



**Midwest Special  
Needs Trust**

## **REFERENCE GUIDE FOR CO-TRUSTEES AND BENEFICIARIES**

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## **INTRODUCTION**

### **What information is included in this Guide?**

This guide is provided as a courtesy to help Co-Trustees and Life Beneficiaries understand basic requirements and processes for using a trust administered by Midwest Special Needs Trust (MSNT).

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. This guide provides important information about:

- Requesting a distribution from the trust for the sole benefit of the Life Beneficiary with a disability;
- Reporting to MSNT regarding changes in status for the Donor, Co-Trustee or Life Beneficiary;
- Reporting the trust as an exempt asset to public benefit reviewers 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/redetermination; and
- Terminating, or closing, a Special Needs Trust.

### **Cautions & Disclosures**

This guide summarizes the most important information that Co-Trustees and Life Beneficiaries may need to know. Laws, rules and regulations change over time. Requirements can be subject to change without notice. MSNT periodically mails updates to Co-Trustees. It is important to read any updates and retain them with the original trust document for future reference.

## WHAT IS A SPECIAL NEEDS TRUST?

A Special Needs Trust is a method for managing assets under which ownership of the assets is transferred by the trust creator, or Settlor, to a named Trustee. The Trustee then owns the assets and is under a duty to use the assets solely for the benefit of the Life Beneficiary named by the Settlor.

This is a very useful concept for persons with disabilities who are receiving means-tested benefits such as Supplemental Security Income (SSI) or Medicaid. Those public benefits have an income limit. Someone who earns over the income cut-off will not be eligible for benefits or, if already receiving them, will have their benefits reduced or eliminated. But by transferring ownership of assets (funds) into a Special Needs Trust, the funds are guaranteed to be used for the sole benefit of the person with a disability without it counting as income to the Life Beneficiary or affecting their eligibility for public benefit programs.

## TYPES OF SPECIAL NEEDS TRUSTS

### First Party Trusts

First Party Special Needs Trusts, also called Self Settled or Medicaid Payback Trusts, are funded with assets or resources belonging to the person with a disability. Self Settled Trusts are funded with personal injury settlements, inheritances paid directly to the person with a disability, Social Security retroactive or back payments, or conserved funds of the Life Beneficiary. This type of trust is irrevocable. At the death of the Life Beneficiary, Self Settled Trusts are subject to a 25% contribution of the remainder balance to the MSNT Charitable Trust (if applicable) and a Medicaid payback requirement.

### Third Party Trusts

Third Party Special Needs Trusts are funded with assets or resources from someone other than the Life 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 unless the Donor waives the right to revoke the trust. Upon the Donor's death, the trust becomes irrevocable. At the death of the Life Beneficiary, Third Party Trusts do NOT have a Medicaid payback requirement. Any remainder balance in the trust, after payment of allowable fees, expenses and Charitable Trust contribution will be distributed to the remainder beneficiaries designated 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 are treated differently. MSNT must use different procedures and guidelines for:

- Evaluating distribution requests for travel-related expenses;
- Trust termination procedures, since Medicaid payback is required for First Party Trusts but not Third Party Trusts; and
- Taxes related to revocable Third Party Trusts.

## **ROLES & RESPONSIBILITIES**

### **Trustee**

MSNT always serves as Trustee for all MSNT trusts. The Trustee is responsible for properly administering the trust for the sole benefit of the Life Beneficiary. State law gives Trustees responsibilities called fiduciary duties. Examples of fiduciary duties include:

- Acting in the best interest of the Life Beneficiary
- Making prudent distribution and investment decisions
- Keeping records of trust transactions
- Providing accounting 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.

### **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 legal guardian, relative, trusted friend or other service professional who is willing and capable to perform the duties of a Co-Trustee. The role of the Co-Trustee is to work with the Life Beneficiary to identify needs and with MSNT to ensure the trust is used for supplemental services and needs consistent with applicable state and federal law and the terms of the trust agreement. The Co-Trustee must approve all distribution requests by signing each MSNT

Request for Funds form. It is important they have time and organizational skills to manage correspondence regarding the trust, tax reporting and distribution requests. The Co-Trustee must provide receipts, invoices and written documentation, as well as coordinate third party vendors to provide services or goods for the Life Beneficiary.

Co-Trustees who are guardians and/or conservators are advised that the trust has a separate tax identification number and is not part of the Life Beneficiary's estate for tax purposes. See further discussion in Trust Tax Basics for Co-Trustees, page 13 .

### MSNT as Sole Trustee

MSNT will serve as Sole Trustee for trusts without a designated Co-Trustee or when the Co-Trustee resigns because they are no longer able or willing to serve. As Sole Trustee, MSNT will communicate directly with the Life Beneficiary, service provider or their legal representative to identify Life Beneficiary needs, document expenses and complete Request for Funds forms. An additional Sole Trustee fee will be applied. **(See Appendix A)**

## USING THE TRUST

### Co-Trustee Responsibilities

The Co-Trustee shares responsibility with MSNT to preserve the assets of the trust for as long as practicable for the sole benefit of the Life Beneficiary. That responsibility includes using the funds wisely, setting priorities, identifying cost-effective options, and maximizing the benefit of each distribution. Each distribution request will be reviewed in relation to past use of the trust and current and future needs of the Life Beneficiary. When the Co-Trustee signs the Request for Funds form, they are verifying:

- The distribution is for the sole benefit of the Life Beneficiary;
- The documentation is accurate and complete; and
- The distribution issued will be used as represented in the request.

