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**How to Get Medicaid Despite Having “Excess Income” --  
 Using a Supplemental Needs Trust to Eliminate the Spend-down for Persons who  
 are Elderly (65+), Blind or Disabled**

**The Problem:** Medicaid requires elderly, blind, and disabled persons to “spend down” their income to the Medicaid levels -- \$787 for singles and \$1137 for couples (2009).<sup>1</sup> The amount that their income exceeds these levels, after they have paid for Medicare Part B and any other health insurance premiums, is called the “spend down.” Every month, they must first incur medical bills in an amount that equals their “spend down” to qualify for Medicaid. Some people may be able to meet their “spend down” by using bills other than their current regular monthly medical bills.<sup>1</sup>

Since living costs are so high in New York, no one can live at the Medicaid levels. So the “spend-down” is a huge burden and makes it impossible for many people to get Medicaid.

**The Solution:** People who are disabled of any age may enroll in the “Supplemental Needs Trust” sponsored by the NYS Association of Retarded Children or “NYSARC.” The Trust is open to any person who is “disabled” as defined by the Social Security laws, not just retarded children. When one joins this Trust, one agrees to deposit with the Trust each month the amount of their “spend down.” Once the trust documents are signed, and the local Medicaid program approves the client’s enrollment in the Trust, Medicaid will change the budget so that the client has NO SPEND DOWN. The client requests the Trust to pay certain bills, such as rent, mortgage, electric, etc. from the money the client sends in each month. This is explained more below.

**EXAMPLE:** Sally is age 67. Her gross Social Security is \$1525.50. Her Medicare Part B premium of \$96.40 (2009) is deducted from her check, so she receives \$1429.10. She also pays for an AARP Medigap policy of \$ 390/quarter or \$ 130/month. Her spend-down calculation is:

|                     |                 |   |
|---------------------|-----------------|---|
| <u>Total Income</u> | 1525.50         | Gross Income                            |
|                     | - 96.40         | Medicare Part B premium                 |
|                     | - 20.00         | Disregard for aged, disabled (standard) |
|                     | <u>- 130.00</u> | AARP -- <u>Medigap premium</u>          |
|                     | <u>- 246.40</u> | TOTAL DEDUCTIONS                        |
|                     | 1279.10         | Countable net income                    |
|                     | - <u>767.00</u> | Medicaid level for ONE (2009)           |
|                     | <b>512.10</b>   | <b>Spend-down</b>                       |

<sup>1</sup> These numbers include a disregard of \$20/mo. per household of unearned income, for disabled, aged and blind applicants.

### Monthly Expenses

|                                   |                                       |
|-----------------------------------|---------------------------------------|
| Rent                              | \$650                                 |
| Con Ed                            | 40 (average)                          |
| Phone                             | 60 (average)                          |
| AARP Medigap                      | 130 (was deducted in Medicaid budget) |
| Food                              | 280                                   |
| Transportation                    | 50                                    |
| Cable                             | 50                                    |
| Clothing, household, leisure, etc | <u>240</u>                            |
| TOTAL                             | \$1500                                |

#### **A. HOW MUCH TO PUT INTO THE TRUST --**

**The Bare Minimum** -- If Sally joins the trust, and deposits \$512.10 each month into the trust, once Medicaid approves it, she will have NO spend-down.

**Strategy Tip #1 —How much should she put in the trust each month if she wants the trust to pay her rent?** If she puts her exact spend down of \$512.10 into the trust, \$50 is deducted for NYSARC's fee, leaving \$462.10 for her bills. She can have NYSARC pay \$462.10 of the rent and she would pay the balance to the landlord. Alternately, she can put \$700 into the trust which would include the \$50 fee and the \$650 rent. This would mean that she wouldn't have to have her rent paid to the landlord in 2 payments - one by the SNT and a supplement by her.

**Strategy Tip #2 -- Extra benefit of the Trust - Become eligible for the Medicare Savings Program (MSP)** -- An extra benefit of joining the Trust to eliminate spend-down is that by reducing one's "countable" income, one also becomes eligible for one of the Medicare Savings Programs (formerly the "Buy-In") - QMB, SLIMB, or QI-1. These programs pay the Medicare Part B premium which is \$96.40 in 2009. That savings, for most people, offsets the NYSARC monthly fee - see below. Many clients will come out ahead. For the asset and income limits, and more info on these programs, see <http://tinyurl.com/W393P>

An added benefit of joining an MSP is that MSP enrollees are deemed eligible for the Low Income Subsidy for the Medicare Part D Drug program that began Jan. 1, 2006. Others will have to apply for this subsidy, adding one more barrier for drug coverage.

