

HOW TO USE A POOLED INCOME TRUST OR SUPPLEMENTAL NEEDS TRUST TO REDUCE YOUR MEDICAID “EXCESS INCOME” OR SPEND-DOWN (AGE 65+/DISABLED)

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WHO NEEDS A POOLED INCOME TRUST [“PIT”]?

People age 65+, blind, or disabled can get Medicaid if they have limited assets and income under: **\$1,732 for singles** and **\$2,351 for couples** (2024).¹

Income over these levels, after deducting the cost of Medicare Part B and other health insurance premiums, is the “spend-down” or “surplus income” or “excess income.” Every month, one must first incur new medical bills that equal the “spend-down” to qualify for Medicaid for that month.² New applicants may meet their “spend-down” by using older bills incurred in earlier months.³ A pooled income trust (PIT) can eliminate the need to spend-down excess income. People *under age 65* who are disabled may use an individual

¹ \$20/mo. per household of gross *unearned* income for disabled, aged and blind applicants is disregarded, along with over *half* of *earned* income. Some special higher income limits and disregards may reduce the spend-down— see <http://www.wnyc.com/health/entry/222/>. For info about asset limits see <http://health.wnyc.com/health/download/2/>.

² May use current medical expenses not paid by Medicaid or Medicare, including current over-the-counter expenses that a doctor prescribes as medically necessary. See <http://wnyc.com/health/download/70/>. And https://www.health.ny.gov/health_care/medicaid/excess_income.htm.

³ New applicants for Medicaid can meet the spend-down with:

- old *unpaid* and unreimbursed medical bills they still owe and *paid* bills for medical care received within the 3 months before they applied for Medicaid and
- the amounts that EPIC or ADAP paid for their prescription costs up to three months before they applied for Medicaid, in addition to the co-payments the client paid for these programs. See links In fn. 2.

Supplemental Needs Trust (SNT) instead of a PIT. Those 65 and older must use a PIT. The terms SNT and PIT are used interchangeably in this memo.

Why does Someone With Medicare need Medicaid – so may need a Pooled Trust?

1. Medicaid provides **long-term home care and the Assisted Living Program**, which are not paid for by Medicare, and which is very expensive when paid for out of pocket.
2. With Medicaid you automatically get **Extra Help**, the Low-Income Subsidy that reduces costs of your Medicare Part D drug plan.
3. Medicaid also subsidizes some other **Medicare costs**.
4. Starting 2023, the income limit for Medicaid is the same as for the **Qualified Medicare Beneficiary (QMB) Medicare Savings Program (MSP)**. This now saves a beneficiary \$174.70/mo. for the Part B premium (2024) and much more. See below.

EXAMPLE – HOW SPEND-DOWN IS CALCULATED

Sally is age 67. Her gross Social Security is \$2,978.45 per month. Her Medicare Part B premium of \$174.70 (2024) is deducted from her check, so she receives **\$2,803.65**. She also pays for an AARP Medigap Plan N policy of \$240.75/mo. Sally's spend-down calculation is:

<u>Total Income</u>	\$2,978.45	Gross Income
- 174.70		- Medicare Part B premium (2024)
- 20.00		- Disregard for aged, disabled (standard)
<u>- 242.75</u>		- <u>AARP - Medigap premium (Plan N)</u>
	- 437.45	TOTAL DEDUCTIONS
	<u>2,541.00</u>	Countable net income
	- <u>1,732.00</u>	- Medicaid level for ONE (2024)
	\$ 809.00	Spend-down or Excess Income - monthly

Sally's rent is \$1900. Her utilities, phone, cable, food, transportation, clothing, household costs eat up all of her income. She can't afford her \$809 spend-down! A pooled trust can help her keep all of her income to pay her expenses – and still get Medicaid and MSP! See below.

The Solution: People of any age who are disabled – including 65+ -- may enroll in a pooled "Supplemental Needs Trust" sponsored by a non-profit organization. There are many pooled trusts in New York State. This fact sheet uses one trust—operated by the Center for Disability Rights (CDR)—as an example.⁴ Pooled Trusts are open to any person who is "disabled" as defined by the Social Security law. When you join the Trust, you agree to deposit with the Trust each month the amount of your "spend-down." Once the Trust documents are signed, which you submit with lots of other documents to the local Medicaid program, Medicaid will change the budget so that the consumer has NO SPEND-DOWN. The Trust pays certain bills, such as rent, mortgage, electric, etc. from the money the client sends in each month. See more below.

⁴ Unofficial list of pooled trusts in New York at <http://wnylc.com/health/entry/4/>.