If MSNT is advised of misrepresentation, misuse or misappropriation by the Co-Trustee, Life Beneficiary or other involved parties, we will take appropriate action to protect the assets of the trust and perform our fiduciary duties as Trustee. Such actions may include reports to law enforcement or other authorities.



Special Needs Trusts are important to help meet the supplemental needs of the Life 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 improve the quality of life of the Life Beneficiary.

**Before incurring expenses for reimbursement, please contact MSNT to speak with a Trust Specialist. They will assist you with questions about reimbursement, direct vendor payments and completing the Request for Funds form.**

### **Completing a Distribution Request**

To request a distribution from the trust, the Co-Trustee should complete the Request for Funds form. The form requires the following fields to be completed: name of the Life Beneficiary, trust account number, service or item(s) to be purchased, amount of request, name of payee (the person or business entity to receive payment), and address where the check will be mailed. The signature of the Co-Trustee is required and indicates approval of the distribution request. The date and contact information for the Co-Trustee is also required. One to three checks may be requested on a single request form. The Request for Funds form must be accompanied by supporting documents. If MSNT is Sole Trustee, the Life Beneficiary, legal representative or other party assisting with the request will sign and date the form, indicating contact information and relationship to the Life Beneficiary.

### **Required Documents for a Distribution Request**

Distribution requests must be supported by detailed information about the expense. If a reimbursement is requested, proof that the expense has been paid in full must be provided. MSNT is subject to audit by the Social Security Administration and state Medicaid authorities. Documentation is required to verify that distributions are permissible and for the Life Beneficiary's sole benefit.

### **Submitting a Distribution Request**

The completed Request for Funds form and associated documentation can be mailed, faxed or emailed to MSNT, using the contact information at the bottom of each form. Please make sure the form is current by periodically downloading and printing the Request for Funds form from MSNT's website:

<http://midwestspecialneedstrust.org/resources/documents-forms/>

Use of outdated forms and inaccurate contact information may cause delays in receiving a distribution. Submitting incomplete or unsigned distribution request forms or omitting required documentation will result in a denial of the request.

### Timely Distribution Requests

The following chart provides information regarding who can be paid and required documentation:

<b>Distribution Payee</b>	
<p><b>Direct Vendor payment</b> <i>Payment to the individual or agency providing the requested goods or services</i></p>	<p><b><u>Quotes/estimates:</u></b></p> <ul style="list-style-type: none"> <li>• Voided and dated itemized receipts, layaway documentation, receipts, copies of online cart checkout page OR</li> <li>• Signed and dated estimates on business letterhead or official estimate form</li> <li>• Handwritten estimates are not acceptable.</li> </ul> <p><b><u>Invoice/billing statement:</u></b></p> <ul style="list-style-type: none"> <li>• Itemized invoice or billing statement with date of purchase/service, total cost of goods/services, and type of goods/services</li> </ul>
<p><b>Reimbursement</b> <i>Payment to the individual who made a purchase or payment to a vendor for goods or services for the sole benefit of the Life Beneficiary</i></p>	<p><b><u>Required Documentation</u></b></p> <ul style="list-style-type: none"> <li>• Dated store, vendor or service provider invoice or receipt indicating the method of payment, name of the payer and verifying payment in full has been made OR</li> <li>• Copy of the check with the account holder name, address and itemized receipt with date</li> </ul> <p><b><u>Cautions</u></b></p> <ul style="list-style-type: none"> <li>• To avoid problems with reimbursement MSNT encourages the Co-Trustee to contact MSNT with questions before incurring expenses.</li> <li>• Federal policies prohibit distributions after the death of the Life Beneficiary, even when expenses are incurred before the date of death.</li> </ul>

MSNT strongly encourages submitting distribution requests within 30-45 days after expenses are incurred.

The following distribution requests are NOT eligible for payment:

- Expenses that pre-date the trust
- Purchases made and services rendered more than 90 days prior to the distribution request
- Any distribution request received after the Life Beneficiary's date of death, even if the expense was incurred prior to their death
- Return of SSI overpayments

### **Distribution Review Standards and Requirements**

MSNT applies applicable federal and state requirements to determine whether a trust distribution is allowable. Distributions are reviewed on a timely basis. The review of complex or multiple requests may take additional time.

MSNT is careful to authorize only distributions in the best interest and for the sole benefit of the Life Beneficiary; distributions approved by MSNT will not adversely affect the Life Beneficiary's public benefits. As Trustee, MSNT must preserve the assets of the trust for as long as practicable, taking into consideration the Life Beneficiary's health, life expectancy, known or anticipated lifetime needs and the balance of the trust. MSNT encourages conservative use of the trust whenever possible with an expenditure rate of 3-4% per year. Additional documentation may be requested or requests may be denied if utilization rates exceed this standard.

