

The Arc of Texas Master Pooled Trust *Policies and Procedures*

1. FOR WHAT POPULATION WILL THE MASTER POOLED TRUST BE AVAILABLE?

The Master Pooled Trust serves anyone who meets the definition of a person with a disability under the Social Security Act. If an applicant has SSI, SSDI, and most forms of Medicaid, he will have had a state determination of disability. If he has not had a state disability determination, The Arc can provide a determination of disability. For Trust I, The Arc will make the decision concerning disability and will obtain reports appropriate to determine disability. For Trust II, Arc staff will consult with TxDADS Disability Definition director and will obtain appropriate reports.

2. SERVICE REGION.

The Arc of Texas Master Pooled Trust serves Texas residents only. The Trust office will stay as updated as possible on other state's trust programs for people with disabilities and will refer inquiries to the appropriate contact person in those states.

3. RELATIONSHIP WITH FINANCIAL ADVISORS AND ATTORNEYS.

- a. The Arc will provide prospective Donors with information from reputable sources on the kinds of questions they should ask, and concerns they should have, when choosing a financial advisor or attorney.
- b. In addition to providing parents with information, The Arc will foster on-going communication with financial advisors and attorneys so they are aware of Master Pooled Trust's intent and how it works.
- c. The Arc will not endorse any financial advisor or attorney. If requested by parents, we will provide a list of known financial advisors or attorneys, but we will explain that such a list is not an endorsement.

4. COMPLETING THE JOINDER AGREEMENT.

The process for completing the Joinder Agreement shall be as follows:

- a. Donors and attorneys may complete the Joinder Agreement.
- b. The Arc of Texas is prepared to assist the Donor or the attorney in completing the form through:
 - Answering questions over the phone, or

- Meeting with the Donor or attorney in The Arc's office, at a time acceptable to both parties.
- c. The self-funded checklist must be completed before the Joinder II and IV can be approved. The enrollment fee must be received before the Joinder can be approved.
- d. The Arc Master Pooled Trust staff will review the Joinder Agreement and the joinder is not effective until accepted by The Arc.

5. AMENDMENTS TO EITHER THE MASTER TRUST OR JOINDER AGREEMENT.

Some potential Donors may want to modify one or more features of the trust documents. Making amendments for individual Donors increases both the complexity and cost of administration. For these reasons, amendments will not be allowed to either document.

6. USING AN ANNUITY TO FUND MASTER POOLED TRUST.

- a. Some families have annuities established through their place of work that is paid to their child with a disability throughout the child's entire lifetime. After the parent dies, the annuity can fund the Master Pooled Trust.
- b. Donors can fund the Master Pooled Trust with this kind of annuity, so long as the Master Pooled trust is designated as the irrevocable payee.
- c. Attorneys can establish annuities to fund the Master Pooled Trust as long as the annuity will not jeopardize the beneficiary's benefits and State Medicaid rules should be reviewed with the attorney.

7. FUNERAL EXPENSES.

The Master Pooled Trust can be used for a beneficiary's pre-paid funeral expenses, purchased before the beneficiary dies. While Medicaid is not available for this purpose, a funeral contract can be pre-paid with trust funds. [Social Security will pay \$255 for funeral expenses after a beneficiary dies.] Trust funds cannot be used for a beneficiary's funeral after the death of the beneficiary. (This statement is included on the checklist for self-funded accounts.)

8. MINIMUM AND MAXIMUM DOLLAR AMOUNTS FOR ACCOUNTS.

- a. No minimum amount at which an account can be funded is established. However, the amount funded should be beneficial to the beneficiary and still cover yearly administrative and consulting fees.
- b. No maximum amount shall be established for purposes of funding an account.
- c. Once a sub-account has been funded, the sub-account must maintain a minimum balance of \$300 in order to keep the sub-account active.

9. THE ARC'S ENROLLMENT FEE.

A \$450.00 one-time enrollment fee is due at the time the joinder agreement is executed.

10. THE ARC'S CONSULTATION FEE FOR FUNDED AND UNFUNDED ACCOUNTS.

- a. After the sub-account is funded (sometimes referred to as "funded enrollment"), the following annual fees are due: (fees are calculated monthly and reported quarterly.)