NOTE ABOUT TWO FACTORS AFFECTING RENEWALS in 2024. First, in 2023, the Medicaid income limits increased from 82% to 138% of the Federal Poverty Line. The spend-down is re-determined in the annual “renewal” using the new income limits. This may mean a lower spend-down for those who obtained Medicaid before 2023, allowing them to reduce their deposit to the trust or even to close their trust account. **Second**, renewals were not processed at all during the Public Health Emergency (PHE) since March 2020, but started again in spring 2023. All Medicaid recipients will go through a renewal between spring 2023 and spring/summer 2024, during the “unwinding” of the PHE. You can use this fact sheet to estimate their spend-down. If their spend-down will increase in this renewal, they should increase their PIT deposit and submit verification of that new amount with the renewal. If they have a spend-down for the first time in the 2024 renewal, the best practice is to enroll in the trust and submit the trust documents along with the renewal.

For more on the “unwinding” of the Public Health Emergency see <http://www.wnyc.com/health/news/90/> and <http://health.wnyc.com/health/news/86/>.

STEPS FOR ENROLLING IN A POOLED TRUST

There are five steps to enroll in and submit a pooled trust to Medicaid, explained below with forms available here: <http://www.wnyc.com/health/entry/44/>. The steps are:

1. Choose and Enroll in a Pooled Supplemental Needs Trust (SNT)
2. Decide How Much to Deposit into the Trust
3. Submit Trust Documents and Request for Disability Determination to HRA/ local DSS– with the Medicaid application if not already on Medicaid
4. Upon request, Submit Disability Documents to State Disability Review Unit
5. Follow-Up and Ensure Medicaid Budgeting Is Done Correctly

✓ **STEP 1 – Choose and enroll in a Pooled Supplemental Needs Trust**

The first step is to **choose and enroll in the pooled SNT**. There are [many Pooled SNTs in New York](#) - see <http://www.wnyc.com/health/entry/4/>. Most pooled SNTs have a list of documents on their website, including FAQs and Procedures which you should read before enrolling. Look at their fees as well, which vary.

Using the Center for Disability Rights (CDR) trust as an example, here is what you need to send CDR to enroll. All forms can be downloaded – see link in CDR entry on the list of trusts found at <http://www.wnyc.com/health/entry/4/>. All trusts have different enrollment fees and forms.

- Beneficiary Profile & Joinder Agreement - Fill out and sign – CDR and most trusts require the agreement by notarized. A legal guardian or person with Power of Attorney (POA) may sign the form if the POA authorizes it. This form may ask you how much you plan to deposit into the trust every month. For that – see **STEP 2** below.
- Disbursement/Withdrawal Form - For every expense that you want the trust to pay, you need to submit one of these forms and attach proof that the amount is due (e.g. a copy

of your lease, monthly utility bill, credit card statement). See more about what expenses trusts will pay in Q&A page 11-12.

- **ACH Request Form** - If you want CDR to make automatic withdrawals from your bank account each month in the amount of your monthly SNT contribution, you can specify the day of the month that the withdrawal is made.
- **FEE** - Enrollment funds (check or money order) - Payable to CDR (minimum initial deposit is \$240 but see below for advice about how much to send for your full monthly contribution).⁵
- Most trust organizations will take about 2 weeks to process your application and send you an Acceptance Letter. Keep that handy because you will need it in **Step Three**.

✓ **STEP 2 - Decide How Much to Deposit into the Trust**

The Bare Minimum – Actual Spend-down amount. At a minimum, deposit your actual spend-down. For example, if Sally (example on page 2 above) deposits \$809 each month into the Trust, once Medicaid approves it, she will have NO spend-down. With this option, CDR keeps \$20 as a monthly fee, and \$789 is available for the trust to pay her bills.

Strategy Tip #1: Enough to pay full rent: It may make sense to put enough in the Trust each month for the Trust to pay rent. If Sally puts her exact spend-down of \$809 into the Trust, after the \$20 monthly fee, the Trust can only pay \$789 of her \$1900 rent. She would pay the balance separately to the landlord. Alternately, she can deposit \$1920 in the trust, which would include the \$20 fee and the \$1900 rent. Caution: Some trusts, such as NYSARC, have a fee scale with higher fees for higher monthly deposits. The convenience of having the trust pay the whole rent may be worth making a larger monthly deposit.

Strategy Tip #2: Extra benefit of the Trust - Medicare Savings Program (MSP) – The pooled trust deposit not only reduces one’s “countable” income for Medicaid, but also for the Medicare Savings Program. Once enrolled in an MSP, Medicaid pays her Part B premium, and her Social Security check will increase by \$174.70 (2024). Because the Part B premium is no longer deducted from her income, her spend-down will increase by \$174.70. If she deposits that amount into the trust, more of her income can be used to pay her bills. This savings more than offsets the monthly Trust fee. If Sally wants QMB *and* to have no spend-down, she should increase her monthly trust deposit by \$174.70 to \$983.70. She may be depositing extra anyway so that the trust can pay her rent.