### **MSNT Distribution Procedures**

Once the request has been reviewed and approved, MSNT authorizes the bank to issue a check to the designated payee on the request form. Important limitations and reminders are:

- MSNT will not authorize a distribution payable to the Life Beneficiary - such a payment may be counted as income and can result in a reduction or loss of public benefits.
- Large distribution requests require review by the MSNT Board Distribution Committee.
- MSNT holiday, vacation and training schedules may affect the processing time for distribution requests.
- Mailed checks may take 7-14 days to receive.
- MSNT cannot make electronic payments or deposits to bank accounts.
- MSNT reserves the right to charge additional administrative fees for extraordinary time associated with one or more distribution requests.

### **Using a Distribution Check to Make a Purchase**

MSNT makes distributions in the form of paper checks payable to the party designated on the MSNT Request for Funds form. Trust checks are accepted by doctors, dentists, pharmacies, home health agencies and retail outlets.

The following information may be helpful to a Co-Trustee or Life Beneficiary when using a distribution check and prevent unnecessary problems or delays:

- It is advisable to contact customer service or the store manager before presenting the check at a store for the first time.
- The check is payable to the retail outlet and does not require your endorsement.
- Remove the tear away portions around the check before presenting it to the checkout cashier.
- The check is drawn on a trust, not a personal checking account and is NOT a third-party check.
- If the store uses Tele-check or another electronic verification service, the cashier must process the check as a cash transaction.
- If the store manager contacts MSNT to verify the check, we will provide verification by phone during our business hours from 8 a.m. to 4:30 p.m., M-F, (573) 256-5055 or toll free (877) 239-8055.

## **GUIDELINES FOR TRUST DISTRIBUTIONS**

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

### **ALLOWABLE**

- Medical, dental and equipment not covered by benefits
- Supplemental or support services not covered by benefits
- Rehabilitation training and therapy not covered by benefits
- Education, including tuition, books and supplies
- Prepaid burial plans
- Clothing
- Non-food grocery items, such as cleaning, personal care and hobby supplies
- Transportation expenses
- Personal property, including household goods and furnishings
- Pre-approved Life Beneficiary travel expenses
- Home modifications for accessibility or equipment for home care
- Phone, cable, internet service
- Entertainment items and events

### **NOT ALLOWABLE**

- Cash or payment to the Life Beneficiary
- Room and board or base rate for a residential facility
- Rent or mortgage payments
- Basic utilities (electric, gas, water, sewer, trash)
- Groceries, food items, or dining out
- Alcohol
- Gambling
- Weapons, firearms or explosives
- Charitable donations or gifts to others
- Anything covered by another funding source (Medicaid, Medicare, private insurance, etc.)
- Any payment after the death of the Life Beneficiary

## ADDITIONAL CONSIDERATIONS

The following are additional considerations for trust use:

**Caregiver Expenses** – Direct payment to individual caregivers is not allowable. Trust distributions will only be made to licensed agencies employing caregivers and service providers. **(See Appendix B)**

**Communication** – MSNT’s Trust Specialists are available for questions about trust related matters and to discuss public benefit requirements during our business hours from 8 a.m. to 4:30 p.m., M-F, (573) 256-5055 or toll free (877) 239-8055.

**Credit Card Statements** – Credit card statements must be submitted with itemized receipts.

**Death of the Life Beneficiary** – MSNT cannot make distributions from the trust after the Life Beneficiary’s date of death. Allowable fees, taxes, Charitable Trust contribution (if applicable), Medicaid payback and payments to remainder beneficiaries (if there is a remainder balance) are all final distributions that close the trust. Funeral expenses cannot be paid from the trust after the Life Beneficiary’s death.

**Distributions for a Vehicle Purchase** – These distributions require advance review and pre-approval by the MSNT Board Distribution Committee. The Committee will review sole benefit, preservation of trust assets, insurance coverage, driving record, legal status, and source of payment for fuel and maintenance of the vehicle. MSNT requires a security agreement and security interest in the vehicle.

**Home Modifications** – Distribution requests for home modifications require advance review and pre-approval by the MSNT Board Distribution Committee. The Committee will review each request for sole benefit, ownership, estimates, licensed contractors, permits, taxes owed and liens or loans on the property.

**Legal Fees** – MSNT requires a detailed statement from the attorney listing dates, hours and description of services provided.

**Minimum Balance** – MSNT requires a minimum balance of \$500 in a trust and will contact the Co-Trustee or Life Beneficiary regarding closure once the balance approaches this amount.

**Pre-paid Burial and Funeral Plans** – An irrevocable funeral plan can be purchased with trust funds and qualifies as an exempt asset. The contract must comply with state Medicaid requirements that it be non-refundable, non-transferable and non-convertible, i.e., cannot be converted to cash. These distributions may require review by the MSNT Board Distribution Committee.