**SALLY EXAMPLE** -- If Sally wants to be in the MSP, and have no spend-down, she should increase her monthly deposit to NYSARC by \$96.40 to \$608.50. This is because once Medicaid starts paying her Part B premium through the MSP, her Social Security check will increase by \$96.40. As a result, her spend down will also increase by \$96.40. She will be eligible for QMB because her income will be within those limits.

If you are applying for Medicaid and also for an MSP, you can only receive QMB or SLIMB. One may not be in the QI-1 program and also have Medicaid, with or without a spend-down.

On the regular Medicaid application (LDSS-2921), check off on page 1 that you are applying for both Medicaid and a Medicare Savings Program. However, if you forget to check off the MSP, the Medicaid office should evaluate eligibility anyway. See GIS 05/MA033, at <http://tinyurl.com/L7AUSK>.

If you don't want Medicaid, but just want to qualify for QI-1 or another MSP to get the Medicare savings and for eligibility for Extra Help for Part D, you would only put into the trust the amount of income that exceeds the QI-level (\$1,190 for singles in 2008, \$1,595 for couples).<sup>2</sup> Use the Medicare Savings Program application DSS-4592.<sup>2</sup> There is no asset limit, so no asset documentation is required. A fair hearing decision found that an SNT can be used to qualify for an MSP. FH No. 4399513P (Judy Kaslow, Nassau-Suffolk Law Services)(posted on wnylc.net)

**Strategy Tip #3 – Don't reduce spend-down to ZERO – reduce it to a nominal amount – even a few dollars. Why?** In 2005, Medicaid in NYC and gradually other parts of the state began a new managed care program called "Medicaid Advantage."<sup>3</sup> These health care plans combine both Medicaid and Medicare services in one plan – requiring that members limit their health care under both Medicaid and Medicare to those providers contracted with the plan. Historically, access to care under these plans is more limited than in fee-for-service Medicaid and Medicare. Though enrollment in these plans is voluntary, marketing efforts by plans may induce people to enroll without really understanding what it means. PEOPLE WITH A SPEND-DOWN ARE EXCLUDED -- they are not allowed to enroll. Keeping a small spend-down can ensure that the person does not inadvertently enroll in these plans.

**Strategy Tip #4 (WARNING) – Impact of New Transfer of Asset Rules effective Feb. 8, 2006**

The federal Deficit Reduction Act, signed into law on Feb. 8, 2006, potentially creates bad consequences of payments into a pooled trust made by people over age 65. Many people don't realize that the nursing home transfer of asset rules penalize not only transfers of *assets* but also transfers of *income*. As long as you remain in the community, "transfers" of monthly income into a trust do not affect your Medicaid eligibility.

However, if a person who had been using the NYSARC trust enters a nursing home, transfers of excess income into the trust made on or after Feb. 8, 2006 may be treated as a TRANSFER that has a PENALTY.

Under the new law, the penalty period first starts at the time of nursing home placement, which may be as many as five years after the income was placed in the Trust. This may disqualify seniors from Medicaid for nursing home care for an extended period of time in the future.

However, the New York State Dep't of Health issued guidance that using a Pooled SNT in the manner described above will not result in a transfer penalty for Medicaid coverage of nursing home care.<sup>4</sup> However, in order to avoid the transfer penalty, the individual must be careful not to allow the balance of their NYSARC account to accumulate. If the individual needs Medicaid coverage of nursing home care in the future, the amount of money remaining in the NYSARC account that has not been spent on rent and other expenses will be deemed a transfer of assets, and a penalty imposed.

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<sup>2</sup> These amount incorporate the \$20/mo. unearned income disregard for each household.

*EXAMPLE:* If Sally sends \$512.10/mo. to NYSARC, but only uses the trust to pay her ConEd, phone, and cable bills (totaling \$150/mo.), then she will be adding to the balance of her account by \$312.10/mo. (\$512.10 – \$50 fee – \$150 in disbursements = \$312.10). If she has done this for 5 years before going into the nursing home, then Medicaid will see this as a transfer of assets totaling \$18,726.00 (\$312.10 x 60 months = \$18,726.00). This will result in an approximately two month penalty period, during which Medicaid will not pay for her nursing home stay. The other \$200/mo. that Sally was transferring to NYSARC does not count as a transfer of assets because it was “compensated” – that is, she got something in return for it (payment of bills).