NOTE: *These fee schedules are alternatives. Most beneficiaries are under "distributions Authorized," meaning check requests will be processed by The Arc of Texas. If no checks will be processed during the calendar year, we offer the lower "Distributions Deferred" rate.*

1. Distributions Deferred (means no checks will be requested during the year)
Annual Maintenance Fee:
1.25% for amounts up to \$100,000
1% for amounts over \$100,000
Minimum annual fee \$250

OR-

2. Distributions Authorized (means checks will be requested)
Annual Consultation Fee:
1.75% on the first \$50,000
1.25% for amounts between \$50,000 up to \$100,000
1% for amounts over \$100,000
Minimum annual fee: \$300

Of these fees, JPMorgan-Chase takes .44 on the balance of the pooled fund each quarter.

- b. There are no annual fees for unfunded accounts.
- c. All fees may change but are fixed for the donor upon enrollment.

11. CONSULTATION FEES CHANGING FROM DISTRIBUTIONS DEFERRED TO DISTRIBUTIONS AUTHORIZED.

When a sub-account is funded and defined as *distributions deferred* the primary representative will be allowed to apply for one exception (one request for distribution) without changing the fees. If the primary representative requests another disbursement after that it then changes to distributions authorized permanently.

12. WHO CAN SIGN THE JOINDER AGREEMENT ON BEHALF OF THE ARC?

- a. Signing the Joinder Agreement for The Arc of Texas will be limited to any one of the following: The Arc of Texas' Executive Director, The Arc of Texas Master Pooled Trust (MPT) Project Director, or the MPT Manager for The Arc.

- b. If the Master Trust or the Joinder Agreement has been altered in any way by the Donor or his or her representative, e.g., a sub-section has been scratched out, no one shall sign on behalf of The Arc. The Donor shall be informed that no alterations in the document are allowed and shall be asked to resubmit a newly completed, unaltered document.
- c. Incomplete joinder agreements will be returned to the Donor.

13. ESTABLISHING AND MAINTAINING CONTACT WITH THE PRIMARY REPRESENTATIVE IN THE BENEFICIARY'S LIFE.

- a. Establishing contact. The primary and secondary representative will be identified in the joinder agreement. When a joinder is accepted, a letter will be sent to the Donor/primary representative along with a copy of the signed Joinder. The sub-account number will be assigned when the trust account is funded.
- b. Maintaining Contact. Representatives will be encouraged to monitor the non-support needs of the beneficiary and to contact Master Pooled Trust staff to request disbursements.

14. REQUESTING DISBURSEMENTS.

The procedure for The Arc's involvement with the Trustee in recommending favorable or unfavorable disposition of disbursement requests is as follows:

- a. The Trust Manager shall exercise his/her discretion for approving all requests for disbursement from the Trustee. In the Manager's absence, the Family Support Services Director or The Executive Director may approve requests.
- b. The Arc of Texas requires a seven-day processing period after Joinder Agreement approval before the first disbursement can be requested.

15. ARC'S CRITERIA FOR APPROVING DISBURSEMENTS.

- a. The primary representative, usually a family member, determines what the beneficiary needs from the trust. The Arc's criteria for approving the disbursement is that it will not interfere with benefits and that the disbursement is for the beneficiary.
- b. People making requests will be directed to make them through the Master Pooled Trust staff at The Arc, rather than directly to the Trustee. Requesting disbursements through the Arc keeps the Trustee's fee to a minimum, thus allowing more of a beneficiary's account to be used for the beneficiary.
- c. Requests must be made to The Arc in writing, including fax and email.
- d. Written confirmation from The Arc will follow each request.
- e. The Arc e-mails the written request to JPMorgan-Chase.

- f. If the request is received by JPMorgan-Chase before 10:00 a.m. of any workday, the request will be processed within the same workday.
- g. JPMorgan-Chase will e-mail The Arc a confirmation that the request was received and is being processed.
- h. The Arc will retain for its records receipts (or other proof of purchase) of the item(s) purchased.
- i. If a request is rejected by The Arc staff and the person making the request wants to appeal within The Arc, the appeal will be made to the Advisory Review Committee.
 - If the Advisory Review Committee (three members of the Advisory Committee) rejects the appeal, the person making the request can appeal to the entire Advisory Committee. If further appeal is required, the person making the request can appeal to The Arc's Board of Directors. The Arc Board of Directors decision is final.
- j. Beneficiaries/representatives will be told they must notify the Master Pooled Trust immediately if the beneficiary receives a notice of benefits being reduced or suspended.

16. MINIMUM AND MAXIMUM ANNUAL EXPENDITURES TO OR FOR THE BENEFICIARY.

All disbursements, both in amount and kind, are at the Manager's discretion. Thus, no minimum or maximum amount will be required. The family will be provided with disbursement projections based upon actuarial life, anticipated income, and expenses to help the family determine the amount available for disbursements. Requests will be honored as long as it meets nonsupport requirements and it is for the sole benefit of the beneficiary.

