

SELF SUFFICIENCY TRUST OF MONTANA

MSST HANDBOOK

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Self Sufficiency Trust of Montana

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Introduction

Parents, family members, and friends of individuals with lifelong disabilities face a dilemma when planning for the future care of the individual with disabilities. How can the family leave a financial legacy which will help their family member, but will not render that person ineligible for government benefits? Many parents are advised to cut a child with disabilities out of their wills because any financial assets in the individual's name may make that person ineligible for benefits like Supplemental Security Income (SSI) and Medicaid. Government agencies may require that a person's entire legacy be spent before he or she can be considered for government benefits.

Montana's Self Sufficiency Trust (MSST) is a mechanism to help families deal with the dilemma of providing for a loved one's future. MSST was created by state statute to allow families to fund trusts for the benefit of a child or an adult with disabilities without jeopardizing that individual's eligibility for government benefits. This handbook describes the process for creating individual trust accounts in MSST. It also explains the Lifecare Planning process which helps families plan the future services for their trust beneficiaries.

We hope this handbook is helpful to you as you consider future options for family members with disabilities. For additional information, please contact:

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1. Montana's Self Sufficiency Trust: An Overview

The Montana Legislature created Montana's Self Sufficiency Trust (MSST) as a mechanism for families and friend of persons with disabilities to set aside funds to purchase supplemental services for persons with disabilities without jeopardizing their government benefits (Sections 53-18-101 through 105, MCA, <http://data.opi.state.mt.us/bills/MCA/53/18/53-18->

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[101.htm](#)). The MSST makes possible the flow of private monies into the state's network of publicly-sponsored programs to supplement, enhance and expand services to individuals with disabilities throughout Montana.

To participate in the Self Sufficiency Trust, a donor (parent, family member, or other interested individual) establishes a trust account for the person with disabilities. The funds in the trust account are invested by the fiduciary agent, Davidson Trust. It is best not to spend the principal in the trust unless the trust advisor must make major purchases for the beneficiary requiring use of the principal. When the principal is taken out of the SST, it is counted as income to the beneficiary and may disallow the individual for benefits during that period of time.

Commonly, only the interest income from the SST account is used to purchase supplemental services for the beneficiary. At the request of the trust advisor or the publicly-sponsored agency providing services to the individual with a disability, interest income is transferred to the Developmental Disabilities Program (DDP) in the Department of Public Health and Human Services (DPHHS). DDP then disburses the interest income to nonprofit corporations which provide the supplemental services described in the beneficiary's Lifecare Plan. Interest income used in this way to make supplementary purchases is not counted as income to the beneficiary so the beneficiary can remain eligible for government benefits.

The Lifecare Plan embodies the wishes of the donor and defines the scope and nature of supplemental services to be provided to the beneficiary. MSST funds can be used to a) maintain lifestyle by providing extras like leisure-time activities, training, clinical services, or transportation; b) enhance opportunities for housing, supported employment, or other programs; or c) provide advocacy services. Interest income cannot be used to pay for basic shelter, food, clothing, or medical care that are covered by government benefits.

Interest income from an MSST account continues to be disbursed according to the dictates of the Lifecare Plan throughout the lifetime of the beneficiary or until the trust advisor or nonprofit agency requests discontinuation. **When the beneficiary dies, 10% of the market value of the account must be donated to the Charitable Trust and the State of Montana must be repaid any amount Medicaid has paid on behalf of the beneficiary if enough funds remain in the individual trust to do so. If funds remain in the account after the 10% has been donated to the Charitable Trust and Medicaid has been repaid, the remaining funds will be paid to the person or persons designated by the donor of the MSST.**

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2. State Law

In 1989, SB 311 created a new chapter in the Montana Code under Social Services and Institutions. The following is a brief description of the highlights of the provisions in 55-18-101 through 105, MCA:

- Names Social and Rehabilitation Services (now the Department of Public Health and Human Services) as the lead state agency for implementation of the provisions;
- Creates Montana's Self Sufficiency Trust;
- Establishes a state system for processing interest income;
- Requires beneficiaries to be residents of Montana and developmentally disabled, mentally ill, physically handicapped, or otherwise eligible for DPHHS services;
- Requires that care or treatment be specified for the beneficiaries;
- Requires that monies in trust accounts be accounted for separately;
- Specifies that the receipt of supplementary services through MSST may not in any way reduce, impair or diminish the benefits to which the beneficiary is otherwise entitled by law;
- Creates an MSST Charitable Trust account to be used by DPHHS for the purpose of providing for the care and treatment of low-income persons with disabilities;
- Requires DPHHS to adopt rules and procedures for administration of the interest income from MSST accounts.

3. Purposes and Limitations

3.1 Eligible Individuals

People who are residents of Montana and who are developmentally disabled, mentally ill, physically disabled, or otherwise eligible for services from the Department of Public Health and Human Services may be named as beneficiaries for MSST accounts. Persons who are not eligible for services provided by DPHHS may not be named beneficiaries of MSST.

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Any family member or friend of a child or an adult who has lifelong disabilities may participate as a donor to an individual trust account in MSST:

- a) as long as the needs identified in the Lifecare Plan can be successfully accommodated by the state system, and
- b) providing that the services specified by the donor are not in conflict with the wishes of the beneficiary, any guardian representing the beneficiary's interest, or with the beneficiary' custodial parent, as the case may be.

Any individual, corporation or organization may contribute at any time to the Charitable Trust of MSST.

3.2 Programs and Services

Income from individual trust accounts in MSST can be used to purchase services currently available in the state service system, or to create new services deemed appropriate for the individual, approved by DPHHS, and compatible with the goals and objectives of the state service system. New or expanded services are only possible once demand and resources are available.

The major restriction on MSST is that trust monies cannot be used to meet the same needs as those intended to be met through available public assistance programs like Medicaid and Supplemental Security Income (SSI). MSST dollars cannot be used to provide food, shelter, clothing or medical needs of persons who are receiving SSI and Medicaid benefits. However, MSST dollars can be used for costs of residential services which are above and beyond room and board.

Individual Lifecare Plans define those supplemental services which the donors wish to fund for the beneficiaries. Donors can choose to designate interest income for:

- Social services
- Rehabilitation or remedial services
- Education
- Recreation and sports
- Respite

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- Training in activities of daily living
- Job coaching
- Advocacy services
- Personal needs (e.g., birthday presents, grooming items, treats, pocket money)
- Other supplementary services deemed appropriate.

Specific examples of supplemental services may include any of the following: spending money, additional or specialized food, clothing, birthday and holiday presents, health services not otherwise provided, radios, record players, television sets and VCRs, camping, vacations, sports equipment, movies, trips, and other medical, health, leisure or safety needs.

The Lifecare Planning Agency can assist donors with identifying what supplemental services may be appropriate for a particular individual as can the private nonprofit agency serving the individual or the individual's case manager.

In addition to supplemental services, monies may be transferred to the State and in combination with state general funds or other government monies, may be used for:

- A portion of the cost of related or ancillary services;
- An expansion of residential, day activity, or employment services.

3.3 Scope of the Trust

The amount of assets placed in an individual trust account should be only enough to generate sufficient income to pay for services in the Lifecare Plan. Donors with large estates are encouraged to use MSST to provide supplemental services for their trust beneficiaries and to use other types of financial arrangements for monies not necessary to fund a beneficiary's Lifecare Plan.

4. Fees

PLUK charges \$50 per account to handle the cost of processing forms and assisting clients. The Lifecare Planning Agency, Parents, Let's Unite for Kids (PLUK), charges no fee for assisting with Lifecare Plans unless staff

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have to travel to meet with the donor. If travel is involved, PLUK charges for mileage, per diem and lodging, if necessary.