**Sole Benefit** – Trust distributions cannot be made for the benefit of other parties including spouse, children, parents or others. According to the SSA, the proceeds of a Special Needs Trust can only benefit the named Life Beneficiary. Therefore, requests made for distributions that would benefit other parties will be denied or divided by the number of people involved.

**Spendthrift Clause** – The Co-Trustee or Life Beneficiary cannot obligate the trust assets for payment of any financial obligation, such as collateral for a loan.

**SSI OR SSDI Payments** – SSI/SSDI monthly benefits cannot be deposited into a Special Needs Trust in the month they are received. A retroactive/back payment can be deposited when received. However, if SSA erroneously overpays the Life Beneficiary, SSA cannot be paid back using a distribution from a Special Needs Trust.

**Travel** – Please call MSNT to discuss future travel expenses. Frequency of travel, cost and other information will be reviewed. **(See Appendix C)**

**Trust Distributions for Minor Children Living with a Parent** – MSNT evaluates parental support obligations when reviewing trust distributions for minor Life Beneficiaries.

## **TRUST ACCOUNT FEES**

A description of fees and the fee summary for trust administration are provided when each trust is opened. MSNT Administrative fees are subject to change without notice and current administrative fee schedules are posted on the MSNT website at:

[www.midwestspecialneedstrust.org/resources/fees/](http://www.midwestspecialneedstrust.org/resources/fees/)

## APPEALS OF MSNT DISTRIBUTION DECISIONS

MSNT reviews the information provided by the Co-Trustee (or Life Beneficiary if MSNT is Sole Trustee) to determine the appropriateness of the distribution and ensure compliance with applicable federal and state rules and regulations.

- If a distribution request is denied or reduced, MSNT will mail a written denial to the Co-Trustee or Life Beneficiary (if MSNT is Sole Trustee).
- At any point, the Co-Trustee or Life Beneficiary (if MSNT is Sole Trustee) may contact MSNT's Trust Specialist for an informal review.
- The Co-Trustee or Life Beneficiary (if MSNT is Sole Trustee) or legal counsel may appeal a decision to the Executive Director in writing.
- The Executive Director will provide a written reply.
- If the Co-Trustee or Life Beneficiary does not agree with the Executive Director's decision, they may appeal in writing to MSNT's Board. The Board will review the appeal and respond in writing. The Board's decision is final.

## ADDITIONAL DEPOSITS TO MSNT SPECIAL NEEDS TRUSTS

Additional deposits in the form of a check or money order can be made to an established trust. MSNT cannot accept cash. Checks should be made payable to: *MSNT fbo Sally Smith* OR *Sally Smith Special Needs Trust*. Mail checks to:

Midwest Special Needs Trust  
P.O. Box 7629  
Columbia, MO 65205

MSNT will mail a deposit receipt once the funds are deposited in the trust. Consider the following when making a deposit to an existing trust:

- SSI or SSDI monthly benefits cannot be directly deposited to a Special Needs Trust in the month they are received. A retroactive or back payment can be deposited when received.
- Life Beneficiary and Donor funds cannot be combined in the same trust. Life Beneficiary funds create First Party trusts; Donor funds create Third Party trusts. Please contact MSNT with any questions regarding new funds for an existing trust.



## INVESTMENTS

MSNT makes investment decisions for all trusts with balances of \$10,000 or less. The Settlor elects to make all investment decisions or elects MSNT to direct investment decisions when the trust balance exceeds \$10,000. If the Settlor elects to make all investment decisions, they may contact MSNT to make investment changes no more frequently than every 90 days. The Investment Change Form is available by request.

Investment portfolio models are described on MSNT's website and performance information is updated quarterly.

## TRUST TAX BASICS FOR CO-TRUSTEES<sup>1</sup>

### First Party Trust Taxes

MSNT obtains a trust tax identification number when an irrevocable trust is opened. First Party trusts are always irrevocable and have a separate taxable entity. MSNT contracts with an accounting firm to review all irrevocable trusts to determine if a tax return is required and, if required, to prepare tax returns.

For tax accounting purposes, MSNT may require additional information about the source of funds for the initial deposit. Co-Trustees should promptly provide MSNT with any tax forms or notices received which relate to the initial deposit to the trust. These forms may include a Schedule K-1 or 1099.

MSNT uses the trust tax identification number when filing state and federal trust tax returns. Tax preparation fees are paid by the trust and reported on the trust account statement. At the death of the Life Beneficiary, MSNT may be required to file a final tax return for the trust.

The accounting firm will generate a Schedule K-1 if required. Upon receipt, MSNT immediately mails the trust's Schedule K-1 to the Life Beneficiary or Guardian. The Life Beneficiary is responsible for filing their own personal tax returns. The Trust's Schedule K-1 should be provided to the tax advisor for the Life Beneficiary's personal tax returns. MSNT recommends filing personal tax returns after receiving the Trust's Schedule K-1 to avoid having to file an amended return.

***<sup>1</sup>Co-Trustees and Life Beneficiaries should consult with a tax professional regarding personal tax matters.***

### Third Party Trust Taxes

Third Party Trusts are usually revocable trusts. The income for revocable trusts is taxable to the trust Donor(s). The banking partner mails the 1099s directly to the Donor each year for the Donor's personal tax preparation. If the tax preparer requires more detailed information, the Donor may contact MSNT.