Two Medicare Savings Programs (MSP) in NYS – QMB & QI-1 -- Which One for You? A third program – SLIMB --was eliminated in 2023. See <https://tinyurl.com/NY-MSP-MRC>.

1. **QMB** (Qualified Medicare Beneficiary) is for people who also *want* Medicaid.
2. **QI-1** is for people who *do not want* Medicaid and only want their Part B premium paid.

⁵ Every trust has different fees. For example, see the NYSARC Community Trust II Fee Schedule – updated Jan. 2024 - https://www.nysarctrustservices.org/download_file/6/144/ and NYSARC online fee calculator at <https://www.nysarctrustservices.org/nysarc-trusts/pooled-trusts/community-trust-ii/>. See other trusts at <http://www.wnylc.com/health/entry/4/>.

In addition to paying the Medicare Part B premium, both MSP's also qualify the consumer for the **Extra Help** subsidy for Medicare Part D prescription drugs. Even if you don't want Medicaid, it may be worth enrolling in a PIT to enroll in QI-1. Since Sally wants Medicaid, she would enroll in QMB. QMB (but not QI-1) has the extra benefit of covering Medicare cost-sharing for Part A and Part B services – in Original Medicare and Medicare Advantage --but it only pays providers who are enrolled in Medicaid. See more about QMB cost-sharing help at <http://health.wnylc.com/health/entry/94/> and MSP info at <http://wnylc.com/health/entry/99>.

**** MSP PIT TIP:** If you deposit the extra \$174.70 to the SNT, then when you submit the trust to Medicaid, you will be retroactively enrolled in MSP once the trust is approved. You will be reimbursed for the Part B premiums you paid while contributing to the SNT. You must continue making your deposit in the SNT every month while the trust is awaiting approval at the Medicaid office.

**** APPLICATION TIP WITH MSP:** On the Medicaid application, write across the top of the first page that the client is applying for both Medicaid AND QMB. The Medicaid office is required to screen the client for QMB anyway, but it helps to remind them. See GIS 05/MA-033, at <http://tinyurl.com/L7AUSK>. If trust is being submitted in **NYC** for someone who already has Medicaid, include Form MAP-751-W. See fn. 9 in **Step 3.C.** on p. 8.

MEDICAID BUDGET CALCULATOR: Use this 2024 worksheet for Medicaid budgets to determine spend-down with or without MSP. <http://health.wnylc.com/health/download/829/>.

Strategy Tip #3: WARNING - Deposit only what you can routinely spend - Do not let the trust deposit accumulate! If you do not spend the money deposited into the Trust and it accumulates, then you may be denied Medicaid to pay for nursing home care if you need it in the next five years. This is because income deposited into the trust but not spent by the time one enters a nursing home is considered a “transfer of assets.” Transfers of assets into a PIT by someone age 65 or over can cause a delay (transfer penalty) in qualifying for Medicaid to pay for nursing home care. Fortunately, under New York State policy, placing income into a pooled Trust will not result in a transfer penalty for Medicaid coverage of nursing home care as long as the balance of the pooled Trust account does not accumulate.⁶

Home Care Lookback Coming in 2025 - Warning – Stay tuned— In 2025, people who apply for Medicaid for community-based long term care services (MLTC, adult day care, home care, Assisted Living Program) will be required to show 30 months of financial records (“lookback”). A transfer during that period could cause a transfer penalty. It is not yet clear whether deposits into a pooled trust will trigger a “transfer penalty” when this change begins. See info at <http://health.wnylc.com/health/news/85/#lookback>. NYLAG supports a bill to repeal the lookback. See <http://health.wnylc.com/health/download/857/>.

⁶ NYS Dept. of Health GIS 08 MA/020, *Transfers to Pooled Trusts by Disabled Individuals Age 65 and Over* at https://www.health.ny.gov/health_care/medicaid/publications/docs/gis/08ma020.pdf. (7/24/08). For more information on these rules, see <http://wnylc.com/health/entry/38/>.

Strategy Tip #4: Carefully read the trust’s rules to make sure they will pay the bills you want them to pay. Generally, a lease or utility bill must be in your name for the trust to pay it.

Trusts will pay a credit card in your name, but may ask you to verify that each item on the bill was purchased *for you*. Trusts are not permitted to pay arrears on a credit card bill or pay for an expense or gift for anyone else. Also, the SNT will never pay the Medicaid recipient directly. See more about what expenses a trust may pay in the Q&A on page 12.

