

Step-by-step guide to enrolling in a pooled income trust for Medicaid spend-down

This article is a condensed road-map for using a pooled income trust to eliminate the Medicaid spend-down.

NEW June 2022 - Big Changes in NYC - See STEP TWO and STEP Three below - NEW DISABILITY forms required!

DOWNLOAD OUR our longer FACT SHEET on this topic (updated May 2023 to reflect 2023 figures)(Spanish translation 2022) .

A pooled income trust is a type of Supplemental Needs Trust operated by a non-profit organization for the benefit of many people with disabilities. There are many Pooled SNTs in New York, with different minimum deposits, fees, and policies. Thus, the process of enrolling in a pooled trust varies by organization.

There are two main steps to enrolling a Pooled trust in order to reduce the surplus or spenddown.

- **STEP ONE** is to enroll in the trust.
- **STEP TWO** is to submit the trust with other required documents to the Medicaid program, requesting that the Medicaid program change your budget to reduce your surplus or spenddown. A social worker, attorney, or someone else familiar with Medicaid should help you submit it to the Medicaid program.
 - ◆ **Per HRA Medicaid Alert June 30, 2022, in NYC at least, you no longer submit the Proof of Disability documents at this time. Those will be submitted in STEP THREE. You only submit a new DISABILITY DETERMINATION REQUEST FORM MAP-3177.**
- **STEP THREE** - Submit the Disability documents to the NYS Disability Review Team.
- **STEP FOUR** - Follow-Up and Ensuring Medicaid Re-Budgeting Done Correctly

Step One - Enroll in a Pooled Supplemental Needs Trust

TIMING - Some people apply for Medicaid first with a spend-down, and then enroll in a pooled trust while the Medicaid application is pending. The reason for this strategy is that approval of the trust delays processing the application. This way, if you apply without the trust, you'll have a spend-down but can at least get services started. Then submit the trust and request rebudgeting. Alternatively, if you submit the trust with the application, under the law, Medicaid has 90 days to approve the application and the trust if the applicant is age 65+ so likely requires a determination that the applicant is "disabled." The 90-day limit is based on federal regulations. If no disability determination is required

because the consumer receives Social Security Disability benefits, the approval should be done within 45 days. Either way, expect the approval to take longer!

Generally, to enroll in a pooled trust involves submission of the following:

1. **Joinder Agreement**, filled out and signed before a notary public

UPDATE ABOUT USE OF POWER OF ATTORNEY TO Sign the Joinder Agreement :

GIS 20 MA/03 - Clarification of GIS 19 MA/04. "Clarification of Policy for Treatment of Income Placed in Medicaid Exception Trusts" -- rescinds the requirement from GIS 19 MA/04 that a Power of Attorney may be used to establish an SNT or pooled trust only if it has a Statutory Gift Rider. See [more about this change here](#).

2. **Copy of beneficiary's Social Security Award Letter**, showing the type of benefit received (e.g., Retirement, Disability, Survivor's) and the claim number (Social Security number). If you [request an Award Letter from the SSA website](#), you can specify which information you want it to include (e.g., Medicare eligibility dates, date of birth). It is recommended to include all available information on the Award Letter.
3. **Guaranteed funds** (cashier's check, certified check, or money order) payable to pooled trust organization for the initial deposit. The amount varies by [trust](#).

For help determining the appropriate amount to contribute each month to eliminate your spend-down and obtain the Medicare Savings Program, you can use [this Excel worksheet](#).

Once approved, the pooled trust organization will send you the documents you will have to send to Medicaid to get your spend-down rebudgeted. One of these is a "Verification of Deposits" or VOD verifying that you deposited your spend-down for at least one month. You must deposit the spend-down every month.

Step 2 - Apply for Medicaid Home Care - and Submit the Pooled Trust Documents and Proof of Disability

Next, apply for Medicaid with a spend-down. In New York, certain categories of Medicaid applicants can get Medicaid health coverage even though their income is over the income limit. Those who receive Medicaid home care services can "meet" their spend-down by getting billed for their home care. They will get billed for the amount by which their income exceeds the applicable income limit (e.g., a single person with \$1,900/mo. countable income would get billed \$168/mo [$\$1,900 - \$1,732 = \168])(2024). It is those clients who are unable to afford to pay this bill who are most appropriate for a Pooled SNT. [Read this memo for more information on eligibility for Medicaid home care](#).

Note about Timing of Submission of Trust -- If you choose to submit the trust documents along with your Medicaid application, federal regulations give Medicaid 90 days to approve the application with the trust. (In NYC a [settlement](#) in a class action called [Garcia v.](#)

Banks requires approvals in 90 days, but only if trust submitted with the application).

