to the ending market value. On the right side of the page is a section that provides information about realized capital gains and losses as calculated by the bank using accounting software calculations consistent with federal banking regulations and IRS requirements.

INVESTMENT PORTFOLIO SUMMARY

The Investment Portfolio Summary provides a pie chart that graphically represents the figures in the table immediately to the right. The chart shows the proportion of the account held in

cash, cash equivalents, equities, and other investments by type. The columns provide the tax cost and market value for each category of account holdings.

PORTFOLIO HOLDINGS

The next section is the Portfolio Statement which provides greater detail about the portfolio investment holdings including ticker, shares, total market/total cost, market price/cost price, estimated annual income and current yield. This information is provided for each holding in the portfolio. The final line of this section provides a grand total for all assets in the portfolio.

TRANSACTIONS

The next segment of the account statement provides detail for all transactions in the quarter, including purchases, cash management, income, distributions, fees and the ending balance.

MISCELLANEOUS – ADMINISTRATIVE FEES

The total amount of administrative fees applied to the account for the quarter is listed. Fees for both MSNT and the bank are calculated as a percentage of the annual asset value, divided by 12, and deducted on a monthly basis from the account. If MSNT serves as sole trustee for the account, a monthly fee is charged and reflected on the statement. Further information about MSNT's current fee schedule and fee calculation can be found on the MSNT webpage at <http://midwestspecialneedstrust.org/trustDocs/pdf/AdmEnrollment.pdf>.

ENDING BALANCE

The final line of the account statement includes the ending balance on the last day of the quarter which should match the summary table ending market value on the first page of the statement.

FREQUENTLY ASKED QUESTIONS

Q. How often will I receive the account statement for a Special Needs Trust Account with Midwest Special Needs Trust (MSNT)?

A. Account statements are issued on a quarterly basis for each of four quarters in a calendar year. The quarters are:

- *January-March*
- *April-June*
- *July-September*
- *August-December*

The account statement should arrive in the mail approximately two-three weeks after the quarter ends.

Q. Who will receive the trust account statement?

A. Typically the account statement is sent to the donor for revocable 3rd party trusts and to the co-trustee for 1st party trusts or irrevocable 3rd party trusts. However, upon request of the donor, the life beneficiary's legal guardian, or the co-trustee, MSNT can arrange for the account statement to be sent to another party.

Q. I have not received an account statement. What should I do?

A. Contact MSNT if you do not receive your account statement by the end of the month following the quarter's end. MSNT will arrange for a duplicate statement.

It is important that you advise MSNT of any changes in name, address or contact information to assure timely delivery of account statements and other trust correspondence. For your convenience, a form is available to report changes. You may request a form by calling MSNT.

Q. What is cash management?

A. The cash management section of the statement is a reporting tool summarizing complex accounting entries to track cash availability for each account. Because trust accounts are invested but are also subject to distribution requests, careful attention must be paid to maximize investment income and provide for liquidity necessary to support authorized distributions from the account. The cash management section of the statement represents a net of the transactions in the money market fund related to purchases and sales of investments, authorized distributions and deposits to the account.

Q. What is the difference between income and additions?

A. Income represents all dividends and interest earned by the investments in the account. Additions represent funds deposited to the account, including any tax refunds or other account credits.

Q. What is included in the Miscellaneous line of the Account Activity Summary?

A. The Miscellaneous line includes only administrative fees for the account. Fees include bank fees for investment and account management activities, check fees for authorized distributions, sole trustee fees if applicable, and administrative fees for MSNT for its services. A summary of MSNT trust account administration fees can be found at <http://midwestspecialneedstrust.org/trustDocs/pdf/AdmEnrollment.pdf>.

Q. The number of trades and acquisitions varies on account statements. What explains this variability in volumes transactions?

A. The bank actively manages investment portfolios for trust accounts, including necessary transactions to maintain strategic balances in holdings and to take advantage of market trends. Consequently, when market conditions change or a portfolio requires re-balancing, the number of transactions may increase or decrease.

Q. Do the number of trades increase fees?

A. No. Acquisitions and sales of holdings do not result in increased fees. Administrative fees are calculated based on a percentage of market value and are unaffected by trade activity or volume.

Q. There are distributions in the statement that I did not authorize as co-trustee. Why?

A. MSNT processes account distributions without co-trustee authorization for the following purposes –

- *Enrollment fees at opening or activation of an account*
- *For irrevocable accounts, accountant fees to:*
 - *Assess need for tax return*
 - *Prepare the tax return*
 - *Make any tax payments, including estimated tax payments, for the Trust due to the US Treasury for federal taxes or the Missouri Department of Revenue for state taxes*
 - *Consult regarding any IRS follow-up to trust tax filings*
- *Extraordinary service fees associated with managing the account*
- *MSNT sole trustee fee (as described in the next question)*

Q. Administrative fees seem higher than expected. Why?

A. When the trust agreement does not specify a co-trustee or when all co-trustees have resigned or are no longer living, MSNT assumes responsibility as sole trustee for the account. When acting as sole trustee for an account, MSNT charges a sole trustee fee of \$360 per year, with \$30 deducted each month. The fee may be pro-rated for a portion of the quarter as appropriate for new accounts or co-trustee resignation. Prior to 2012, the fee was charged annually or semi-annually.

Q. At the death of the beneficiary or when the account is closed due to depletion of the account, will a closing account statement be prepared? Where is it sent?

A. A closing statement is prepared. When accounts are closed, the final account statement is sent to the individual designated to receive quarterly statements.