Strategy Tip #5: Married couples - If both spouses need Medicaid, one spouse establish a Trust account, if his or her income is more than their combined spend-down. This can spare the couple administrative fees and hassle. Their combined income remaining after taking all deductions, and after the deposit into the Trust, must be under the Medicaid couple income limit (\$2,351/mo. in 2024). See the example below and on the next page.

Married couples where **only one spouse needs Medicaid** should consider two types of special budgets that might reduce or eliminate the spenddown, and obviate the need for a pooled trust – see <http://www.wnylc.com/health/entry/222/#1%20married> -

- **Spousal Impoverishment** – May use this only if one spouse is in an MLTC plan, is applying for Immediate Need home care, or is in the Nursing Home Transition or TBI Waiver, OR
- **Spousal Refusal** -the non-Medicaid spouse’s income and/or assets are not counted and the applicant is considered “single.” WARNING – the county may sue the “refusing” spouse for support. Consult an experienced attorney.
- **See this Fact Sheet about these special rules.**
<http://health.wnylc.com/health/download/711/>

MARRIED COUPLE EXAMPLE – Both are 65+ or Disabled & Need Medicaid

Sally has the same income and insurance as in the example above, but is married to John whose gross income is \$900.45. John and Sally also have the same AARP Medigap Plan N policy.

	\$2978.45	Gross Income - Sally
	<u>900.45</u>	<u>Gross Income - John</u>
	3878.90	TOTAL GROSS INCOME
- 349.40		Medicare Part B premium (\$174.70 x 2)
- 20.00		Disregard for aged, disabled (\$20/ 1 or 2)
<u>- 481.50</u>		<u>AARP Medigap premium (Plan N) (240.75 x 2)</u>
	<u>- 850.90</u>	TOTAL DEDUCTIONS
	3028.00	Countable net income
	<u>-2351.00</u>	Medicaid level for TWO (2024)
	677.00	Spend-down as a couple
	<u>+ 349.40</u>	<u>Extra for Medicare Savings Prog. (Part B x 2)</u>
	\$ 1026.40	Total to deposit if both want MSP

If they are applying as a couple, assuming they are both either disabled or 65+, it makes more sense for Sally to establish a trust, since John’s income isn’t high enough to deposit \$1026.40, which is the full spend-down if they both want to enroll in an MSP and also have a \$0 spend-

down. Since John only has \$900.45 in income, he may keep his entire income, and have Sally enroll and deposit \$1026.40 into the Trust, which eliminates the spend-down for both of them. **Warning:** if Sally is not “disabled,” regardless of her age, only John may enroll in the Trust. Both spouses may need to enroll for their combined deposits to meet their couple’s spend-down.

WHAT IF -- one spouse is under age 65 and not disabled?

If John was age 62 and not disabled, but has the same income as above, while Sally is age 65+ --

- **Sally’s** eligibility & spend-down would be based on a household size of TWO, counting John’s income, but without deducting a Medicare & Medigap premium for him since he’s not on Medicare. Her spend-down is **\$1267.15** if she wants to enroll in QMB. See budget below.

MARRIED COUPLE EXAMPLE – One is 65+ or Disabled & Other is Not

	\$2978.45	Gross Income – Sally – AGE 67
	<u>900.45</u>	<u>Gross Income – John – under 65 not disabled</u>
	3878.90	TOTAL GROSS INCOME
- 174.70		Medicare Part B premium (\$174.70)
- 20.00		Disregard for aged, disabled (\$20/ 1 or 2)
<u>- 240.75</u>		<u>AARP Medigap premium (Plan N)</u>
	- 435.45	TOTAL DEDUCTIONS
	3443.45	Countable net income
	<u>-2351.00</u>	Medicaid level for TWO (2024)
	1092.45	Spend-down for Sally alone
	<u>+ 174.70</u>	<u>Extra for Medicare Savings Prog. (Part B)</u>
	\$1267.15	Total to deposit if Sally wants QMB

- **John** would be in the **MAGI Medicaid** category, which requires counting both spouses’ income. Their combined income of \$3,878.90 is over the MAGI couple limit of \$2,351 (2024), so he is not eligible for Medicaid. But he can qualify for the Essential Plan, which is similar to Medicaid.⁷ He must apply for that separately on <https://nystateofhealth.ny.gov/>. He can get help applying – TEL (888) 614-5400 Or email: cha@cssny.org (Community Health Advocates)

✓ STEP 3 - Submit Trust Documents and Proof of Disability to Local Medicaid Office – with Medicaid Application if you don’t yet have Medicaid.

Next, submit the trust documents to the local Medicaid office. If you do not yet have Medicaid with a spend-down, then submit the trust with a Medicaid application. New applicants must make a timing decision, discussed in **3.A**. If you already receive Medicaid, skip to **STEP 3.B**.