There is also a one time only fee of \$100 to create an MSST individual account. This fee is payable to the fiduciary agent, Davidson Trust. Davidson Trust charges a management fee of 1.25% of the trust value annually to manage the accounts.

5. Steps to Establish an Individual Trust Account

- **Establish Eligibility and Pay Registration Fee**
The donor presents certification from DPHHS as to the eligibility for services of the beneficiary, registers with MSST, fills out the registration form, and pays the registration fee of \$50 to PLUK.
- **Execute Transfer Document**
The donor creates an individual trust account through the execution of a transfer document which names the beneficiary and assigns the individual trust account to MSST.
- **Appointment of a Trust Advisor**
The donor appoints a trust advisor. This advisor has the power to consult with the MSST Advisory Board on the management of the individual trust account and to add to or withdraw the account from MSST. With the approval of the Advisory Board, the trust advisor can make changes to the Lifecare Plan.
- **Develop a Lifecare Plan**
The donor creates a plan describing the supplemental services appropriate for the beneficiary. The services are prioritized so that the most important services are funded first.
- **Obtain Approval of the Lifecare Plan**
Once a Lifecare Plan has been written, it must be reviewed and approved by the MSST Advisory Board. This process usually takes one to two weeks. The Board disapproves a plan if it is determined that the plan cannot be executed as written or that the plan is contrary to MSST policies or the best interests of the beneficiary.
- **Fund the Individual Account**
Individual accounts may be funded immediately after a Lifecare Plan has been approved or may be funded later per the instructions in the donor's will or the agreements in an insurance plan.

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At the time when an account is being funded, a one time only set up fee of \$100 must be paid to Davidson Trust. This fee covers the cost of setting up the account. The initial deposit must be large enough to produce enough interest to cover the annual management fee. The recommended minimum initial deposit to fund an MSST Trust is \$2,000 or more.

The donor can choose from an array of investment options called Federated Managed Allocation Portfolios, including...

- ___ **Fixed Income Portfolio (100% income)**
- ___ **Income Portfolio (20% Equity / 80% Income)**
- ___ **Income & Growth Portfolio (40% Equity / 60% Income)**
- ___ **Balanced Growth Portfolio (60% Equity / 40% Income)**
- ___ **Growth Portfolio (80% Equity / 20% Income)**

Davidson Trust provides semi-annual statements of trust income and disbursement to the Donor or Trust Advisor.

- **Activate Services**

The donor or the trust advisor can activate services to the beneficiary as soon as there is enough interest income to pay for items in the Lifecare Plan. To activate services, the donor or trust advisor must notify the Developmental Disabilities Program at 406-444-2995. DDP will develop an agreement with a local nonprofit corporation to provide the services required by the Lifecare Plan. Interest income will be sent from Davidson to DDP and will then be disbursed to the local nonprofit to purchase services. DDP will receive an accounting from the contracting corporation to ensure that services are being provided as they should be.

6. Disbursement of Funds

6.1 Disbursement from Individual Accounts

Disbursements from MSST accounts can be made in any of three ways. First, and most usually, income from the trust account will be transferred to the Developmental Disabilities Program to purchase services through providers in the community. Second, income may be transferred simultaneously to the State from more than one individual trust account to assist with funding an expansion project like a new group home. Third, when the beneficiary dies, Montana state law allows donors to MSST accounts to designate heirs to receive the principal of the account on the death of the beneficiary, less 10% of the market value of the account which

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must be donated to the Charitable Trust. **Additionally, before the designated heirs may receive any of the principal, the state of Montana must be repaid any amount Medicaid has paid on behalf of the beneficiary to the extent sufficient funds remain in the individual trust to do so. If funds remain in the account after 10% has been donated to the Charitable Trust and Medicaid has been repaid, the remaining funds will be paid to the person or persons designated by the donor of the MSST.**

At no time can interest income from an individual trust account be disbursed directly to either the trust advisor or the beneficiary. If the trust advisor wants to use monies from the trust account, the trust advisor must remove all of the money from the MSST trust account and close the account. During the time that the money is "out" of the MSST, the beneficiary may be disallowed government benefits because the funds withdrawn from MSST will be counted as income to the beneficiary.

6.2 Disbursement from the Charitable Trust

Monies donated to the Charitable Trust are subject to state appropriation and allocation to meet the needs of individuals with disabilities who are indigent.

6.3 Return of Monies to MSST

Once interest income has been transferred to the state, it will not be returned to the individual trust account unless...

- The monies cannot be used to provide care or treatment as prescribed by the individual Lifecare Plans, or
- The beneficiary dies or is otherwise unable to use the services.

The decision to return monies to the individual trust account may be initiated by DDP or the MSST Advisory Board.

6.4 Excess Income

If the principal in an individual trust account within MSST generates more income than can be spent on the services prescribed by the Lifecare Plan, the excess income is added to the principal and left in the trust account unless the Lifecare Plan is appropriately amended to provide further services.

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7. Withdrawal from the Trust

7.1 Withdrawal Before Services Are Provided

After execution of a transfer document and contribution of trust assets and until funds from a beneficiary's individual trust account are disbursed for the purchase of services, a donor or trust advisor may withdraw from participation in MSST and may recover the current market value of the individual trust account less any withdrawal fees incurred by liquidating the investments.

7.2 Withdrawal after Services Have Been Purchased

After interest income has been disbursed from an individual trust account to purchase services for a beneficiary, a donor or trust advisor may withdraw from participation in MSST, but a closing fee will be charged plus any withdrawal fees incurred by liquidating investments will be returned to the donor or trust advisor.

7.3 Withdrawal at the Death of the Beneficiary

When a beneficiary dies, Montana state law allows donors to MSST accounts to designate heirs to receive the principal of the account on the death of the beneficiary, less 10% of the market value of the account which must be donated to the Charitable Trust. **The trust document must contain a repayment provision specifying that Medicaid expenditures on behalf of the beneficiary must be repaid upon the death of the beneficiary.**

8. Powers of Participants in MSST Process

8.1 Donors

Donors have control over the deposit of monies into an individual trust account, the development of a Lifecare Plan, and the appointment of a trust advisor. Upon written notice to the trust advisor and the MSST Advisory Board, the donor also has the power to remove a trust advisor. The donor may appoint a new trust advisor and that appointment is subject to approval by the MSST Advisory Board.

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8.2 Trust Advisors

Trusts advisors, who may be the donor or someone appointed by the donor, have the power to monitor the implementation of the Lifecare Plan, modify the Lifecare Plan, and withdraw funds from the MSST account. The trust advisor may not exercise any direct control over the monies disbursed from an individual account. If the Trust Advisor wishes to withdraw from the account, he or she must withdraw the whole amount at once, less any penalties for withdrawal.

8.3 Fiduciary Agent

The fiduciary agent selected and monitored by the MSST Advisory Board has the power to invest the assets in individual trust accounts and the Charitable Trust. Investments must be made in accordance with the preferences of the trust advisor and according to the Investment Philosophy of the MSST Advisory Board. The fiduciary agent supplies the Board and the trust advisors with semi-annual reports concerning the progress of investments.

8.4 Montana Council on Developmental Disabilities

The Montana Council on Developmental Disabilities (MTCDD) is a board appointed by the Governor to oversee services provided by the State to persons with developmental disabilities. MTCDD has the power to set policies for MSST and to review Lifecare Plans and functions of the Montana Self Sufficiency Trust. MTCDD is responsible for choosing a fiduciary agent and a lifecare planning agency and for monitoring their operation of MSST functions. MTCDD (otherwise known as the MSST Advisory Board) is responsible for determining whether or not DDP and the providers are properly using monies allocated from trust accounts.