Third Party Trusts become irrevocable at the time the Third Party Trust Donor waives the right to revoke or at the death of all Donor(s). All irrevocable trusts are a separate taxable entity and MSNT is responsible for filing the returns. MSNT contracts with an accounting firm to review all irrevocable trusts, determine if a tax return is required and prepare tax returns.

For tax accounting purposes, MSNT may require additional information about the source of funds for the initial deposit. Co-Trustees should promptly provide MSNT with any tax forms or notices received which relate to the initial deposit to the trust. These forms may include a Schedule K-1 or 1099.

## MSNT REPORTS FOR CO-TRUSTEES

### Account Statements

One quarterly trust account statement will be mailed to the Co-Trustee, Life Beneficiary or legal representative 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 recipient should review the statement for accuracy and contact MSNT with any questions. A fact sheet to help understand the format and contents of the quarterly trust account statement is included. **(See Appendix D)**

### Trust Agreement Amendments

MSNT, as Trustee, may amend the trust as necessary to comply with applicable federal and state statute, regulation and policy requirements. MSNT will send written notice of amendments to Co-Trustee, Life Beneficiary or legal representative.

## **PUBLIC BENEFITS & TRUST REPORTING**

It is important for the Co-Trustee to understand what public benefits the Life Beneficiary receives in order to maintain eligibility. Special Needs Trusts are designed to protect the Life Beneficiary's means-tested public benefits such as Social Security Supplemental Security Income (SSI) and the state Medicaid program. The Co-Trustee should be aware of the following requirements related to the trust and how the trust is evaluated by public benefit representatives for eligibility purposes.

### **Trust Reporting for Medicaid and Supplemental Security Income (SSI)**

When the Life Beneficiary applies or is reviewed for public benefits such as Medicaid or SSI, the Special Needs Trust **must** be reported as an asset. Federal rules define a properly administered Special Needs Trust as an exempt asset, which means the trust value will not be included in the asset limit established for the program. Failure to report the trust may result in denial of eligibility, the receipt of overpayment notices or other penalties.

### **Public Benefit Reviews**

The Co-Trustee, Life Beneficiary, guardian, representative payee or others should contact MSNT immediately after a notice is received from Social Security or the state Medicaid program. It is important to adhere to their established deadlines to ensure benefits are not denied or interrupted during the review. Contact MSNT immediately with the name, title and contact information of the public benefit representative. MSNT requires at least 10 business days to compile and submit the information to the appropriate parties. To ensure the trust qualifies as an exempt asset, the public benefit representative will request additional information about the trust and a copy of the trust agreement. Once notified, MSNT will compile trust related information and send to the appropriate agency as a part of a review or reinvestigation/ redetermination.

### **Other Public Benefits Programs**

MSNT will also provide information for other public benefit programs, such as housing assistance, food stamps or rental subsidies. These programs may have different policies than SSA or the state Medicaid program. If a Life Beneficiary receives benefits in addition to Medicaid and SSI, the Co-Trustee should advise MSNT so distribution practices can be adjusted to protect all public benefits for the Life Beneficiary.

### Public Benefit Denials, Adverse Action and Appeals

When the Life Beneficiary, Co-Trustee, representative payee, legal guardian or other legal representative is advised in writing of denial of benefits, or receives an adverse determination, the Life Beneficiary or legal representative should follow instructions in the letter and request a review or hearing to maintain appeal rights. MSNT should be notified immediately with a copy of the written notice submitted for review. If the denial or adverse determination relates to the trust, MSNT will provide additional information to the Life Beneficiary or legal representative to submit to the agency for the appeal hearing. MSNT cannot represent or provide an attorney for the Life Beneficiary during the appeal.

### TERMINATION OR CLOSURE OF A SPECIAL NEEDS TRUST

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

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

### Terminating a Trust

The termination process requires 30-60 days to complete and may take longer in some instances. The Co-Trustee will receive a final trust account statement with all closing transactions. The most common reasons for terminating a trust are low balance and the death of the Life Beneficiary. The following information explains each:

### **Low Balance Termination**

MSNT requires a minimum balance of \$500 in each trust. Once the trust balance approaches \$500, the Donor, Co-Trustee, or Life Beneficiary is notified and additional funds may be deposited. If additional funds are not available, MSNT initiates termination procedures.

- **First Party Trust:** MSNT notifies their banking partner, tax preparers, and the Medicaid Cost Recovery Unit in each state from which the Life Beneficiary has received benefits. 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 Unit does not make a claim or claims less than the full balance, the remainder funds are paid to the Life Beneficiary.
- **Third Party Trust:** MSNT notifies their banking partner and tax preparers that the trust is being terminated due to low balance. Federal regulation allows payment of administrative fees, tax preparation expenses, trust taxes due (if applicable), and the distribution to the Charitable Trust (if applicable). MSNT distributes the remainder funds in accordance with the trust agreement.