⁷ See <http://health.wnyc.com/health/entry/252/> <http://www.wnyc.com/health/entry/15/>; & <https://info.nystateofhealth.ny.gov/essentialplan>.

STEP 3.A. TIMING - Decide whether to submit Trust documents with the Medicaid application or later, after the Medicaid application is filed.

Even though most Medicaid applications should be decided within 45 days, an application submitted with a pooled trust may take 90 days because approval requires a determination of disability.⁸ Since these applications often take longer than 90 days, some advocates prefer to wait and submit the trust *after* the Medicaid application has been approved, in hopes that the application will be approved within 45 days. See fn 8. Even though there would be a spend-down when Medicaid is initially approved without the trust, at least the Medicaid approval could get services started.

TIMING STRATEGY TIP – Ask for Medicaid to be Approved with a Spend-down While Trust is Being Approved: If you submit the trust with your application, request HRA or your local Medicaid agency to first approve Medicaid *with* a spend-down, in order to get home care started, and to approve the pooled trust and re-budget the case later within 90 days. When you are approved for Medicaid with a spend-down, your Managed Long-Term Care (MLTC) plan or other home care agency will bill you for your spend-down every month. If you are unable to pay the spend-down because you are sending the money to the pooled trust, explain to the plan or agency that your spend-down will eventually be retroactively reduced to ZERO when the Trust is approved. The agency will then be able to back-bill Medicaid for the spend-down amount. Some plans will ask for proof that you have submitted your trust to Medicaid for approval.

If you file the application with the pooled trust and other documents, and the application is not approved within 90 days, you can request a Fair Hearing to contest the delay, which *might* speed up the decision.

Applicants who want to enroll in MLTC must make this clear with the application, to make sure the proper codes are entered by the Medicaid office.

- ✓ **Step 3.B. Documents to submit to HRA/ local Medicaid office to get Pooled Trust approved (NOTE CHANGE JUNE 2022 in NYC)** (Check with your county outside NYC):
 1. **Form MAP-751W Consumer/Provider Request to Change Information on File (3/25/21) as a cover sheet.**⁹ This form is only required if consumer already has Medicaid and is now submitting the trust. This form is not required if you are submitting the trust along with the Medicaid application. Complete the top and CHECK the box on page 2 for *Medicare*

⁸ The time limits are in federal regulations. See <http://www.wnylc.com/health/entry/175/>. People under age 65 who are disabled usually receive Social Security Disability (SSD) benefits so do not need a determination of disability by Medicaid to get a pooled trust approved. Proof of receipt of SSD until age 65 should be enough to prove disability for the trust.

⁹ Download MAP-751w at <https://www1.nyc.gov/site/hra/help/health-assistance.page> or as a fillable form at <http://www.wnylc.com/health/download/770/>.

Savings Program evaluation and the box on page 3 for *Pooled Trust* and check “Budgeting for New Trust Submission.”

2. Trust Documents:

- a. **Master Trust Agreement**- Download on the trust’s website
 - b. **Beneficiary Profile Sheet and Joinder Agreement**, signed by both you and the trustee (CDR, for example) - The version sent to you with your Acceptance Letter will have the trustee’s signature
 - c. **Acceptance Letter from Trust**
 - d. **Verification of Deposits** – This is proof that you started making monthly deposits. Many trusts have an online portal to download these verifications, or you can call the trust office to ask for a statement.
3. **NEW - Request for Disability Determination** - Starting June 2022, HRA only requires the DISABILITY DETERMINATION REQUEST (MAP-3177) instead of all the disability forms (now submitted in Step 4 below). Download MAP-3177 in several languages at <https://www1.nyc.gov/site/hra/help/health-assistance.page> (scroll down to *Disability Determination Requests*.) HRA will forward this to the **State Disability Review Unit (SDRU)**. You will submit the rest of the disability forms directly to the SDRU when they request them. See NEW **STEP 4** below. This change was announced in HRA Medicaid Alerts dated June 30, 2022 & April 18, 2024, posted at <http://www.wnyc.com/health/download/816/>.
4. **NY State HIPAA Release** –[OCA Official Form 960](http://www.nycourts.gov/forms/Hipaa_fillable.pdf) - download at http://www.nycourts.gov/forms/Hipaa_fillable.pdf) Fill in **Box 8** and the **last line in Box 9.b.** with the name of your social worker, family member or attorney to authorize HRA or local Medicaid agency to talk with them about your case. Be sure to **INITIAL** the first blank in **9.b.** This form authorizes HRA to release info about case.
5. **Cover letter** requesting HRA/DSS to approve the pooled trust, refer the disability determination to SDRU, and budget your Medicaid case with no spend-down. If you also submitted a Medicaid application with the trust, ask for approval of Medicaid too. See [sample cover letter](http://www.wnyc.com/health/download/64) (<http://www.wnyc.com/health/download/64>) which you should customize. In your letter, also ask to be enrolled in the Medicare Savings Program (MSP) to have your Medicare Part B premium paid by Medicaid. See STEP 2 – **Strategy Tip 2** on pp. 4-5 above. Explain that even though your spend-down increases when you join an MSP, you will still have a ZERO spend-down because you have been contributing the amount of the Part B premium to the SNT. Also see <http://www.wnyc.com/health/entry/99/>.
- ✓ **3.C. Where to Submit Trust Documents and Medicaid applications** –
- Each county has a Medicaid office in their Dept. of Social Services that accepts Medicaid applications and pooled trusts.
- New York City – Medicaid Applications (with or without pooled trusts)** - If you receive or are applying to receive home care, MLTC, or the Assisted Living Program, write this on the top so your application and/or trust is routed to the Home Care Services Program.
- E-fax the Medicaid application with the pooled trust to **917-639-0732**.