8.5 Developmental Disabilities Program

The Developmental Disabilities Program (DDP) receives interest income from individual trust accounts and allocates those monies to service providers per the instructions in the Lifecare Plans of individual beneficiaries. DDP enters into formal contracts with service providers outlining their responsibilities in implementing Lifecare Plan services. In turn, service providers must provide reports to DDP of how they are spending MSST dollars.

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8.6 Beneficiary

The beneficiary of an MSST trust account has no direct use, control, or power over the monies in an MSST account or the interest income generated by that account. The beneficiary receives services from MSST in accordance with the Lifecare Plan and to the extent that such services do not replace entitlement to other federal or state benefit programs.

9. Relation to SSI and Medicaid

MSST is not established to provide cash, assets, or support to individuals with disabilities to replace benefits provided by Supplemental Security Income and Medicaid. Instead, the income and assets of the MSST are intended only to supplement SSI and Medicaid covered services and to expand state governmental services in coordination with SSI and Medicaid.

When monies from MSST are disbursed in payment to an organization which provides services directly to the beneficiary, the services are intended to be outside the scope of the Medicaid covered benefits and should not be subject to recovery as a third party payer. When monies from MSST are transferred to DDP, they become state monies and, as such, are not subject to third party payer recovery.

10. Taxes

MSST is not intended as a tax shelter. When contemplating donating assets to an MSST individual account, the donor is advised to consult a tax attorney or certified public accountant as to the tax implications of such a donation.

11. Donations to the Charitable Trust

Any individual or organization may donate at any time to the Charitable Trust of MSST. Such donations may be considered a general contribution to the welfare of individuals with disabilities in Montana.

When a beneficiary for an individual trust account dies, 10 percent of the current market value of the individual account goes into the Charitable Trust. If the donor wishes, he or she may elect to put a larger percentage of the individual trust account into the Charitable Trust upon the death of the beneficiary.

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12. Medicaid Recoupment

Montana state law allows donors to MSST accounts to designate heirs to receive the principal of the account on the death of the beneficiary, less the 10% which must be donated to the Charitable Trust, **and payments to the State of Montana for any amount Medicaid has paid on behalf of the beneficiary, if enough funds remain in the individual trust to do so. The trust document must contain a repayment provision specifying that Medicaid expenditures on behalf of the beneficiary must be repaid upon the death of the beneficiary.**

If funds remain after the 10% donation to the Charitable Trust and Medicaid recoupment payments, the remaining funds will be paid to the person or persons designated by the donor of the MSST.

QUESTIONS AND ANSWERS

Why is state government involved in MSST?

The Self Sufficiency Trust of Montana is a unique partnership between private and public sectors. On the private side of the trust, monies are invested and on the public side, services are purchased. When income from MSST individual accounts passes from the private to the public side, the funds become, in effect, government monies. Through this process, services can be purchased for beneficiaries without any monies being attributed to the beneficiaries. Thus, the beneficiaries remain eligible for SSI and Medicaid because they are not over the limit for personal assets.

Why does the Self Sufficiency Trust include a Charitable Trust?

The presence of the Charitable Trust ensures that the benefits of MSST are available to any person with disabilities in Montana. The Charitable Trust provides supplemental services for individuals with disabilities who are indigent and who have no family members or friends to provide for them. The intent of the charitable Trust is to prevent MSST from creating a have/have not situation in disability services.

Also, the income from the Charitable Trust can be used to expand the service system in Montana for persons with disabilities. It is possible, for example, to combine resources from the individual trust

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accounts, the Charitable Trust and state government to develop more group homes, create more supported employment opportunities, or develop supported living services.

What are the advantages of MSST over private trust arrangements?

MSST does not replace private trusts, but it does provide some unique opportunities which are not available through any other means. Private trusts can be used to provide lifelong care for family members with disabilities. However, with private trusts, the individuals who manage the trust accounts may have no knowledge of disability services and may not have the expertise to plan appropriately for coordination of lifelong services for the beneficiaries.

MSST, on the other hand, has been set up to address some of the problems with private trusts. Continued eligibility for government benefits is supported by the MSST mechanism, so families using MSST can be assured that, unless government benefit programs are substantially changed, their trust beneficiaries will have their basic needs met. In addition, because of MSST, the trust beneficiaries will enjoy a variety of supplemental services chosen by the trust donors and provided according to instructions in the Lifecare Plans. Because MSST is managed by an Advisory Board that includes parents of individuals with disabilities and professionals in the human service and financial fields, donors to MSST can be assured that income from the individual trust accounts will be monitored closely by knowledgeable individuals not connected with state government. The Lifecare Planning process afforded by MSST is unique and not available through private means. MSST combines the commitment of parents with the expertise of professionals to provide a way for families with a whole range of financial means to provide lifelong care for loved ones with disabilities.

What are the limitations of MSST?

The major restriction on MSST is that trust monies cannot be used to meet the same needs as those intended to be met through public assistance programs like Medicaid and Supplemental Security Income (SSI). MSST dollars cannot be used to provide food, shelter, clothing or medical care for persons who are receiving SSI and Medicaid benefits. However, MSST dollars can be used for costs of any of these services which are above and beyond the minimal level of service provided by government benefits.

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How do I know that the beneficiary of my individual trust account will remain eligible for government benefits?

Those aspects of MSST that are intended to ensure continued eligibility for government benefits for the beneficiaries include:

- The income from individual trust accounts is not directly attributable to the beneficiaries, nor is the income under the control of the beneficiary;
- Income from individual trust accounts passes over to the State where it becomes "government" money;
- The income from the individual trust accounts is used to purchase only supplemental services, and it does not supplant government benefits used to pay for basic services like shelter, food, clothing, and medical care.

What are the ways that donors can fund an MSST account?

Donors can contribute to MSST in any or all of the following ways:

- **Regular contributions.** Donors may choose to contribute to MSST trust accounts on a regular monthly, quarterly or annual basis; thus, gradually building up an account--much as families do when they save for a child's college education.
- **Lump sum contribution.** Donors may wish to create a trust account through the deposit of a lump sum contribution designed to generate enough interest income to fund the Lifecare Plan.
- **Designation in a will.** A donor may wish to designate the Self Sufficiency Trust as the recipient of a sum of money sufficient to fund the Lifecare Plan of the beneficiary.
- **Beneficiary to life insurance policy.** A donor can name MSST as the beneficiary of a life insurance policy. Such a designation would allow the funding of a Lifecare Plan for the MSST beneficiary.

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Do I need a lawyer?

It is wise to have the assistance of an attorney, estate planner or similar professional in setting up an MSST account.

Are lifecare plans confidential?

Lifecare Plans must be approved by the MSST Advisory Board so their contents must be revealed to the Board or a committee of the Board. The contents of individual Lifecare Plans will also be known to the clerical staff who keep MSST files, to the trust advisor, and to DDP staff who seek out and purchase the services described in the Plans. Other than these necessary revelations of information, Lifecare Plans will remain confidential. Staff who have a need to know the information in individual plans will handle that information in a professional manner.

How do I know what to put in a lifecare plan?

Lifecare Plans describe both minimally acceptable and maximally appropriate options for a) residential living, b) vocational placement, and c) community involvement. The Lifecare Planning Consultant helps the donor to consider the trust beneficiary's needs in each of these domains and suggests possible service options which either currently exist or might be created in the future.

Can I assign property to an individual trust account?

MSST is not in a position to manage property, so if it is the donor's intention for the beneficiary to make use of the property, the donor is advised to make arrangements for the property and its management outside of MSST.