To avoid this situation, make sure to pay enough expenses via NYSARC so that the only money remaining on account at the end of the month is the one-month security deposit (see below).

For more information on these new rules, see <http://wnylc.com/health/entry/38/>.

## **B. Fees for joining the NYSARC Trust**

1. **Initial payments:** As of Jan. 1, 2006, the initial funds to establish the account **must be “guaranteed” (cashier’s check, money order or certified check** drawn on client’s bank account). Future payments can be made by personal check. The initial payment must include the following:
  - A. **AN INITIAL \$200 NON-REFUNDABLE FEE** – NYSARC keeps this fee, even when client leaves trust (dies or goes into a nursing home). No expenses may be paid from this fee.
  - B. **DOUBLE INITIAL DEPOSIT** – When you first enroll, you must send NYSARC a payment for TWO months of the spend-down amount. The reason for this is that ONE MONTH’s spend-down must always be on deposit with NYSARC. This is NOT available for payment of client’s expenses. NYSARC will only pay expenses from money over and above the \$200 fee PLUS one month’s spend down payment. (See example below, with some options if cannot afford all this at once.)
2. **ANNUAL \$50 FEE** – As of May 1, 2006, NYSARC also charges an annual \$50.00 accounting fee that is deducted from each client’s account each July. This fee applies to the prior year’s audit & tax work. Therefore, accounts established prior to Dec. 31, 2007 would be charged the fee in July of 2008. Accounts established in 2008 would not be charged the fee until July of 2009.

3. **MONTHLY FEE** – NYSARC deducts a monthly fee according to a sliding scale of the amount deposited. Effective June 1, 2008, the fees are<sup>5</sup>:

| Monthly deposit  | Monthly fee       |
|------------------|-------------------|
| Under \$ 350     | \$ 30             |
| \$351 - \$ 500   | \$ 40             |
| \$501 - \$ 700   | \$ 50             |
| \$701 - \$ 950   | \$ 60             |
| \$951- \$ 1200   | \$ 75             |
| \$1201- \$ 1600  | \$ 90             |
| \$1601 - \$ 2000 | \$120             |
| \$2001 - \$ 2500 | \$150             |
| \$2501 - \$ 3500 | \$180             |
| \$3001 - \$3500  | \$210             |
| \$3501 - \$4000  | \$240             |
| \$4001 and above | Contact<br>NYSARC |

***FEE Examples*** -- Fees for Sally (from page 2)- If Sally joins in July and wants NYSARC to start paying her expenses for July, she must send in a guaranteed check for at least:

$$\underline{\text{TOTAL}} = 2 \times \text{monthly spend-down} + \$200$$

$$\$1417.00 = 2 \times \$608.50 + \$200 \text{ (If she wants to join an MSP)}$$

OR

$$\$1224.20 = 2 \times \$512.10 + \$200 \text{ (Without joining an MSP)}$$

In the above example, Sally is sending her July spend-down to NYSARC, but must also send in an extra \$200 + an extra month's spend-down. If she does that, NYSARC can pay her July expenses from the 2<sup>nd</sup> month spenddown, after deducting the \$50 monthly fee.

### **WHAT IF YOU CANNOT AFFORD THIS LARGE PAYMENT UP FRONT?**

NYSARC will let you spread out the initial payment described above over two months. However, they will not pay your expenses out of any funds *until* they have on deposit the \$200 fee plus one month's spend-down. They will only use funds over and above that amount to pay your expenses. NYSARC will also open an account with an initial payment of only \$300, applying \$200 towards the fee plus \$100 towards the spend-down. So -- Sally may just send in \$300 the first month, and then send the balance (\$1117 with MSP, \$924.20 without) in the second month. However, NYSARC will not pay any of her expenses until the full two months' spend-down are on account.

Note that if you stretch the initial deposit over 2 months, the monthly fee must still be paid for each of these 2 months.

NYSARC will NOT reimburse a family member or charity if they directly pay the double deposit. If they pay rent or other expenses for the client, however, they will reimburse them from the client's funds once enough is deposited for them to start paying. This could be a solution for payment of rent or other expenses for the first months when the double deposit must be paid. Of course, the reality is that because of the double deposit requirement, if she is someone who needs all of her income each month to meet her expenses, there will be no "extra" money left to reimburse them. In the example, if Sally sent \$300 in July, then the balance in August (\$1117), NYSARC won't pay any expenses in July. The full August check will be available for her expenses, minus the monthly fee of \$50. If she has money left over after her August expenses are paid, NYSARC could reimburse her daughter if she paid Sally's rent or other expenses in July.