- If you have an “Immediate Need” for home care and are applying for Medicaid with a pooled trust, additional forms are required. See fact sheet here <http://www.wnyc.com/health/download/637/>. E-fax the complete package to **917-639-0665** (fax ONLY for Immediate Need).

NYC REQUESTS TO REBUDGET with POOLED TRUST - If you already have Medicaid, submit pooled trust documents listed above with form MAP-751W. See Step 3.B. above and n. 9. Write **HOME CARE or “HCSP” CASE** on cover sheet if you are enrolled in MLTC or a waiver program, receive other home care, or live in Assisted Living Program. Submit either by:

- **FAX or email** to Undercare Unit at **1-917-639-0837** or undercareproviderrelations@hra.nyc.gov
- **Mail or In-Person Delivery** to: HRA HCSP Central Medicaid Unit, 785 Atlantic Avenue, 7th Floor, Brooklyn, NY 11238. Certified mail is recommended if using mail.

✓ **STEP 4 – Submit Disability Documents to the State Disability Review Unit (SDRU) When Requested. New June 2022**

Before June 2022, you submitted these documents to NYC HRA in **STEP 3** along with the pooled trust. HRA then transmitted them to the SDRU. Now, HRA will only transmit the new **DISABILITY DETERMINATION REQUEST (MAP-3177)** to the SDRU.¹⁰ Start gathering and completing the following forms to submit when requested by the SDRU.¹¹

1. **If you were approved for either SSDI or SSI benefits on the basis of a disability**, then just send a copy of your SSA Award Letter or SSA Disability Determination, or if you no longer have that award letter, request a benefit verification letter from the SSA - <https://www.ssa.gov/myaccount/proof-of-benefits.html>. Submit this proof of past SSD or SSI even if you turned age 65 and now receive Social Security based on age. Otherwise, you need to send the documents below for Medicaid to make a [disability determination](http://www.wnyc.com/health/entry/134/) (<http://www.wnyc.com/health/entry/134/>)
2. **[Medical Report for Determination of Disability](http://www.wnyc.com/health/entry/134/) –NEW FORM DOH-5143** replaces 486T form.¹² This form must be filled out by your primary care doctor or specialist. **NOTE:** Though no longer used, the old 486T form had numerous attachments that elicited information about different body systems, such as a musculoskeletal or cardiac impairments. You might ask the physician to complete the applicable attachment, though no longer required, or use it as a guide to show the applicant satisfies criteria for "meeting the listings" to be found disabled.¹³
 - a. **12 months of Medical Records** from doctor, hospitalizations or nursing home stays.

¹⁰ This change was announced in HRA Medicaid Alerts dated June 30, 2022, and April 18, 2024, posted together at <http://www.wnyc.com/health/download/816/>.

¹¹ All of these forms can be downloaded at <http://www.wnyc.com/health/entry/134/> and at https://www.health.ny.gov/health_care/medicaid/reference/mdm/adult.htm

¹² See Dec. 2021 HRA Medicaid Alert - <http://www.wnyc.com/health/download/799/>

¹³ Step Three in the [sequential evaluation](http://www.wnyc.com/health/entry/134/) at <http://www.wnyc.com/health/entry/134/>. Click here for the old 486T. <http://www.wnyc.com/health/download/60/>.

See HRA Medicaid Alert (Jan. 2013) <http://www.wnyc.com/health/download/402/>.