- In your cover letter you can ask Medicaid to initially approve your application with a spend-down, and to process the trust separately after your application is approved. This way you can enroll in a Managed Long Term Care plan right away, or if you've applied based on "Immediate Need," start receiving home care services right away.
- Eventually, you will ask Medicaid to reduce your spend-down to zero retroactively to the month you began contributing to the trust. For this to work, you must continue sending your contribution to the trust every month.
- However, once you are approved for Medicaid homecare with a spend-down, you will be expected to pay your spend-down to your Managed Long-Term Care plan every month, which you will be unable to do because you're sending it to the trust. You can explain to the plan that your spend-down will eventually be retroactively reduced to zero, and therefore the plan will be able to back-bill Medicaid for the spend-down.

WHERE to submit application and trust documents: During the pandemic Public Health Emergency, NYC HRA is requesting all documents to be submitted by fax.

- To submit the Medicaid application with the pooled trust documents -
 - ◆ fax to **917-639-0732** (for general public)
 - ◆ fax to 917-639-0731 (for C-Rep Authorized Representatives only)
- If you already have Medicaid and are now submitting the pooled trust - FAX to Surplus Income Program 917-639-0645 or to 917-639-0837. Or email to undercareproviderrelations@hra.nyc.gov by secure email. Whether you use fax or email, include signed **Form 751w** (also available in various languages [here](#))(check box for Pooled Trust on page 3)

WHAT documents to submit to reduce your surplus or spend-down because you are depositing income into a pooled trust.

There are two things you have to show to the DSS: 1. that you are enrolled in an SNT (and making contributions), and 2. that you are disabled:

1. Proof of SNT

1. Master Trust Agreement
2. Joinder Agreement, signed by both you and the trustee (See STEP ONE above - if using a Power of Attorney to sign a Joinder Agreement on behalf of the applicant, a Statutory Gift Rider is no longer required)
3. Verification of Deposits made to the pooled trust
4. Acceptance Letter by Trust

- 2. HIPPA Form** - OCA Official Form 960 - NY State HIPAA -Submit one signed copy authorizing HRA/DSS to discuss the case with the submitter of the trust paperwork. Unclear if also need to submit Form MAP 751E (Authorization to Release Medical Information) See Medicaid Alert from April 9, 2019.

3. **Form 751w** - In NYC, submit the MAP-751W if the consumer already has Medicaid. Be sure the client signs the form. (Check off "Pooled Trust" and "Budget for New Trust Submission" on page 3). (The MAP-751W is also posted in languages other than English in this [link](#)).

4. Request for Disability Determination

1. If you have been approved for either SSDI or SSI benefits on the basis of a disability, then all you have to send to prove disability is a copy of your SSA Award Letter stating that you are disabled. If you demonstrate that you have been approved for either SSDI or SSI benefits on the basis of disability in this way, then you do not need to prepare any of the forms in Step 3 below.
2. If you have not been approved for SSDI or SSI you need to **ask NYS for a disability determination**. Effective June 1, 2022, the procedure has changed. HRA announced that now you only need to submit a completed **DISABILITY DETERMINATION REQUEST (FORM MAP-3177)** with the above documents. This form is posted on [NYC HRA Health Assistance webpage](#) in many languages:

English

Espanol

Russian - Д Н Н Д°Д,Д¹

Traditional Chinese - ㄘ¹ é« ä_–

Simplified Chinese ㄘ® ä½ ä_–æ

Arabic - Ø\$Ù Ø¹Ø±Ø¨Ù Ø©
- í êµ-ì´

Haitian Creole - Kreyol Ayisyen

Korean

B-à¹-à¹³⁄⁴à¹ à¹²à¹³⁄⁴
Francais

U (Urdu?) Ø\$Ø±Ø¨Ù

Polski

This change was announced in the **NYC HRA Medicaid Alert June 30, 2022 - Disability Determination by NYS Disability Review Team (DRT) - Change in Forms Required**

Now, instead of submitting the rest of the disability forms to HRA or your local DSS, you only submit the trust and the MAP-3177 form. HRA or your DSS will make a referral to the NYS Disability Review Team. You should start gathering the rest of the documents listed below so that you are ready to submit them right away to the Disability Review team.

5. **COVER LETTER** - If you are submitting the Trust along with a Medicaid application, be sure to say whether you want DSS to approve the case initially WITH a spend-down, and not wait for the trust to be approved. Otherwise the application may take 90 days to approve. You should also **ask for client to be enrolled in the Medicare Savings Program (MSP)**, to have the Medicare Part B premium paid by the State. Just as the SNT will bring your income under the limit for Medicaid, it will also reduce it under the limit for the MSP. [Click here for more information about this program](#).