### C. How do you enroll in the NYSARC trust?

1. Fill out the "Joinder Agreement" which you can download at <http://wnylc.com/health/file/36>.

Pages 2 – 6 are a "Beneficiary Profile." Client's signature is required on page 6.

Pages 7 – 11 are the Joinder Agreement. The joinder agreement must be notarized on page 11. NOTE: This form was revised 2/25/08. Earlier versions without a notarized signature are no longer be accepted.

*Capacity to sign pages 6 and 11* – If client lacks mental capacity to sign it, then either a parent, grandparent, or legal guardian must sign it, or someone who has client's power of attorney, but only if the power of attorney specifically authorizes establishment of a trust. *Note that the standard power of attorney forms do not include this clause.*

2. Notes about completing the Joinder Agreement.

*Terminology* – "Donor" or "beneficiary" on the form means the client - in question 1 on pp. 2 and 7, for example.

Page 3, Question 4 – "Is the purpose of establishing this account to shelter monthly income? Answer: YES!! The form asks for an estimate of the monthly payment.

Page 5, Question 9 – "Relationship of donor to beneficiary?" Answer is "Self" or "same." This is to distinguish this type of trust, funded by the disabled beneficiary for herself, from those where a third party is using his or her own money to set up a trust for the disabled beneficiary.

Page 5, Question 11 – NYSARC requires you to list a social worker, case manager, lawyer, or someone who will help you submit the Trust to Medicaid and get it approved.

3. Send the notarized agreement to NYSARC with the double deposit fee (see above). Must be "guaranteed" payment (cashier's check, money order or certified check. NYSARC now has a checklist for what you need to send them,

which must be signed by the donor. Posted at <http://wnylc.com/health/file/35> on page 4.

4. When NYSARC signs the agreement and sends it back to you, they will give you a packet that will include forms for submitting monthly bills, instructions for sending in the monthly deposit, and their procedures. They will tell you when you may start submitting bills. Each month, send the spend-down as instructed. Send it every month even if you are not yet on Medicaid, and while the Medicaid application is pending. Otherwise, the reduction in your spend-down will not be retroactive.

NYSARC forms and procedures and Q & A all posted at <http://wnylc.com/health/14/>

#### **D. How do you get Medicaid to approve the Trust and reduce the spend down?**

1. WHERE to deliver it -- If you are already on Medicaid with a spend down, send by certified mail or hand-deliver a copy of the trust, after it is signed by NYSARC and the client, to the Medicaid or CASA office where you applied.<sup>3</sup> If you are near the renewal or recertification of your Medicaid, you can send it with your renewal/recertification forms.

##### **INCLUDE:**

- The Master Trust agreement
- The Joinder agreement signed by you and NYSARC
- Proof of what payments you have submitted to the Trust (you can ask NYSARC to fax you a Verification of Deposits; Medicaid will accept this)
- A cover letter asking Medicaid to reduce your spend-down to ZERO (or the amount you have chosen). Also state that you want to enroll in the Medicare Savings Program, if you are applying for that. (See above). The letter must also address the proof that you are disabled, described below.
- Copy of the State and NYC directives on Trusts. See endnote 6.
- HIPAA forms - See <http://wnylc.com/health/file/56> and <http://wnylc.com/health/file/63>.
- A sample cover letter is posted at <http://wnylc.com/health/file/64>.

2. PROVING THAT YOU (THE BENEFICIARY) ARE "DISABLED"<sup>6</sup>

If you are under 65, or if you are over 65 and were disabled before you reached age 65, then include proof from Social Security that you now receive disability benefits or that you received them before you were 65.

If you are age 65 or over, you must include in this letter proof that you are disabled. It is not enough to submit the M11q form or to be elderly or receiving home care. It may seem very obvious that you are disabled, but Medicaid must still make the formal determination.

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<sup>3</sup> If you receive home attendant (personal care) in NYC, the CASA offices are listed at <http://wnylc.com/health/file/27>. If you receive Medicaid but not home attendant care, the Medicaid offices are listed at <http://tinyurl.com/BKE6WY>. You can also notify Medicaid by enclosing this documentation with your next recertification.