If, however, the donor simply wishes to assign property as an asset for an individual trust account, such a designation is possible. The MSST Board will sell the property and place the sale amount in the individual trust account.

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What if the principal in an individual trust account does not generate enough income to fund the entire Lifecare Plan?

When the donor develops a Lifecare Plan, he or she will be asked by the Lifecare Planning Consultant to rank the supplemental services described by the Plan in priority order. The services will be purchased in this order as funds are available.

Is the principal in an individual trust account ever spent to purchase services?

It is recommended that the principal in an SST account be substantial enough so that it generates enough interest income to purchase supplemental services throughout the lifetime of the beneficiary. If a trust advisor must make a major purchase for a beneficiary, the principal can be removed from the account to make the purchase. During the time that the principal is "out" of the SST account, this amount of money may make the beneficiary temporarily ineligible for SSI and Medicaid.

What should I consider when appointing a trust advisor?

The trust advisor, along with the Advisory Board, has control over the funds in MSST and has the power to withdraw an individual trust account. It is important that whoever is appointed as trust advisor be someone who is compatible with the donor and who will carry out the donor's wishes. In some cases, the donor may wish to appoint himself or herself as the trust advisor. In this circumstance, the donor then would continue to monitor the management of the individual trust account.

However, sometimes the donor does not want to be involved in the monitoring of the individual trust account and, therefore, appoints a family member, financial advisor or friend to supervise the account. When another individual is appointed as trust advisor, the donor must realize that he or she will have less influence over the individual account. If the donor is not pleased with the way that the trust advisor is monitoring the account, the donor can remove the trust advisor and appoint a different advisor. The new advisor is subject to approval by the MSST Advisory Board.

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How do I know that the lifecare plan will be followed?

The Advisory Board of MSST is responsible for monitoring Lifecare Plans and notifying the administrator of the Developmental Disabilities Program of any problems in the system. The Board is also responsible for monitoring DDP and the quality of services purchased. The Board is made up of individuals with disabilities, family members, service providers, and professionals who have an interest in helping people with disabilities.

What controls are there on disbursements from the DDP?

Interest income from individual trust accounts is transferred to DDP and is then used to purchase services in accordance with the Lifecare Plans. If the Board is not satisfied with the performance of DDP, the Board can ask to have income returned to MSST. The Board can, if necessary, refuse to release funds to DDP.

Trust advisors who are dissatisfied with services can bring complaints to the Advisory Board for resolution.

If I don't like the way the Advisory Board is handling my individual trust account, what can I do?

You can complain to the Advisory Board either in writing or in person and ask for redress of your grievances. If you are not satisfied with the Board's response, you can withdraw your funds from MSST at any time.

If I don't like the way the trust advisor is monitoring the individual trust account, what can I do?

As the donor, you have the power to remove the trust advisor and appoint a new trust advisor. The appointment of a new trust advisor is subject to the approval of the MSST Advisory Board.

Why does MSST require a contribution to the Charitable Trust?

MSST is a service to individuals with disabilities and their families. Much of the work of the operation of the Trust is conducted by volunteers who are committed to enhancing the services for

Self Sufficiency Trust of Montana

persons with disabilities in Montana. The Charitable Trust is an important component of MSST because its presence guarantees equality of access to the benefits of the Trust and makes possible the expansion of Montana's human service system. A donation of part of the principal in each individual trust account to the Charitable Trust is a way of perpetuating the MSST system and continuing its benefits into the next generation.

What happens if the beneficiary moves away from Montana?

If the beneficiary is no longer a resident of Montana, then he or she is no longer eligible to participate in MSST. When a beneficiary moves, funds must be withdrawn from his or her individual trust account. The provisions of MSST policy on withdrawals then apply.

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Appendix A: Definitions

Beneficiary. The beneficiary is an individual with a lifelong disability who is a resident of the State of Montana and is eligible for services from the Department of Public Health and Human Services. The beneficiary is named by a donor to receive supplemental services described in a Lifecare Plan and funded by the interest income on an individual trust account in the Self Sufficiency Trust.

Charitable Trust. The Charitable Trust is that part of the total Self Sufficiency Trust which contains charitable donations intended to benefit individuals with disabilities who may be indigent and do not have individual trust accounts.

Donor. The donor is the individual family member or friend of a person with a disability who creates and funds an individual trust account and places it in the Montana Self Sufficiency Trust. Under certain circumstances, the beneficiary himself or herself may be a donor and fund an individual trust account. When the donor is also the beneficiary, the donor may not become the trust advisor.

Fiduciary Agent. The fiduciary agent is a bank or investment firm selected by the MSST Advisory Board to invest the monies in the trust accounts per the investment policies recommended by the Board. The MSST fiduciary agent currently is:

Davidson Trust Co.
PO Box 2309
Great Falls MT 59403-2309
800-634-5526; (406) 791-7325; (406) 791-7385 (Fax)
Contact: Karen Grove

Individual Trust Account. An individual trust account is an irrevocable trust set up in the Montana Self Sufficiency Trust for the benefit of an individual with lifelong disabilities. Interest income from an individual trust account is used to purchase supplemental services for the beneficiary per the Lifecare Plan.

Lifecare Plan. The Lifecare Plan is a document which specifies the types of supplemental services that are to be purchased for the beneficiary. The Lifecare Plan is written by the donor or trust advisor with the assistance of Lifecare Planning counselors who are knowledgeable about disabilities and the services that are available in Montana. No interest

Self Sufficiency Trust of Montana

income from an individual trust account can be used to purchase services unless a Lifecare Plan has been written and approved.

Lifecare Planning Agency. The Lifecare Planning Agency is a private, nonprofit corporation which provides counseling services to assist donors or Trust Advisors who request assistance in writing a Lifecare Plan. The current Lifecare Planning Agency is:

Parents, Let's Unite for Kids (PLUK)
516 N. 32nd St.
Billings MT 59101
800-222-7585; 406-255-0540; 406-255-0523 (fax)
plukinfo@pluk.org
<http://www.pluk.org>

Montana's Self Sufficiency Trust. Montana's Self Sufficiency Trust (MSST) is a fund which generates income to purchase supplemental services for individuals with lifelong disabilities without jeopardizing their eligibility for government benefits. MSST consists of two parts: the Private Trust and the Charitable Trust.

MSST Advisory Board. The operations of Montana's Self Sufficiency Trust are overseen by the an Advisory Board. The Advisory Board reviews Lifecare Plans to ensure that they can be implemented as written. The Advisory Board also has the power to select the fiduciary agent and Lifecare Plan agency that assist with the operations of MSST.

Private Trust. The Private Trust is that part of the total Self Sufficiency Trust which contains the individual trust accounts established for persons with disabilities by family members or friends.

Donors may also be individuals, groups or organizations which choose to contribute funds to the Charitable Trust for the benefit of persons with disabilities who do not have individual trust accounts in MSST.

Transfer Document. The transfer document is used to transfer funds from a will or other such document into an account in the Self Sufficiency Trust.

Trust Advisor. The donor for each individual trust account must designate a trust advisor to oversee the account. The trust advisor can be the donor or any person the donor designates. The only exception to this rule is when the donor is also the beneficiary of the account. In this situation, the donor, because he or she is beneficiary, cannot be the trust advisor.

Self Sufficiency Trust of Montana

Subject to the policies of MSST and to the fees for withdrawal designated by the fiduciary agent, the trust advisor has the power to withdraw funds from the trust account, to revise the Lifecare Plan, to receive semi-annual reports on the financial status of the account, and to close an individual account.