17. NEW FEES FOR DONORS WHO HAD ENROLLED BUT DECIDED TO DROP OUT, AND WHO NOW WANT TO RE-ENROLL.

Enrollment Fee: Donors will be required to pay another enrollment fee. This fee will be the amount in force when they decide to re-enroll.

18. PERIODIC REVIEWS BY THE ARC'S ADVISORY COMMITTEE.

- a. Enrollment Projections: No less than semi-annually, the Finance Advisory Committee will review and, if appropriate, revise enrollment projections.
- b. Revised Fees: The enrollment fee, and the fee to The Arc for consultation may be revised annually. The Finance Committee will be responsible for recommending what these revisions should be and The Arc Board will be responsible for approval.

19. INVESTMENT GUIDELINES.

- a. The investment objective is to provide maximum total return, consistent with minimal risk.

- b. The Finance Committee will review the performance and investment strategy of the bank trustee at least one time per year as a group. The Finance Committee Chair will monitor the pooled investment on a monthly basis by reviewing the pooled statement from JPMorgan-Chase.

20. FINANCIAL OVERSIGHT.

Both The Arc Trust's Finance Committee and The Arc's Board of Directors will have oversight responsibilities.

- a. The Trust Finance Committee will be responsible for review of the performance of trustee operating procedures and investment strategy; for recommending revised enrollment, renewal, and consultant's fees; for monitoring Master Pooled Trust operating procedures and enrollments; and for oversight responsibilities that are deemed important to the committee's role.
- b. The Trust Finance Committee will be responsible for tracking trust revenue and expenses.
- c. The Trust Finance Committee will report to The Arc Board when needed.

21. USES FOR TRUST REMAINDERS.

Trust Remainder's Share. The Trust Remainder's Share shall be retained by the Trust and, at the Manager's direction or in the absence of alternative direction, in the Trustee's sole discretion, be used:

- a. for the benefit of other enrolled Beneficiaries who are indigent, disabled persons defined as in 42 U.S.C. - 1382 c(a)(3),
- b. to add indigent disabled persons, as defined in 42 U.S.C. - 1382c(a)(3), to the Trust as Beneficiaries, or
- c. to provide indigent disabled persons, as defined in 42 U.S.C. - 1382c(a)(3), with equipment, medication, or services deemed suitable for such persons by the Manager or Trustee who might otherwise not be able to acquire needed items through other means.
- d. A committee of five (composed of Advisory and Finance committee members) will determine which individuals will receive assistance from Trust remainder share funds.

22. TAX PREPARATION.

- a. A tax CPA contracted by The Arc will prepare the federal tax forms necessary for taxes due based on each person's participation in the trust. The Tax CPA will prepare and send copies of either a grantor letter or K-1 to The Arc. The Arc will mail copies to each primary representative or beneficiary if the account is self-directed.

- b. Complex trusts (third-party funded) will not receive a grantor letter. Complex trusts can either be with distributions or without distributions.
 - 1) If the complex trust is without distributions, then that sub-account will pay any tax owed and no grantor letter will be sent to The Arc. However, a copy of the 1041 will be provided to The Arc.
 - 2) A complex trust with distributions can pay all or some tax and a form K-1 will be sent to The Arc on that sub-account. The Arc will also receive the full form 1041 on that sub-account.
 - 3) The Arc will send these forms to the primary representatives.
- c. Trust staff and the sub-accounting CPA will provide information to the Tax CPA for tax form preparation by January 31st or as soon as possible thereafter. The Tax CPA will charge The Arc for the tax reports preparations.
- d. The Arc's contracted CPA will charge each sub-account for the tax report preparations.

23. BENEFICIARY MOVES OUT OF STATE.

- a. If a similar trust is operating in the state in which the beneficiary has moved to and that trust is willing to accept the transfer, The Arc of Texas may choose to transfer the funds from The Arc of Texas Master Trust to the other trust, as long as it is felt to be in the best interest of the beneficiary and it does not appear that such distribution/transfer will impair access to the sub-account beneficiary's public benefits eligibility.
- b. Transfer on The Arc of Texas' part would only be done if the other trust is comparable to The Arc of Texas trust. (Transfer is also subject to the approval of the primary representative and/or testator.) If the other trust is not comparable, and a representative in the new state is identified and is willing to serve as representative, then the Arc of Texas will continue providing the same services The Arc of Texas Master Trust provides to residents of Texas.