If you received Social Security Disability before reaching age 65, Medicaid will accept a letter from the SSA District Office stating:

- (1) the date the disability application was filed
- (2) the date as of which the claimant was found to be disabled
- (3) the date of the medical decision of disability
- (4) the fact that the claimant continued to receive disability benefits until retirement age
- (5) the fact that SSA "never made a decision that your disability ceased"
- (6) the fact that at retirement age "we processed a mandatory conversation of benefits to a retirement basis"

If client did not receive Social Security Disability before reaching age 65, she must submit both of these two forms:

- **DSS 486T** to be filled out by your doctor. It is 25 pages. The doctor must complete and sign the first 2 pages. The other pages are attachments for specific impairments. The doctor only needs to fill in those attachments that apply to you. Procedures are still being finalized, but Medicaid officials have said that only the attachments that pertain to the client, filled out by the MD, must be submitted. Medicaid/CASA workers have required submission of the whole 25-page 486T, but this should change. See <http://wnylc.com/health/file/60>
- **DSS 1151** which you fill out to show your educational and work experience. See <http://wnylc.com/health/file/61>

For people over age 65, the rules for proving disability are complicated. See more information on pp. 26 - 29 of the outline at <http://wnylc.com/health/entry/5/>

A sample cover letter to Medicaid for people over age 65 is at <http://wnylc.com/health/file/64>. Be sure to point out that the spend-down should be reduced to -0- (or the amount you select) effective in the month the client joined the Trust. But make sure the client keeps sending NYSARC the spend-down amount in every following month, in order for the spend-down to be zero in each month retroactively.

3. **TIMING FOR NEW MEDICAID APPLICANTS** – It takes a long time for Medicaid (at least in NYC) to process the trust, especially if the person is over age 65 and they need to determine disability. Advocates have different strategies for dealing with this delay. If you need Medicaid right away, you might prefer that the application be processed initially without the Trust. If you do that, the application will be approved initially with a spend-down, but at least you'll have Medicaid sooner. You can accomplish this result in two ways.

- (1) Don't submit the NYSARC documents with your application – wait to submit them after the Medicaid application is accepted with a spend-down.

If you have already joined the trust and are paying into the trust, however, and you want the spend-down to be reduced retroactively back to the date you started putting money into the trust, some advocates believe you must

disclose the Trust with the application as a relevant document. For this reason, some people wait to join the Trust until after the Medicaid application is decided, even though the spend-down won't be reduced retroactively back to the date of the application.

- (2) Submit the Trust documents with the Medicaid application, and ask Medicaid to process the application with a spend-down first, and then process the Trust later. NYC Medicaid officials have said this is possible, but many staff in the CASAs and Medicaid offices don't seem to understand this.

When you decide which road to take, keep in mind that the spend-down will only be reduced retroactively back to the month in which the trust was accepted and you made your first payment to the Trust. You must show that you made payments for all subsequent months if you want the spend-down to be reduced for these months.

If Medicaid initially approves your application *with* a spend-down, before processing the Trust, your home care or other Medicaid services will begin more quickly. Home attendant recipients will be billed by the home care vendor for the spend-down while Medicaid is processing the Trust. Since you are sending your spend-down to the Trust, you cannot pay the vendor. You should explain to the vendor that the spend-down will eventually be reduced to -0-. Assure the agency that you will advise them when the trust is approved *and* that you will make sure the approval is retroactive. At that time, the vendor can bill for the previous months back to the date of application. While this creates a cash flow problem for the vendor, most vendors understand and are happy that the spend-down will eventually be eliminated.

**4. CHECK NOTICE AND REQUEST HEARING IF NECESSARY.** Make sure the notice has:

- The correct spend-down amount. Should be -0- or whatever figure you choose based on how much you deposit).
- The correct effective date of the reduced spend-down. It should be retroactive to the month when you first deposited money into the Trust.
- Approved you for the Medicare Savings Program, if you requested it. (this may be in a separate notice).

If any of these points are incorrect, request a hearing. While the hearing request is pending, try to resolve the issue with the CASA or Medicaid office. (Call the Medicaid director at the CASA or their supervisor. List at <http://wnylc.com/health/file/27>. In the NYC CASA system, Wanda Peakes is supervising SNTs. 212-360-5456. Sheila Greene is reportedly supervising them for non-CASA NYC cases. 212-630-1993.

**E. What bills may NYSARC pay?**

NYSARC may pay your rent, mortgage, maintenance, utility bills, credit card bills, as long as it makes the payments directly to the landlord or other third party. *NYSARC may not give you money directly.* Such in-kind payments are not considered "income"

for Medicaid purposes, regardless of what the payments are for. 18 NYCRR § 360-4.3(e).