### **Terminating at the Life Beneficiary's Death**

The Co-Trustee is responsible for notifying MSNT of the death of the Life Beneficiary as soon as possible. **MSNT requires a copy of the Life Beneficiary's death certificate to initiate termination procedures and cannot approve distribution requests after the death of the Life Beneficiary.**

- **First Party Trust:** MSNT notifies their banking partner, tax preparers and the Medicaid Cost Recovery Unit in each state from which the Life Beneficiary has received benefits. Federal regulation allows payment of administrative fees, tax preparation expenses, trust taxes due (if applicable), and the distribution to the Charitable Trust (if applicable). MSNT processes Medicaid payback to all states on a prorated basis. Once all fees and claims are paid, MSNT distributes any remainder balance to remainder beneficiaries in accordance with the terms of the trust agreement.
- **Third Party Trust:** MSNT notifies their banking partner and the tax preparers of the Life Beneficiary's death. Federal regulation allows payment of administrative fees, tax preparation expenses, trust taxes due (if applicable), and the distribution to the Charitable Trust (if applicable). Once all fees and claims are paid, MSNT distributes any remainder balance to remainder beneficiaries in accordance with the terms of the trust agreement.

*Reference Guide for Co-Trustees and Beneficiaries*



## MIDWEST SPECIAL NEEDS TRUST GLOSSARY OF TERMS

The following definitions are provided as a resource for Co-Trustees, Life Beneficiaries and their representatives. Their purpose is to improve communication with Midwest Special Needs Trust. MSNT's intent is to ensure the 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.

**Co-Trustee** – The person designated in the trust agreement responsible for working with MSNT, the Trustee. This person is responsible for making appropriate distribution requests that will increase the quality of the beneficiary's life by supplementing public benefits or other available resources.

**Disability Designation** – MSNT accepts written verification of disability by Social Security for Supplemental Security Income (SSI) and/or Social Security Disability Insurance (SSDI).

**Distribution** – Disbursement of trust funds for the sole benefit of the Life Beneficiary that will not impact public benefits.

**Donor** – The person whose resources fund the trust, also called Settlor.

**Exempt Asset** – Any resource of the Life Beneficiary that is *not* counted as an available resource by Social Security or state Medicaid authorities and will not disqualify the recipient's public benefits.

**Fiduciary Duties** – A Trustee or Co-Trustee has a broad range of responsibilities and obligations to the Life Beneficiary as written in the trust agreement, state and federal law. A partial list of general fiduciary duties includes proper and prudent administration of the trust, recordkeeping, duty to inform, safekeeping of assets and loyalty to the interest of the Life Beneficiary.

**First Party Trust** – An irrevocable trust created with the assets of the Life Beneficiary. This trust must include a provision for Medicaid payback to qualify as an exempt asset by Medicaid and Social Security. It is also called a self-settled trust.

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

**Life Beneficiary** – The person with a disability for whom the trust is established.

**MSNT Charitable Trust** – By state statute, MSNT is required to establish a Charitable Trust for the benefit of impoverished persons with disabilities. MSNT is permitted by state and federal statute, as stated in the terms and conditions of the trust agreement, to retain a portion of the trust remainder funds when the Life Beneficiary is deceased and the trust terminates.

**Master Trust** – The MSNT trust agreement to be used for both First and Third Party Trusts. The Master Trust is kept current to conform to applicable state and federal laws.

**Medicaid Payback** – A first party special needs trust established with assets of the person with a disability is considered an exempt asset. The trust remainder at closing is subject to claim by any state Medicaid program for medical expenses paid for the Life Beneficiary during their lifetime.

**Program Operations Manual System (POMS)** – The policies established by the Social Security Administration (SSA). MSNT applies SSA policy to protect the Life Beneficiary's public benefits.

**Public Benefits** – Assistance to an individual that may include Supplemental Security Income (SSI) from the Social Security Administration; Medicaid coverage as administered by the state agency responsible for the program; SNAP (food stamps; Section 8 (housing assistance); etc.

**Remainder Beneficiary** – The person(s) or entity named by the Settlor in the trust agreement to receive remainder funds when the trust is closed and allowable expenses and fees are paid.

**Revocable** – A revocable trust allows the Settlor or Co-Trustee, as authorized in the trust agreement, to withdraw or terminate the trust by written request.



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

**Settlor** – See definition for **Donor**.

**Sole Benefit** – A trust must be administered only for the benefit of the Life Beneficiary based on criteria established by SSA and outlined in **POMS**. Other parties cannot benefit from distributions from the trust as SSA may determine a loss or reduction in the monthly cash benefit and/or make overpayment demands.

**Sole Trustee** – If no Co-Trustee is named in the trust agreement, MSNT will serve as Sole Trustee. The same applies if all Co-Trustees and successor Co-Trustees are unwilling, unable or unavailable to serve.

**Special Needs Trust (SNT)** – A trust, when properly structured and administered consistent with state and federal requirements, considered an exempt asset and will not affect eligibility for public benefits.

**Third Party Trust** – A trust established for a Life Beneficiary with the assets of a third party. This type of trust does not require Medicaid payback at termination.