24. ADDITIONAL DONORS – ENROLLMENT AND RENEWAL FEES

- a. No additional enrollment or renewal fee is required. So long as someone has enrolled for the beneficiary, additional Donors can be added at any time without additional fees.
- b. Anyone can contribute to a sub-account under an existing joinder provided the terms of the joinder remains the same. If not, a separate joinder, enrollment fee, and sub-account will be established.
- c. Since Beneficiaries can have different public benefits issues, sub-accounts will not mix third party funds and an individual's own funds. Further, where one Donor is seeking access to Medicaid themselves and other Donors are not, such sub-accounts will not be mixed.

25. ADDITIONAL DONORS – DETERMINATION OF REMAINDER SHARES.

- a. Each new Donor will agree to the current Joinder in all respects except will be allowed to select his/her own remainder by attaching an addendum to the current joinder agreement.
- b. The remainder is divided proportionately according to each contribution. For example, if the original Donor contributed \$15,000 and the new Donor contributed \$20,000, three-sevenths of the remainder is distributed per instructions from the original Donor and four-sevenths per instructions from the new Donor.

26. ENROLLMENT FEE FOR SECOND ACCOUNT.

When a trust account already exists for a beneficiary and a second account is set up for that beneficiary, the second enrollment fee shall be \$450. A separate joinder agreement will be completed for the separate sub-account.

Example: Parents are already enrolled in Master Pooled Trust. They paid an enrollment fee of \$450. Their child receives a lump sum back payment from Social Security. To retain eligibility for Medicaid and to avoid mixing third-party money and an individual's own money, they are required to put this money into a separate sub-account. The enrollment fee assessed for this second sub-account is also \$450.

27. ENROLLMENT FEE TO THE ARC WHEN DONOR BECOMES MEDICAID ELIGIBLE.

If a Donor submits a funded joinder agreement for their son or daughter with a disability to apply for Medicaid herself, the enrollment fee to The Arc shall still be \$450.

28. PROVIDING ADVICE/ASSISTANCE TO OTHER TRUSTEES

- a. It shall be the Administrative Policy of the Master Pooled trust that when contacted by persons who have already selected and implemented an alternative trust or trustee to the Master Pooled Trust, the Trust Manager for The Arc shall respond courteously and professionally, but clearly indicate that we are not in the position to be able to offer consultation to those people who are not participants in the Master Pooled Trust. The Trust Manager will inform the Project Director whenever such action is taken.
- b. The exception to this policy would be those persons who already have another trust instrument or trustee but who the Trust Manager believes are good prospects for enrollment in Master Pooled Trust.
- c. The Trust Manager may spend additional time in contact with a person if, in the Manager's judgement, extraordinary circumstances warrant it in spite of the fact that he or she may not be a prospective member of Master Pooled Trust. The Trust Manager will inform the Project Director whenever such action is taken.

29. EARLY TERMINATION OF SUB-ACCOUNT DURING THE BENEFICIARY'S LIFETIME.

Section 139p of Title 42 of the United State Code does not place restrictions on early termination. Also, early terminations do not affect the fact that the trust is irrevocable.

The provisions of the joinder agreement and trust document that address early termination of the sub-account can be viewed on those documents. The reasons to terminate a trust sub-account during the beneficiary's lifetime may be if future developments of law or judicial decisions affect the trust or if the trust sub-account will become liable for basic maintenance and support. Additionally, if a beneficiary is no longer disabled, it may be within the Manager's discretion to distribute funds as directed in the joinder agreement.

It is our intention that this trust be available for the beneficiary with a disability for a lifetime or until the funds are no longer available. We do not anticipate terminating a trust sub-account during a beneficiary's lifetime.

When an early termination of a sub-account occurs, the Trust Manager will carry out the instructions in the joinder agreement, but will do so with a letter that accompanies the distribution of the sub-account balance. The letter will remind the beneficiary (grantor) of the beneficiary's duty to report changes to programs of the Department providing services to the beneficiary.

30. INTERIM POLICIES AND PROCEDURES.

- a. On occasion, Master Pooled Trust will have to act before either its full Advisory Committee or the Board of Directors has time to develop and approve a particular policy. When there is no established policy or guideline, the Arc's Project Director, in concert with the Trust Manager for The Arc, shall recommend appropriate action to the Arc's Executive Director and to the *Advisory Subcommittee* to The Arc Trust. Upon approval from the Executive Director and the Committee, the recommendation can be implemented.
- b. At the next regularly scheduled meeting of the Advisory Committee, the action taken shall be reviewed and a determination made as to whether the action will be recommended to the Board as proposed policy.