The trust advisor serves at the pleasure of the donor and the MSST Advisory Board. If the trust advisor fails or ceases to act, the donor may appoint a new trust advisor. In addition, the donor or the MSST Advisory Board may remove a trust advisor who fails or ceases to act in the best interests of the beneficiary.

Self Sufficiency Trust of Montana

Appendix B: FORMS

Self Sufficiency Trust of Montana

Form 1: REGISTRATION

DONOR'S NAME _____

DONOR'S CURRENT ADDRESS _____

DONOR'S TELEPHONE NUMBER _____

DONOR'S SOCIAL SECURITY NUMBER _____

TRUST ADVISOR'S NAME _____

TRUST ADVISOR'S CURRENT ADDRESS _____

TRUST ADVISOR'S TELEPHONE NUMBER _____

BENEFICIARY'S NAME _____

BENEFICIARY'S Date of Birth _____

BENEFICIARY'S Social Security Number _____

BENEFICIARY'S CURRENT ADDRESS _____

ELIGIBILITY

At the time of this registration, _____

BENEFICIARY

a person with a lifelong disability and a resident of the State of Montana, has been declared eligible for one or more services provided by the Department of Public Health and Human Services (DPHHS). Proof of eligibility for services is attached to this registration form. I declare to the best of my knowledge that the above statements are true.

DONOR OR TRUST ADVISOR'S SIGNATURE

DATE

FEES

I understand that it is my responsibility to pay the following fees:

Registration Fee: \$50.00 to Parents, Let's Unite for Kids
Account Fee: \$100.00 to Davidson Trust Co.
Annual Management Fee: 1.25% of trust account value to Davidson Trust Co.

I further understand that the Lifecare Plan must be written with the assistance of Parents, Let's Unite for Kids (PLUK). A fee may be charged by PLUK if the agency incurs expenses (e.g., travel) in the process of developing the Lifecare Plan.

Self Sufficiency Trust of Montana

SERVICES AND LIFECARE PLAN

I expect that the Self Sufficiency Trust of Montana, Inc. will invest funds deposited in:

BENEFICIARY

individual trust account in a reasonable prudent manner and will ensure that the services outlined for the named beneficiary in his or her Lifecare Plan will be purchased to the degree and in the manner that available funds allow.

TRUST ADVISOR

I understand that I, as the donor, may appoint myself or any other individual of my choosing to act as an advisor for the individual trust account of the beneficiary. This trust advisor has the power to monitor the implementation of the Lifecare Plan, change the Lifecare Plan, add to or withdraw funds from the individual trust account, and interact with the MSST Advisory Board on the beneficiary's behalf. I will execute a Notice of Appointment for a trust advisor and file three copies of this notice with MSST.

DEPOSIT OF FUNDS

I understand that funds may be deposited in the individual trust account for the beneficiary at any time after this Registration Form is completed and filed and the registration fee of \$50.00 and account fee of \$100.00 have been paid. At this time, the recommended minimum deposit to open an account is \$2,000.00.

CHOICE OF INVESTMENT FUNDS

The donor must choose from the following array of investment options. Mark your choice below:

- Fixed Income Portfolio (100% income)
- Income Portfolio (20% Equity / 80% Income)
- Income & Growth Portfolio (40% Equity / 60% Income)
- Balanced Growth Portfolio (60% Equity / 40% Income)
- Growth Portfolio (80% Equity / 20% Income)

WITHDRAWAL OF FUNDS

I understand that withdrawal of funds from a trust account is permissible before such time as interest income has been used to purchase services. Reasonable notice (at least 60 days) must be provided to Davidson Trust Co. before a withdrawal can be instituted. The trust advisor executing the withdrawal will be responsible for paying any withdrawal fees incurred from liquidating investments.

After funds have been disbursed from an individual trust account to purchase services, the trust advisor may close a trust account but **the state of Montana must be repaid any amount Medicaid has paid on behalf of the beneficiary to the extent sufficient funds remain in the individual trust to do so. After Medicaid has been repaid, the trust advisor will recover the current market value of the individual trust account less a closing fee and any withdrawal fees incurred by liquidating investments.**

Self Sufficiency Trust of Montana

DEATH OF THE BENEFICIARY

Upon the termination of _____'s participation in the Private Trust due to his or her death, ten percent of the current market value of the trust account shall be transferred to the Charitable Trust of MSST, and the State of Montana shall be repaid any amount Medicaid has paid on behalf of the beneficiary to the extent that sufficient funds remain in the individual trust to do so. Any funds remaining after the donation to the Charitable Trust has been made and the State of Montana has been repaid shall be distributed in the following manner:

The following provisions shall be made for the burial of the beneficiary:

MSST POLICIES AND PROCEDURES

I have received a copy of the MSST Handbook and am aware of the policies and procedures that govern the Self Sufficiency Trust of Montana, Inc. I understand that the policies and procedures are subject to change by the MSST Advisory Board. When changes in policy are contemplated, the trust advisor will receive notice of any proposed changes which may affect services, extent of services or cost of services. In addition, the trust advisor will be afforded an opportunity to discuss the proposed policy changes with the Board.

I have read the statements concerning the MSST fees, Services and Lifecare Plan, Trust Advisor, Deposit of Funds, Withdrawal of Funds, Death of the Beneficiary, Reimbursement to the State of Montana, and MSST Policies and Procedures. I understand the provisions contained in each of these statements. My signature on this document indicates my intention to open an individual trust account for:

BENEFICIARY

and to purchase services for this individual through MSST and pursuant to a Lifecare Plan.

DONOR'S SIGNATURE

DATE

REPRESENTATIVE OF MSST BOARD

DATE

___ Proof of Eligibility

___ Registration Fee Paid in Full

Self Sufficiency Trust of Montana

Form2: TRANSFER TO THE PRIVATE TRUST OF THE SELF SUFFICIENCY TRUST OF MONTANA

THE DONOR, _____,

residing at: _____,

hereby assigns and transfers to the Advisory Board of Montana's Self Sufficiency Trust (The "Board") the assets set forth in schedule A attached hereto for deposit in the individual trust

account for: _____,

a resident of Montana who has developmental disabilities or a person otherwise eligible for services provided by the Department of Public Health and Human Services

Purpose. This transfer is made to take advantage of Montana Code, Chapter 18, Section 53-18-101 et. seq. for the benefit of the beneficiary to insure that the services provided to the beneficiary will be of assistance and benefit to him or her in the development of his or her maximum potential and in helping him or her achieve a reasonable degree of normality and happiness in relation to his or her condition; only to supplement and not to replace earnings and governmental benefits, if any, and not to pay for food, lodging, medical, dental and hospital expenses which can otherwise be claimed from other sources including governmental agencies; and pursuant to the Lifecare Plan of the Beneficiary.

Distribution of Net Income. Distribution of net income from the individual trust account of the Beneficiary shall commence on the date determined by the trust advisor and continue for the life of:

_____.

The Department of Developmental Disabilities (DDP) shall be charged with implementing the Lifecare Plan for:

_____.

providing that the Plan has been approved and properly funded.

The MSST Advisory Board, in evaluating the Lifecare Plan for approval shall consider the following:

- a) Needs not otherwise provided for through governmental financial assistance and benefits. These needs may include, but are not limited to, the following: spending money, additional food, clothing, health services not provided, radios, record players, television sets, camping, vacations, athletic contests, movies, trips and other medical, health, recreational, or safety needs.
- b) Desires of the trust donor.
- c) Recommendations of the Lifecare Planning Agency.