**Trust Administration Fees** – Charges to the trust account for trust administrative services provided by MSNT and its contract agents. MSNT Administrative fees are subject to change without notice and current administrative fee schedules are posted on the MSNT website at:

[www.midwestspecialneedstrust.org/resources/fees/](http://www.midwestspecialneedstrust.org/resources/fees/)

**Trust Agreement** – The legal document that sets forth the terms and conditions of the individual trust. The trust agreement is also called the Declaration of Trust.

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



## MSNT Sole Trustee Fact Sheet

### **Q. When does MSNT serve as Sole Trustee?**

#### **A. MSNT serves as Sole Trustee –**

- When no Co-Trustee(s) are designated in the trust agreement by the Settlor(s);
- When the designated Co-Trustee(s) resign or are deceased.

### **Q. What is the fee for MSNT to serve as Sole Trustee?**

A. MSNT charges an annual fee of \$360 to serve as Sole Trustee. This fee is charged at \$30 per month and prorated using the date the account was opened and the closing date when the account is terminated.

### **Q. How does the Life Beneficiary request funds from their trust when MSNT is Sole Trustee?**

A. In order to request a distribution from the trust, the Life Beneficiary must complete and submit the MSNT Request for Funds form:

[www.midwestspecialneedstrust.org/special-needs-trust/resources/documents-forms/](http://www.midwestspecialneedstrust.org/special-needs-trust/resources/documents-forms/)

The form requires the following fields to be completed: name of the Life Beneficiary, service or item(s) to be purchased, amount of request, name of payee, and address where check will be mailed. One to three distributions may be requested on a single request form. The Life Beneficiary or other party assisting with the request will sign and date the form, indicating contact information and relationship to the Life Beneficiary.

The Request for Funds form must be accompanied by supporting documents. These documents may include actual billing statements or invoices. For estimates or price quotes, provide voided and dated itemized receipts, layaway documentation, copies of online cart checkout pages, signed and dated estimates on business letterhead or official estimate forms; handwritten estimates are not acceptable. If estimates are used, a copy of the itemized invoice or receipt with date of purchase/service, total cost of goods/services, and type of goods/services **must be submitted to MSNT after the purchase is made**. MSNT strongly advises the Life Beneficiary to retain all originals and submit copies.

### **Q. What if the Life Beneficiary needs assistance completing the Request for Funds form?**

A. A guardian, friend, family member, case worker or caregiver may assist the Life Beneficiary by completing the Request for Funds form or contact MSNT for assistance.

### **Q. What are the requirements related to the use of special needs trusts?**

A. Special needs trusts are important to help meet the supplemental needs of the Life Beneficiary not covered by their monthly cash benefit, Medicaid, Medicare or other health insurance. They cannot be used for rent/housing, basic utilities or food. When coordinated with public benefits and other community resources, a special needs trust may be helpful to improve the quality of life of the Life Beneficiary. Distributions can only be made for the sole benefit of the Life Beneficiary. MSNT recommends you contact us with distribution questions prior to submitting your first Request for Funds form. A list of allowable items can be found in the Guide for Co-Trustees and Beneficiaries on page 9.

**Q. Can a check be made payable to the Life Beneficiary for an allowable distribution?**

*A. No checks will be written payable to the Life Beneficiary. Issuing checks payable to the Life Beneficiary may result in a reduction or loss of public benefits. MSNT can make checks payable to third parties (i.e., the store where goods will be purchased, a doctor providing services or an individual who made the purchase for the Life Beneficiary). If requesting an individual reimbursement, please contact MSNT with questions.*

**Q. What action does the Life Beneficiary take if a request is denied?**

*A. MSNT mails a denial form to the Life Beneficiary when a request is denied. The form indicates the reason for denial. The Life Beneficiary and/or a representative may contact MSNT for consultation about the denial. See page 12 of the Guide for Co-Trustees and Beneficiaries for Appeals process.*

**Q. Is the Life Beneficiary required to report the trust to Social Security or Medicaid?**

*A. Yes, the Life Beneficiary is required to report their Special Needs Trust to all public benefit authorities. (Note this is not something that MSNT does even when there is a Co-Trustee; it is always the Life Beneficiary's responsibility, although a person serving as Co-Trustee might be asked to assist.). The Life Beneficiary must contact MSNT to request documentation for Social Security, Medicaid or other reviews.*

## **MSNT Caregiver Payment Procedures**

Trust funds may not be used to pay individual caregivers directly. MSNT will only authorize trust distributions to appropriately licensed home health agencies, professional services or private practitioners that have a corresponding corporate registration and tax EIN.

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 caregiving 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 payment of social security taxes, workers' 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. It is not feasible for the trust to serve in the capacity of Employer; and to otherwise make direct distributions to caregivers would jeopardize the Life Beneficiary's public benefits.

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

When medically appropriate and consistent with the functional needs of the Life Beneficiary, MSNT will authorize payments to agencies that employ and supervise caregivers. The agency invoice can serve as the documentation for the distribution request. The distribution payment must be made directly to the agency.