3. [DOH-5139 - Disability Questionnaire](#) - replaces the DSS-1151 form.¹⁴ This form can be filled out by you, a social worker or family member.
4. **HIPPA form for Pooled Trusts — DOH-5173.**¹⁵ Complete, sign and submit **one copy for EACH health care provider** listed on the Disability Questionnaire, filling in the name of the provider on **Line 7** and **9.b.** plus one signed and dated with the Provider information left blank. **INITIAL** the first blank in **9.b.** Form MAP-571e no longer required.
5. **Cover Letter** – explain to the SDRU why the documents show the individual meets the standards for disability. Use the [NYS Medicaid Disability Manual](#) as a guide for how to explain why you should be found “disabled” based on your specific disability(ies), using the "sequential evaluation process" for determining disability, the Listing of Impairments, and other guidelines . (http://www.health.ny.gov/health_care/medicaid/reference/mdm/).

State Disability Review Unit (SDRU). Tel: **1-866-330 0591** Email: SDRU@health.ny.gov
Website: https://www.health.ny.gov/health_care/medicaid/reference/mdm/

✓ **STEP 5 - Follow-Up – Troubleshooting Delays or if Medicaid Budget Done Incorrectly**

The DSS/HRA should send a written notice stating that your Medicaid case has been re-budgeted with no spend-down (and telling you that you are enrolled in MSP if requested). *See STEP 3.A above about the 90-day limit if you submitted the SNT with Medicaid application.*

- Make sure the **effective date** of this notice is correct - it should be the month that you first began making a contribution of your full spend down amount (+ \$174.70 if you wanted QMB) to the trust. If it is not correct, **you must request a Fair Hearing** within 60 days of notice date to appeal the notice, for the date to be corrected ([click here to request a hearing](#) - <http://otda.ny.gov/hearings/>).
- **Delays** - If an application with Pooled Trust is not approved in 90 days, you may request a Fair hearing, which might move it along. Same for rebudgeting requests.
- **Contact DSS/HRA** by secure e-mail to hcsinquiries@hra.nyc.gov (for home care cases) For HRA non-home care cases – contact Undercare Tel (929) 221-0868/69 Fax 917-639-0837 or undercareproviderrelations@hra.nyc.gov or Eligibility Information Services- Phone (929) 221-0865/6/7/8.

WARNING: If budget or effective date is incorrect, you must ALSO request a fair hearing within 60 days of notice, while trying to resolve problem with DSS/HRA.

¹⁴ (<https://www.health.ny.gov/forms/doh-5139.pdf>. See [HRA Alert 8/12/2021](#), download at <http://www.wnyc.com/health/download/783/>.

¹⁵ Download at <https://www.health.ny.gov/forms/doh-5173.pdf> (4/2016). See August 2021 HRA Medicaid Alert, available at <http://www.wnyc.com/health/download/783/>.

FREQUENTLY ASKED QUESTIONS

Q1: If my Social Security increases every year, will this increase my spend-down? Should I increase my trust deposits?

A: If income increases, you must increase the amount placed into the trust each month. Also, if the pooled trust requires a “security deposit” – the equivalent of one month’s spend-down to be on deposit at all times -- you may have to increase this deposit as well.

Q2: What bills may the Trust pay?

A: *WARNING: These rules are for people using a pooled trust solely for Medicaid only, not people who have SSI. If you have SSI and want to use a trust for a lawsuit settlement or other lump sum, the rules are different and more restrictive.*

If you have Medicaid but not SSI, the Trust may pay the client’s rent, mortgage, maintenance, or utility bills, as long as it makes the payments directly to the landlord, utility, or other third party. Such in-kind payments are not considered “income” for Medicaid purposes.¹⁶ *The Trust may never give the client money directly*—not even as reimbursement. More about bills:

Rent or mortgage payments are the ideal expense for the trust to pay, since these expenses are consistent and most trusts will set up an automatic monthly payment. Some trusts will not put the client on automatic payment of rent or mortgage until the client has been enrolled and paid in the client’s spend-down for 3 months. So, during the first 3 months, the client must make individual disbursement requests for the client’s rent or mortgage. After that, ask for automatic payment.

Utility and other bills - Trusts vary on whether these bill must be sent each month to the trust for payment, or whether bills on a budget plan with fixed monthly payments (“level billing”) may be automatically paid by the trust, like rent.

Though the trust may pay bills only for the benefit of the Trust beneficiary (the client), and NOT for the client’s 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. The client needs the trust’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. SSA rules on companion expenses were revised in 2018. See POMS SI 01120.201F.3.c available at <https://secure.ssa.gov/apps10/poms.nsf/lnx/0501120201> and NYLAG SNT Manal at pp. 28-29 <http://health.wnyc.com/health/download/9/>.

Some trusts permit reimbursement to a family member or other individual who paid for a client’s expense, such as paying rent or buying clothing, if receipts are submitted. However,

¹⁶ 18 NYCRR § 360-4.3(e)

they must contact the trust to get approval BEFORE making the expenditure to assure reimbursement. The client herself can never be reimbursed.