Governing Criteria. It is my intent to give to the MSST Advisory Board wide discretion in approving and monitoring the implementation of Lifecare Plans for the beneficiary:

Self Sufficiency Trust of Montana

Therefore, the following criteria are not intended to limit discretion of the Advisory Board in determining the amount of financial benefit or assistance to be given under the Lifecare Plan. However, it is my desire that the Advisory Board take into account the following criteria in making its decisions:

- a) The age and physical condition of the beneficiary.
- b) The nature and extent of governmental assistance or benefits.
- c) The life expectancy of the beneficiary.
- d) The needs and ability for care, support, maintenance and education for the beneficiary.

This transfer shall always be subject to the current policies and procedures of MSST, and if a conflict exists between this transfer document and the Self Sufficiency Trust, the policies and procedures of the Self Sufficiency Trust of Montana, Inc., shall control.

Limitation. No distribution from the account shall be used to pay for the support of a beneficiary as the term support is defined under federal or state benefit programs, including but not limited to, Social Security, Medicaid, etc. In particular, no distributions shall be used to provide for food, clothing, shelter or items which are considered support under federal or state benefit programs.

No distributions prior to or during the provision of services to a beneficiary under the Trust or at its termination shall be made directly to a beneficiary under the Trust.

Termination.

DEATH OF THE BENEFICIARY

Upon the termination of _____'s participation in the Private Trust due to his or her death, ten percent of the current market value of the trust account shall be transferred to the Charitable Trust of MSST, and the State of Montana shall be repaid any amount Medicaid has paid on behalf of the beneficiary to the extent that sufficient funds remain in the individual trust to do so. Any funds remaining after the donation to the Charitable Trust has been made and the State of Montana has been repaid shall be distributed in the following manner:

Donor Signature _____
Date

IN WITNESS WHEREOF, the donor has signed this instrument on the

_____ day of _____ 20 _____.

WITNESS _____
WITNESS

IN WITNESS WHEREOF, the Board of Directors have signed and accepted this transfer this

_____ day of _____ 20 _____

REPRESENTATIVE OF THE ADVISORY BOARD SELF SUFFICIENCY TRUST OF MONTANA, INC.

Self Sufficiency Trust of Montana

Form 3: LIFECARE PLAN

Beneficiary

Trust Employer ID No.

Trust Advisor's Name: _____

Relationship to Beneficiary: _____

Trust Advisor's Address: _____

Trust Advisor's Telephone Number: _____

Beneficiary's Name: _____

Beneficiary's Address: _____

Beneficiary's Date of Birth: _____

I. Background

A. Summary of Beneficiary's Current Supports and Services (attach pages, if necessary):

Self Sufficiency Trust of Montana

B. Brief History (include the nature of the beneficiary's disability, health history, needs for supervision and support):

C. Is the beneficiary currently receiving services from DPHHS/Disabilities Services Division , the Division of Addictive & Mental Disorders, or the Division of Senior and Long Term Care? Please explain.

II. LifeCare Plan Needs

A. Residential:

B. Day Program:

C. Case Management/Advocacy:

Self Sufficiency Trust of Montana

D. Health Care Needs:

E. Other:

III. Lifecare Plan

A. Lifecare Plan Summary (include type and frequency of services).

B. Level of Financial Support Anticipated from MSST:

C. When MSST Services Are To Begin:

D. Date of Completion of Revised Lifecare Plan:

IV. Review and Update Process

It is essential that the trust advisor notifies the Self Sufficiency Trust of Montana of any changes which affect this plan; such as, relocation of trust advisor, or beneficiary; execution or modification of insurance policies, wills or trusts; change of beneficiary's level of need and so forth. In some instances, it may be necessary for the trust advisor to meet with a representative of the Self Sufficiency Trust of Montana to review the beneficiary's condition and further update the Lifecare Plan.

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V. Plan Activation

When enough interest income is generated by the individual trust account, the trust advisor may notify Davidson Trust Company (800-634-5526; (406) 791-7325) to transfer interest income to the Developmental Disabilities Program (DDP). DDP must be notified by the trust advisor to activate the Lifecare Plan (406-444-2995).

Staff Signature: _____ Date:

Trust Advisor Signature: _____ Date:

IN WITNESS WHEREOF, the current Trust Advisor has signed this instrument on the _____ day of _____ 20_____.

Notary Public: _____ Date:

(SEAL)

Self Sufficiency Trust of Montana

Form 4: APPOINTMENT OF A TRUST ADVISOR FOR AN INDIVIDUAL TRUST ACCOUNT IN THE SELF SUFFICIENCY TRUST OF MONTANA, INC.

WHEREAS, the Self Sufficiency Trust of Montana, Inc., allows donors to name a trust advisor for an individual trust account within Montana's Self Sufficiency Trust and requires the Advisory Board to affirm the appointment of such a named advisor; and,

WHEREAS, the Board has determined that the appointment of a trust advisor would further the purposes of the Trust and allow for more efficient administration;
NOW, THEREFORE, the MSST Advisory Board, upon nomination by the donor (or current trust advisor), hereby appoints:

as trust advisor for the individual trust account of: _____

(the "Beneficiary") with powers and duties contained herein and none other. This appointment and the powers and duties conferred herein shall apply only to the Beneficiary's account within the Private Trust Fund of the Self Sufficiency Trust of Montana.

ARTICLE ONE

The Trust Advisor shall have the following powers and duties exercisable in conjunction with the MSST Board. If the Board and the Advisor disagree as to the manner or extent of exercising any power or duty contained in this Article, the decision of the MSST Advisory Board shall control.

- Section 1. To monitor the implementation of the Lifecare Plan executed and approved for the Beneficiary.
- Section 2. To revise the Beneficiary's Lifecare Plan according to his or her current and future needs.
- Section 3. To add to funds in the individual trust account established for the Beneficiary.
- Section 4. To withdraw the individual trust account for the Beneficiary from the Self Sufficiency Trust of Montana.
- Section 5. In accordance with the wishes of the donor, to recommend to the MSST Advisory Board a successor as trust advisor.
- Section 6. If the beneficiary has ever been a recipient of Medicaid, notify the State of Montana when the beneficiary dies.
- Section 7. To perform such duties as are indicated in the Lifecare Plan for the Beneficiary or in the policies and procedures adopted by the Advisory Board of the Self Sufficiency Trust of Montana.

ARTICLE TWO

The Trust Advisor shall act until his or her death, removal by the donor or the MSST Board, resignation as advisor by written and notarized notice to the Advisory Board, or the termination of participation of the Beneficiary in the Private Trust of the Self Sufficiency Trust of Montana.

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If the Trust Advisor wishes to cease serving or fails or ceases to act, the donor appoints:

residing at the following address: _____

as a successor, and if the successor fails or ceases to act, the donor appoints:

residing at the following address: _____

as alternate successor. If all named fail to serve, the MSST Board retains the right to appoint a trust advisor.

ARTICLE THREE

The donor may, at any time, remove the trust advisor and appoint an alternative trust advisor. When a donor chooses to remove a trust advisor, the donor must inform the trust advisor in writing of his or her removal and must at the same time provide written notice to the MSST Advisory Board of the removal of the trust advisor. To appoint a new trust advisor, the donor must execute another Notice of Appointment for approval by the MSST Advisory Board.

NAME OF NOMINEE FOR TRUST ADVISOR

who resides at: _____

is recommended by: _____

DONOR OR CURRENT TRUST ADVISOR

for appointment as Trust Advisor for the Self Sufficiency Trust Account of:

In my opinion, the above named nominee for Trust Advisor has the best interests of the beneficiary in mind and is well suited to the duties of managing the Lifecare Plan and Self Sufficiency Trust of:

BENEFICIARY

To my knowledge the above named individual has no conflict of interest in managing this trust.