*Rent or mortgage payments* are the ideal expense for NYSARC to pay, since NYSARC may set up an automatic monthly payment.

NYSARC will not put you on automatic payment of rent or mortgage until you have been enrolled and paid in your spend-down for 3 months. So during the first 3 months you must make individual disbursement requests for your rent or mortgage. After that, ask for automatic payment. See the NYSARC Information Packet for more information: <http://wnylc.com/health/file/35>.

Though NYSARC may pay bills only for the benefit of the trust beneficiary (the client), and NOT for her family members or friends, payments that incidentally benefit a third party may be permissible, such as rent where the client's spouse benefits from the payment. You need NYSARC's permission to pay expenses that benefit a third party, such as paying the expenses for a travel companion of the beneficiary, or travel expenses for a close family member to visit the beneficiary.

Any other bills must be sent each month to NYSARC for payment, even utility bills put on a budget plan with fixed monthly payments.

Client must send bills each month to the Trust, except for rent or mortgage put on direct payment. Client may not ask the utility company or other vendor to send bills directly to the Trust.

NYSARC permits a family member or other individual who paid for a client's expense, such as paying rent or buying clothing, to be reimbursed if receipts are submitted. However, they should contact NYSARC to get approval BEFORE making the expenditure to assure reimbursement

*Credit cards* - NYSARC will pay credit card bills, provided that the bill is in the client's (beneficiary's) name, and that there are no past due charges being carried forward. The actual monthly bill must be submitted for the Trust to verify that no cash withdrawals were made. The Trust has the right to inquire whether the expenses were for the benefit of the beneficiary, not for anyone else.

The trust may not pay expenses of anyone other than the client who signed the agreement. Although an exception once existed for gifts to family or friends (if pre-approved, non-cash, and costing under \$75), NYSARC has decided that it will stop paying for gifts effective June 13, 2006. Nor can donations be made from the trust.

*Funeral expenses* - NYSARC may pay for a *pre-paid* funeral agreement while the client (beneficiary) is *alive*. Client may enter an installment plan for a funeral agreement with a funeral home, and submit monthly installment bills to NYSARC to pay.

*NYSARC may NOT pay for funeral expenses after the client (beneficiary) dies.*

**F. Are there other Trusts besides the NYSARC trust?** People under age 65 may also set up their own individual Trust, but probably need a lawyer to do this. People over age 65 may only use a “pooled” trust run by a non-profit. Of the pooled trusts in NYS, NYSARC has the lowest fees. Most trusts require a minimum deposit of assets of \$10,000 - \$75,000. The Lifetime Care Fund for the Jewish Disabled (which is not limited to Jews) has no minimum asset requirement but has a slightly higher fee. See list of pooled trusts <http://wnylc.com/health/entry/4/>

**G. What happens if the spend-down changes once you have joined the NYSARC trust?** If the spend-down decreases, you should notify NYSARC of this fact. It will reduce the amount you are required to have on deposit (the double spend-down) and may reduce the monthly fee. If the spend-down increases, then you must increase your “security deposit” - the one month’s spend-down you must have on deposit at all times.

#### **H. How does client/ beneficiary leave the Trust?**

*The client leaves the trust when she dies.* Money left in the trust when the client dies stays in the trust for the benefit of other disabled persons. It may NOT be inherited by the client’s family or heirs. Also, after the client’s death, the trust is very limited in what expenses it may pay for the client. The trust may NOT pay funeral costs after the client’s death. The trust may NOT pay debts owed to third parties, such as paying off a mortgage, credit card debts, etc. The trust also may NOT pay taxes due upon death, nor fees for administration of the estate. However, the trust MAY pay the client’s current expenses at the time of her death, such as the rent and current bills.

*The client leaves when she is admitted to a nursing home or enrolls in the Lombardi program.* The type of Medicaid budget used in these settings does not allow one to deposit income into a trust to eliminate the spend down. Once she enters a nursing home or Lombardi, she would stop making any further deposits. She can still submit expenses requests to NYSARC to use up any remaining funds.

The client may leave any time by stopping making any further monthly deposits. But if she does that, her spend down will go up. The spend down is reduced only as long as she makes monthly deposits. At annual recertifications, Medicaid will request proof that these deposits are being made.

NYSARC, Inc. must be notified in writing of any change in participation of the trust in order to free up the remaining one month security deposit.