STEP 3 - SUBMIT DISABILITY DOCUMENTS to the NYS DISABILITY REVIEW TEAM (DRT) WHEN REQUESTED

Here are the documents that the NYS Disability Review Team will request that you submit:

1. **Medical Report for Determination of Disability. -NEW DECEMBER 2021 - DOH FORM 5143** replaces the DSS-486T - See Dec. 2021 HRA Medicaid Alert.

This form must be filled out by your doctor(s). **NOTE:** The 486T form revised in June 2012 shortens this form from a 25-page form to a one page form, which will be less intimidating to doctors. The old form consisted of numerous attachments that elicited information about the different body systems, such as a musculoskeletal or cardiac impairments. Those attachments, while burdensome, were helpful to show the criteria for "meeting the listings"-- Step Three in the sequential evaluation process described in this article. While no longer required, you might find some of these attachments helpful as a guide for the physician to provide information about particular conditions. Click here for the old 486T.

2. **One year of Medical Records** -- See January 2013 HRA Medicaid Alert stating that applicable medical records must be included with 486T form.
3. **NEW AUGUST 2021 - DOH-5139 - Disability Questionnaire** (Rev. 1/2021 - replaces the DSS-1151 form. See HRA Alert 8/12/2021). This form can be filled out and signed by a social worker or family member
4. **HIPPA - DOH-5173 (4/2016) - State HIPPA form for pooled trusts** - The August 2021 HRA Medicaid Alert does not say how many to submit but suggested that consumer complete and sign one for each medical provider, and sign 3 blank copies as well. The Alert also doesn't give a link to download the form but it is at <https://www.health.ny.gov/forms/doh-5173.pdf>.
5. **Cover Letter**

- ◆ Enclose a cover letter to explain why your client should be determined to be disabled. You can use this sample cover letter as a starting point. You should customize it to apply to your specific impairment(s) and the information in the forms.
- ◆ Use the NYS Medicaid Disability Manual as a guide, which explains the "sequential evaluation process" for determining disability, has the Listing of impairments, and other information.

• Government Directives

- ◆ It may help to enclose also copies of the Federal, State, and local directives instructing DSS workers how to process SNT cases.

STEP FOUR - Follow-Up and Ensuring Medicaid Re-Budgeting Done Correctly

If you have submitted the SNT and disability documentation to your DSS along with the Medicaid application, it should take 90 days maximum to approve the application with the trust. In NYC, the Garcia v. Banks settlement requires this. If you submitted the SNT separately after submitting the Medicaid application, they will typically take many months to process this information. You should eventually get a written notice stating that your Medicaid case has been rebudgeted with no spend-down. Make sure that the **effective date** of this notice is correct - it should be the month that you first began contributing your excess income to the trust. If it is not correct, you may have to request a Fair Hearing to appeal the notice ([click here to request a hearing](#)).

As you can see, this is one of the most complicated things you can do involving Medicaid. Many people find that it is worth hiring a [private elder attorney](#) or [geriatric care manager](#) to help with this process. Some [free legal services](#) may be available to help, also. For more in-depth information on SNTs, including how an SNT affects eligibility for other public benefits, see our [Training Outline for Advocates](#).

TROUBLESHOOTING - Each local Medicaid office may have contact people to troubleshoot problems.

In NYC - here are suggested contacts within HRA. CAUTION: Time limit to request a hearing can run out, even when you are trying to informally advocate. Keep your eye on the deadlines!

HOME CARE CASES - where client seeking or has MLTC or CASA personal care or CDPAP, Medicaid app and trust documents filed with Home Care Services Program (HCSP) at 785 Atlantic Avenue, 7th Floor, Brooklyn, NY 11238 or by fax

- Yvette Poole-Brooks poolebrooksy@hra.nyc.gov TEL. (929) 221-2493 Fax (718) 636-7848
- Or email hcspinquiries@hra.nyc.gov - use encrypted mail or password-protected attachment.

NON-HOME CARE CASES - Medicaid application and trust filed in "regular" Medicaid office or Spend-Down unit

- Pooled Trust Unit -- 785 Atlantic Ave., 5th floor, Brooklyn NY 11238

TEL (929) 221-0868/69 Fax (718) 636-7720 ([updated June 2016](#))

- E-mail undercareproviderrelations@hra.nyc.gov - use encrypted mail or password-protected attachment.
- Pooled Trust unit is part of Centralized Surplus Division [as of June 2016](#)

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