Signature of the Donor or Current Trust Advisor

Date

Self Sufficiency Trust of Montana

IN WITNESS WHEREOF, the Donor or current Trust Advisor has signed this instrument on the

_____ day of _____ 20_____.

Notary Public: _____ Date: _____

(SEAL)

IN WITNESS WHEREOF, the Advisory Board of the Self Sufficiency Trust of Montana has acted upon this nomination of Trust Advisor for the account of

BENEFICIARY

and has duly appointed: _____

as Trust Advisor to serve at the pleasure of the MSST Advisory Board until he/she resigns, is replaced, or the MSST account of

BENEFICIARY

is closed or terminated

Authorized Signature
SELF SUFFICIENCY TRUST OF MONTANA, INC.

Date

The undersigned accepts appointment as Trust Advisor this

_____ day of _____ 20_____.

Signature of the Trust Advisor

Self Sufficiency Trust of Montana

Appendix C: STATE STATUTES

Administrative Rules, DPHHS Montana

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHAPTER 2
DEPARTMENT PROCEDURES
Subchapter 5
Self-sufficiency Trusts

http://www.dphhs.state.mt.us/legal_section/administrative_rules_montana/arm_title_37/ch_2.pdf

37.2.501 SELF-SUFFICIENCY TRUSTS: PURPOSE:

- (1) These rules provide for the acceptance by the state of monies from a certain type of trust, known as a self-sufficiency trust, to be used to purchase services to supplement the services that a person with a disability receives from the state. These rules also provide for the receipt of donated monies to be used for the purchase of certain human services.
- (2) A properly constituted self-sufficiency trust allows a person to obtain additional resources for enhancing the quality of the person's life while maintaining the person's eligibility for certain state funded human services.
- (3) These rules are not written to correspond to or to provide guidance concerning any requirements that may be necessary for a trust to be in compliance with state laws relating to trusts or the federal and state tax codes.
- (4) The department is not responsible for advising or directing a party in the various legal requirements necessary for the establishment of a trust in relation to state trust law and federal and state tax codes.

(History: Sec. 53-2-201 and 53-18-103, MCA; IMP, Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105, MCA; NEW, 1995 MAR p. 935, Eff. 5/26/95; TRANS, from SRS, 1996 MAR p. 2433.)

37.2.502 SELF-SUFFICIENCY TRUSTS: DEFINITIONS

For the purposes of these rules, the following definitions apply:

- (1) "Department funded services" means services and items normally purchased by the department for recipients of its programs. Department funded services are typically provided by a service provider through a contract with the department or by fee reimbursement from the department. The term also includes services provided by a service provider through a contract with the division of addictive and mental disorders or by fee reimbursement from the division of addictive and mental disorders.
- (2) "Department" means the department of public health and human services (effective 7/1/95) provided for in Title 2, chapter 15, part 22, MCA.

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- (3) "Person with a disability" means a disabled person as defined at 45 USC 1382c (a) (3) (1995) who has a medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 45 USC 1382c (a) (1995) is a federal statute that is hereby adopted and incorporated herein by this reference. A copy of the cited regulation is available upon request from the Department of Public Health and Human Services, Office of Legal Affairs, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210.
- (4) "Beneficiary" means a person who is eligible to be a beneficiary of a self-sufficiency trust as provided in ARM 37.2.503.
- (5) "Life care plan" means a written plan established to govern the provisions of supplemental services purchased with the monies of a self-sufficiency trust.
- (6) "Self-sufficiency trust," as defined at 53-18-101(2), MCA, means a trust to benefit a person with a disability established, held and managed by a nonprofit corporation that is a 501 (c) (3) organization under the United States Internal Revenue Code of 1954, as amended, and that is organized under the Montana Nonprofit Corporation Act, Title 35, chapter 2, MCA. The corporation must have as one of its principal purposes the use of trust monies for the care and treatment of a person or persons with disabilities who are or could be the recipients of department funded services. The monies of individual self-sufficiency trusts may be pooled together by a nonprofit corporation for management and investment purposes.
- (7) "Self-sufficiency trust account" means the account established by the state for the purpose of receiving monies from self-sufficiency trusts for the purchase of supplemental services by the state for eligible beneficiaries.
- (8) "Service provider" means a person or corporation that provides department funded services or supplemental services to a beneficiary.
- (9) "Special charitable account" means the account within the state's self-sufficiency trust account established for the purpose of receiving charitable donations to fund services for persons who have developmental disabilities, mental illness, and physical disabilities, or who are otherwise eligible for department services, as defined by the department.
- (10) "Supplemental services" means services and items that are in addition to the department funded services an eligible beneficiary is receiving from the department.

(History: Sec. 53-2-201 and 53-18-10, MCA; IMP, Sec. 53-18-101, 53-18-102, 53-18-104 and 53-18-105, MCA; NEW, 1995 Mar p. 95, Eff. 5/26/95; TRANS, from SRS, 1996 Mar p.2433.)

37.2.503 SELF-SUFFICIENCY TRUSTS: ELIGIBLE BENEFICIARY

- (1) The beneficiary of a self-sufficiency trust must be:
 - (a) a resident of the state of Montana;
 - (b) a person with a disability; and
 - (c) potentially eligible for services provided by the department.
- (2) A person of 18 or more years of age has a disability only if the person is unable to engage in any substantial gainful activity due to the disability.
- (3) Services provided by the department include:
 - (a) developmental disabilities services;
 - (b) vocational rehabilitation services;

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- (c) independent living services;
- (d) severe disabilities services;
- (e) weatherization services;
- (f) low income energy assistance;
- (g) aide for dependent children;
- (h) food stamps; and
- (i) Medicaid services.

(History: Sec. 53-2-201 and 53-18-103, MCA; IMP, Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105, MCA; NEW, 1995 MAR p. 935, Eff. 5/26/95; TRANS, from SRS, 1996 MAR p. 2433.)

Rule 04 reserved

37.2.505 SELF-SUFFICIENCY TRUSTS: QUALIFYING TRUSTS

(1) To qualify as a self-sufficiency trust, an individual trust must meet the following criteria:

- (a) The individual trust must be established and managed by a nonprofit corporation
- (b) which has as one of its principal purposes the use of trust monies for the care and treatment of a person or persons with disabilities who are or could be the recipients of state funded services;
- (c) The individual trust must be for the sole benefit of a person or persons with disabilities who are or could be the recipients of the state funded services listed in ARM 37.2.503 (3);
- (d) The individual trust must be funded by the beneficiary, by a parent, grandparent or legal guardian of the beneficiary, or at the direction of a court;
- (e) The individual trust must provide that the trust monies may only be expended on supplemental services;
- (f) The individual trust must provide that upon the death of the beneficiary the state be reimbursed, to the extent the monies remaining in the trust allow, an amount equal to the total cost to the state of providing Medicaid services to the beneficiary;
- (g) The individual trust must provide that upon the death of the beneficiary, in accordance with IRS codes, rulings and interpretations, monies are donated from the remainder of the trust to the special charitable account as described in ARM 37.2.511;
- (h) The expenditure of monies from the individual trust on behalf of a beneficiary must be governed by a life care plan approved by the department in accordance with ARM 37.2.508; and
- (i) The individual trust must be established in accordance with state laws governing trusts and with relevant federal and state tax codes, rulings and interpretations.

(History: Sec. 53-2-201 and 53-18-1043, MCA; IMP, Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105, MCA; NEW 1995 MAR p. 935, Eff. 5/26/95; TRANS, from SRS, 1996 MAR p. 2433.)