Also note:

- MSNT may also require documentation such as time sheets that verify hours worked and the nature of the services provided to the Life Beneficiary.
- 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. Any arrangements for paying professional practitioners 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 caregiving firms are available to provide the necessary infrastructure to comply with federal requirements.

### MSNT Allowable Travel Expense Distributions

Expense	Allowable for 1 <sup>st</sup> Party Trusts	Allowable for 3 <sup>rd</sup> Party Trusts
<b>Travel</b>		
Life Beneficiary travel expenses <b>ONLY</b> <ul style="list-style-type: none"> <li>• Transportation</li> <li>• Lodging</li> <li>• Entertainment</li> </ul>	<b>Yes, payable with supporting documentation</b>	<b>Yes, payable with supporting documentation</b>
Life Beneficiary meals during travel	<b>No</b>	<b>No</b>
Cash or payment to Life Beneficiary	<b>No</b>	<b>No</b>
Family member travel expenses to accompany or assist Life Beneficiary	<b>No</b>	<b>Yes</b>
Licensed medical professional (non-family member) to accompany Life Beneficiary, recommended by physician and documented in Life Beneficiary's service plan or medical records	<b>Yes</b>	<b>Yes</b>
Agency-based caregiver to accompany Life Beneficiary, recommended by physician and documented in Life Beneficiary's service plan or medical records	<b>No</b>	<b>Yes</b>
<b>Travel for Other Parties to Visit the Life Beneficiary</b>		
Family or close friend travel expenses <ul style="list-style-type: none"> <li>• Transportation</li> <li>• Lodging</li> </ul>	<b>Yes Must meet SSA requirements*</b>	<b>Yes</b>
<p><b>*Applies to reimbursements to others for allowable expenses when <u>both</u> criteria listed below are met –</b></p> <ul style="list-style-type: none"> <li>• The trust Life 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 (i.e., ISL, RCF, or Group Home);</li> </ul> <p><b>AND</b></p> <ul style="list-style-type: none"> <li>• The visit is for the purpose of ensuring the safety and/or medical well-being of the Life Beneficiary.</li> </ul>		

*Reference Guide for Co-Trustees and Beneficiaries*





## **MSNT Account Statement Fact Sheet**

### **OVERVIEW**

The account statement is made up of the following sections:

- Account Statement Header
- Account Activity Summary
- Investment Portfolio Summary
- Transaction Statement
- Portfolio Statement
- Ending Balance

### **ACCOUNT STATEMENT HEADER**

The Account Statement header includes the trust name, account number and statement dates. The mailing address is typically that of the Co-Trustee for the trust account. Contact information for MSNT is also provided in this section.

### **ACCOUNT ACTIVITY SUMMARY**

The Account Activity Summary provides a review of the quarter and a year-to-date column with year-to-date (YTD) totals. The summary shows the beginning market value and changes of income, additions, distributions, fees, market value and the ending market value. The section on the right indicates realized capital gains and loss information. Detail for each summary line is included later in the statement in the Transaction Statement section.

### **INVESTMENT PORTFOLIO SUMMARY**

The Investment Portfolio Summary shows the percentage of the account holdings 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.

### **TRANSACTION STATEMENT**

The Transaction Statement provides detail for all transactions of the quarter, including purchases, cash management, income, additions, distributions, fees and the ending balance.

### **PORTFOLIO STATEMENT**

The Portfolio Statement provides specific detail about investments including ticker symbol, shares, total market/total cost, market price/cost price, estimated annual income and current yield. The last line is a total of all portfolio assets.

## Account Statement Frequently Asked Questions

### **How often will I receive an account statement?**

Account statements are issued on a quarterly basis for each quarter in a calendar year. The account statement should arrive by mail approximately 2-3 weeks after the quarter ends.

### **Who will receive the trust account statement?**

Typically, the account statement is sent to the Donor for revocable Third Party trusts and to the Co-Trustee for First Party trusts and irrevocable Third Party trusts. If no Co-Trustee is designated, the Life Beneficiary will receive the statement.

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

If you do not receive your account statement by the end of the month following the quarter's end, contact MSNT to arrange for a duplicate statement.

### **What does the Miscellaneous line of the Account Activity Summary include?**

The Miscellaneous line includes administrative fees for the account. Fees include bank fees for investment and account management activities, tax preparation fees, check fees for authorized distributions, sole trustee fees if applicable, and MSNT administrative fees. MSNT Administrative Fees Summary can be found at:

[midwestspecialneedstrust.org/resources/documents-forms](http://midwestspecialneedstrust.org/resources/documents-forms)

### **What affects the number of trades and acquisitions on account statements?**

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.

### **Do the number of trades increase fees?**

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.

### **What is cash management?**

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. Because trust accounts are invested but are also subject to distribution requests, careful attention must be paid so as to maximize investment income and yet also provide for the liquidity necessary to support authorized distributions from the account.

### **What is the difference between income and additions?**

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.

### **At the death of the life 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 closing statement is prepared. When accounts are closed, the final account statement is sent to the individual designated to receive quarterly statements.