Some trusts will pay credit card bills, provided that the bill is in the client'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 and not for anyone else.

Trusts may not pay for gifts or charitable donations.

Q3: May the trust pay beneficiary's Funeral expenses?

A: Funds in a trust may pay for a pre-paid funeral agreement while the client is alive. Client may enter an installment plan for a funeral agreement and submit monthly installment bills to the trust to pay the funeral home. NO POOLED TRUST may pay for funeral expenses after the beneficiary dies. This is a federal policy.

Q4: How does the client/beneficiary leave the Trust? There are a few ways:

A: i. 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. 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. Some Trusts MAY pay current expenses due at the time of death, such as the rent and current bills.

ii. The client is permanently admitted to a nursing home. Medicaid *chronic care budgeting* used for long-term nursing home care does not allow depositing income into a Trust to eliminate the spend-down (called a "NAMI" for Net Adjusted Monthly Income" in a nursing home). However, if the nursing home stay is short-term, the client can request that the nursing home submit a form to HRA/Medicaid certifying that she is expected to return home and request "non-chronic" or "community budgeting." With that budgeting, continuing deposits into the pooled trust should be allowed. See more info and forms at <http://www.wnylc.com/health/entry/117/>. Once the nursing home stay is considered permanent, the client stops making further trust deposits. The client may still submit expense requests to the trust to use up any remaining funds, and then close the account.

iii. The client may stop making monthly deposits, spend down the balance in the account and close the trust account any time. If the consumer no longer has a spend-down because of the 2023 increases in the income limits, or because income went down because a spouse died, or other reasons, she can close her trust. If the income is close to the current income limits, consider keeping the trust open in case you have a spend-down again next year, and just deposit enough for the minimum monthly fee and annual fees. This will avoid setting up a pooled trust again. The monthly fee is charged until the funds are spent down and account is closed. The trust must be notified in writing if you want to close the Trust, in order to free up the remaining one month security deposit, if any.

Troubleshooting – Try your local Medicaid office to address delays or errors

CAUTION: You **must request a fair hearing** within 60 days after the date of the notice to correct any error on the spend-down, effective date, etc. Don't let the time limit run out while you are trying to informally advocate. See STEP 5 above.

NYC HRA contacts – see pp. 9-10 for where to submit applications or rebudgeting requests

- See **Step 5** on page 11 above for HRA contacts for delays or mistakes in budgeting trust

State Disability Review Unit (SDRU). Tel: **1-866-330-0591** E-mail: SDRU@health.ny.gov

Website: https://www.health.ny.gov/health_care/medicaid/reference/mdm/

ONLINE LINKS - Visit NY Health Access at <http://nyhealthaccess.org>

General info on supplemental needs trusts <http://wnylc.com/health/14/>

Training outline on Supplemental Needs Trusts and lump sums. Explains how SNTs and lump sums affect eligibility for many public benefits. <http://www.wnylc.com/health/download/9/>

Forms & Procedures for Determining Disability <http://www.wnylc.com/health/entry/134/>

Contact List of Pooled Trusts in NYS - <http://www.wnylc.com/health/entry/4/> -

Federal, state, and NYC authorities on pooled trusts <http://www.wnylc.com/health/entry/128/>

2019 Webinars on SNTs when receiving a lump sum <http://www.wnylc.com/health/news/84/>

Special Medicaid budgeting rules - <http://health.wnylc.com/health/entry/222/>

MEDICAID BUDGET CALCULATOR: Use this 2024 worksheet for Medicaid budgets to determine spend-down with or without MSP. <http://health.wnylc.com/health/download/829/>.

HRA FORM MAP-751w - <https://www1.nyc.gov/site/hra/help/health-assistance.page> or as a fillable form at <http://www.wnylc.com/health/download/770/>.

Check for updates of this FACT SHEET at <http://www.wnylc.com/health/download/4/> and <http://www.wnylc.com/health/entry/44/>

New York Legal Assistance Group (NYLAG), Evelyn Frank Legal Resources Program

Intake -- please call or email: 212-613-7310 or eflrp@nylag.org

Phone open Mon 10 AM – 2 PM

Email open Mon thru Fri 9 AM – 5 PM

FOR HELP – Contact a [private elder attorney](http://www.naela.org) (www.naela.org) or geriatric care manager (<https://www.aginglifecare.org/>) to help with this process. Some [free legal services](#) (<http://www.lawhelpny.org/>) may be available but most do not help you enroll in a PIT.

100 Pearl Street, 19th floor, New York, NY 10004 t: 212.613.5000 f: 212.750.0820 nylag.org