Rules 06 and 07 reserved

Self Sufficiency Trust of Montana

37.2.508 SELF-SUFFICIENCY TRUSTS: LIFE CARE PLAN APPROVAL AND PAYMENT

- (1) A life care plan must include:
 - (a) the name and address of the beneficiary;
 - (b) a description of the specific supplemental services to be purchased;
 - (c) the amount of the supplemental services to be purchased;
 - (d) the amount of money available to purchase the supplemental services; and
 - (e) any other information necessary for the department to be able to decide whether it is feasible to purchase the specified supplemental services.

- (2) A life care plan must meet the following criteria in order to be approved by the department:
 - (a) The supplemental services specified in the plan must be currently available and can be reasonably expected to be available for the beneficiary when necessary;
 - (b) The supplemental services specified in the life care plan can be purchased in a manner consistent with the practices of the department;
 - (c) The beneficiary's trust account must have sufficient monies over the term of the plan to fund the supplemental services to be purchased under the plan; and
 - (d) The services and items specified in the plan are supplemental services as defined in ARM 37.2.502.

- (3) The department will notify the self-sufficiency trust corporation of the department's decision to approve or disapprove a life care plan.
- (4) The self-sufficiency trust corporation must provide the department with a payment schedule by which the monies necessary for the reimbursement of the cost of the supplemental services specified in the plan will be deposited to the state's self-sufficiency trust account so as to provide payments for the purchase of the services.
- (5) The department will not approve the life care plan for a person who is or could be eligible for state funded mental health services unless the division of addictive and mental disorders approves the plan and is committed to managing the delivery of the supplemental services specified in the plan.

(History: Sec. 53-2-201 and 53-18-103, MCA; IMP, Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105, MCA; NEW, 1995 MAR p. 1135, Eff. 5/26/95; TRANS, from SRS, 1996 MAR p. 2433.)

37.2.509 SELF-SUFFICIENCY TRUSTS: LIFE CARE PLAN IMPLEMENTATION

- (1) The department manages the purchase and delivery of the supplemental services specified in an approved life care plan.
- (2) The department may contract with a service provider to manage on behalf of the department the delivery of supplemental services specified in a life care plan.
- (3) A contract for the management of the purchase and delivery of supplemental services specified in a life care plan must provide the following:
 - (a) the name and address of the beneficiary;
 - (b) the supplemental services to be purchased and delivered;

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- (c) the amount of money available in the life care plan to purchase the supplemental services;
 - (d) the types and quantity of the supplemental services to be delivered;
 - (e) the amount of any reasonable administrative cost the service provider may charge for the management of the purchase and delivery of the supplemental services; and
 - (f) any other information necessary to secure the purchase and delivery of supplemental services.
- (4) Prior to the purchase of a service or item, the money to purchase the service or item must be available in the state's self-sufficiency trust account.
 - (5) The department reimburses the charges for supplemental services based upon billing provided after the delivery of the services.
 - (6) The department may terminate the delivery of supplemental services if the amount of funds deposited in the state's self-sufficiency trust account for that particular beneficiary is not sufficient for the management and purchase of the services specified in the life care plan.
 - (7) A life care plan may be modified only with the written approval of the department.
 - (8) A self-sufficiency trust desiring to terminate supplemental services must provide the department with written notification 30 days prior to the date when the services are to terminate.

(History: Sec. 53-2-201 and 53-18-103, MCA; IMP, Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105, MCA; NEW, 1995 MAR p. 1135, Eff. 5/26/95; TRANS, from SRS, 1996 MAR p. 2433.)

37.2.511 SELF-SUFFICIENCY TRUSTS: SPECIAL CHARITABLE ACCOUNT

- (1) The special charitable account provides monies to fund services for recipients of the programs of services specified in ARM 37.2.503 (3) on an individual or group basis.
- (2) The special charitable account is funded with monies donated by individual trust accounts as provided in ARM 37.2.505 (1) (f) by other charitable donations, and by any other permissible means.
- (3) The expenditure of monies from the special charitable account is subject to the legislative appropriation process.
- (4) Services for a person are provided in accordance with the provisions of a life care plan developed by the department and approved by the special charitable account review board.
- (5) The special charitable account review board is a 3 person board appointed by the department director to review and approve proposed life care plan developed by the department to purchase services for persons with funds from the special charitable account and to review and approve other expenditures from the account.
- (6) The special charitable account review board consists of the following members:
 - (a) a department employee;
 - (b) a member of the board of directors of an organization which provides self-sufficiency trust services; and
 - (c) an employee of a service provider.

(History: Sec. 53-2-201 and 53-18-103, MCA; IMP, Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105, MCA; NEW, 1995 MAR p. 1135, Eff. 5/26/95; TRANS, from SRS, 1996 MAR p. 2433.)

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37.2.512 SELF-SUFFICIENCY TRUST: REPORTING REQUIREMENTS

- (1) A service provider, managing the purchase and delivery of supplemental services, must provide an annual report to the department.
- (2) The department must provide an annual report on an active individual self-sufficiency trust to the managing self-sufficiency trust corporation specifying the following:
 - (a) the name and address of the eligible beneficiary who received supplemental services;
 - (b) a description of the supplemental services provided;
 - (c) the amount of the supplemental services provided;
 - (d) the cost of the supplemental services provided; and
 - (e) information about the impact of the supplemental services on the beneficiary.

(History: Sec. 53-2-201 and 53-18-103, MCA; IMP, Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105, MCA; NEW, 1995 MAR p. 1135, Eff. 5/26/95; TRANS, from SRS, 1996 MAR p. 2433.)

37.2.513 SELF-SUFFICIENCY TRUSTS: STATE SELF-SUFFICIENCY TRUST ACCOUNT

- (1) Monies of a self-sufficiency trust, in order to be expended by the state, must be transferred to the department for deposit to the state self-sufficiency trust account.
- (2) Monies from a self-sufficiency trust received by the department are deposited in the state's self-sufficiency trust account. The monies for each beneficiary are individually accounted for in the trust account.
- (3) The department must return monies to a self-sufficiency trust along with any interest earned on the monies if the department is unable to obtain the supplemental services specified in the life care plan and the life care plan is not revised.
- (4) The department must disburse monies from the special charitable account in the self-sufficiency trust account in accord with the appropriation process and the direction of the special charitable account review board.

(History: Sec. 53-2-201 and 53-18-103, MCA; IMP, Sec. 53-18-101, 53-18-102, 53-18-103, 53-18-104 and 53-18-105, MCA; NEW, 1995 MAR p. 1135, Eff. 5/26/95; TRANS, from SRS, 1996 MAR p. 2433.)

SB 0288 (55th Legislature)

AN ACT EXEMPTING SELF-SUFFICIENCY TRUSTS FROM LIENS IMPOSED BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO THE EXTENT PERMITTED BY FEDERAL LAW; AMENDING SECTIONS 40-50242, 40-5-248, 53-2-612, AND 53-6-143, MCA; AND PROVIDING AN EFFECTIVE DATE (July 1, 1997).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-50242, MCA, is amended to read:

"40-5-242. Notice of support lien--civil liability upon failure to honor support lien or to comply with warrant for distraint. (1) The department may, at any time after asserting a

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support lien, serve a notice of the lien on any person, firm, corporation, association, or political subdivision or department of the state in possession of any real or personal property that is due, owing, or belonging to an obligor. For this purpose, personal property includes the obligor's share of a decedent's estate, workers' compensation benefits, and any proceeds or potential proceeds from suits at law. Except as provided in subsections (1)(a) and (1)(b), the department may not impose a lien under this section upon a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1.

- (a) The department may impose a lien under this section upon a self-sufficiency trust or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, if the department is required by federal law to recover or collect from the trust or its assets as a condition of receiving federal financial participation for the child support enforcement program or the aid to families with dependent children program.

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