

# Special Needs Trusts

ADMINISTRATION  
GUIDE FOR  
BENEFICIARIES





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## DEFINITION OF TERMS

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The essential purpose of a special needs trust is to use the trust assets to improve the quality of an individual's life without disqualifying him or her from eligibility for public benefits. Therefore, one of the central duties of the trustee of a special needs trust is to understand what public benefits programs might be available to the beneficiary and how receipt of income, or provision of food or shelter, might affect eligibility.

Special needs trusts are complicated and can be hard to understand and administer. They are like other trusts in many respects—the general rules of trust accounting, law, and taxation apply—but unlike more familiar trusts in other respects. The very notion of “more familiar” types of trusts will, for many, be amusing—most people have no particular experience dealing with formal trust arrangements, and special needs trusts are often established for the benefit of individuals who would not otherwise expect to have experience with trust concepts.

Before delving into a detailed discussion of special needs trust principles, it might be useful to define a few terms.

### ***Special Needs Trust:***

A special needs trust is a trust that preserves the beneficiary's eligibility for needs-based government benefits such as Medicaid and Supplemental Security Income (SSI). Assets held by the trust are not “countable” for the purpose of these benefit programs. There are strict rules regarding disbursements of special needs trust funds. As a general rule, the trust will supplement the beneficiary's government benefits, but will not replace them.

### ***Grantor or Settlor:***

A grantor is an individual or other entity that creates a trust (i.e., the individual whose assets are put into the trust) regardless of whether the grantor also functions as the trustee. This person is typically the parent, grandparent, guardian, court or Beneficiary themselves.

### ***Trustee:***

The individual person or entity given control or powers of administration of property in the trust with a legal obligation to administer it solely for the purposes specified, and in the best interest of the beneficiary.

### ***Beneficiary:***

The person for which the trust has been established.





## DEFINITION OF TERMS (CONT'D)

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***Disability:***

As described by Social Security Administration, a disability is defined as the inability to do any substantial gainful activity by reason of any 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. ([https://www.ssa.gov/OP\\_Home/cfr20/404/404-1505.htm](https://www.ssa.gov/OP_Home/cfr20/404/404-1505.htm))

***Distribution:***

A distribution is a payment from a trust account for goods or services provided to the trust beneficiary.

***Supplemental Security Income:***

A federal means tested program, for people who are low-income, administered by the Social Security Administration (SSA), that provides a monthly monetary allowance for food and shelter and a small personal allowance.

***Medicaid:***

A Federal program, administered by the states, intended to provide health coverage for the blind, aged, and disabled who are impoverished.

***Medicaid Payback:***

This applies only to the first party special needs trust. In order for a beneficiary of a first party special needs trust to qualify for means-tested public benefits, federal and state law require that upon the beneficiary's death, the state or states must be repaid from the trust the amount that the state or state's Medicaid program has paid out on his or her behalf.

***Authorized Person:***

The authorized person can be the beneficiary, parent, a guardian, conservator, power of attorney, or family member who is trusted and familiar with the needs of the beneficiary. The primary authorized person is responsible for making requests for disbursements that are for the sole benefit of the beneficiary.

***Successor or Contingent Beneficiary:***

The grantor(s) designates successor and contingent beneficiaries in the trust documents.



## SPECIAL NEEDS TRUST BASICS

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A special needs trust is a trust that preserves the beneficiary's eligibility for needs-based government benefits such as Medicaid and Supplemental Security Income (SSI). Assets held by the trust are not countable for the purpose of these benefit programs.

There are strict rules regarding disbursements of special needs trust funds. As a general rule, the trust will supplement the beneficiary's government benefits, but will not replace them.





## GOVERNMENT BENEFITS OVERVIEW

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### *Supplemental Security Income (SSI)*

Operated by the **Federal** Social Security Administration

### *Medicaid*

Operated by **state** governments. A regional Medicaid office in your state administers the Medicaid program **locally**.

An SSI beneficiary receives a monthly cash payment for support because:

- The beneficiary is aged, blind or disabled,

**AND**

- Their assets and income are low enough to meet a “means test.”

SSI is intended to pay for the beneficiary’s **food and shelter**. If the trust pays for the beneficiary’s food and shelter, the SSI payment will be reduced by one-third or one-third plus \$20, depending on the beneficiary’s living arrangement. This is not fatal because Medicaid is maintained. It is often necessary to provide food and particularly shelter.

In some states, an SSI recipient is automatically entitled to receive Medicaid benefits because they are “categorically needy”. If the beneficiary receives too much income or has assets that are too great, they are likely to **lose their SSI eligibility**.

The loss of Medicaid coverage can be a more serious problem than the loss of SSI benefits, especially if alternative medical insurance is not readily available.

A special needs trust is intended to supplement your public benefits while avoiding violation of complicated eligibility rules.

For more detailed information on SSI Rules, please refer to our [Special Needs Trust Guidelines](#) available on the brochures page of our website: [capitalfirsttrust.com/brochures](http://capitalfirsttrust.com/brochures).



## FIRST PARTY AND THIRD PARTY TRUST DISTINCTIONS

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Serving as corporate trustee and administrator of first party special needs trusts and third party supplemental needs trusts, Capital First has experience, focus, and resources to excel in an area where many corporate fiduciaries are increasingly reluctant to serve. We fully understand the complexities of complying with the numerous statutes and regulations involved in the administration of special needs trusts. Here are the important distinctions between the source of the trust.

### ***First Party Trusts: Funded by Settlement Funds from a Lawsuit***

Capital First works closely with attorneys and settlement planners to ensure the trust meets the needs and requirements of the beneficiary. Our tenure in the business allows us to compliment the trust planning process and ensure ongoing compliance of the trust while at the same time providing beneficiaries with the peace of mind an experienced and time-tested corporate trustee provides.

### ***Third Party Trusts: Funded by a Family Member for the Benefit of a Loved One***

Capital First works closely with the estate planning attorney, CPA, and the financial advisor to maintain entitlement eligibility during the beneficiary's lifetime as well as timely distributions of remainder interests. Trust beneficiaries and their families work closely with a dedicated trust professional who understands the importance of serving the needs of the beneficiary.





## ADMINISTERING A SPECIAL NEEDS TRUST

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At Capital First Trust Company, unlike a call center at a large banking institution, each client works with a dedicated Trust Officer who is familiar with all aspects of the account. The Trust Officer is available to address questions and concerns clients have regarding their trust accounts.

Special Needs Trust Services Include:



**TRUST DISTRIBUTIONS**



**TAXES**



**RECORD KEEPING**



**ANNUAL REVIEWS**



**TRUST ACCOUNTINGS**



**BILL PAY**



## DISTRIBUTION PROCESS

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### *Setting the Agenda for Distributions*

To assist you in making decisions about purchasing goods or services, the beneficiary will work with a Trust Officer. Once you submit a request for funds to your Trust Officer, they will review your request to determine if the distribution is something that is not provided for you by your public benefits.

We recommend that the beneficiary provide Capital First with a complete [Benefit Summary Form](#). It is important to update this form at least once a year. If your benefit situation were to change, the administration of your trust may change accordingly.

A new Benefit Summary Form will be mailed to you annually with your annual statement and tax information. If you need a new form before then, you may request a copy from your Trust Officer. This form is also on our website, [www.capitalfirsttrust.com/forms](http://www.capitalfirsttrust.com/forms).

### *How and When Distributions are Made*

This section describes the rules Capital First must follow regarding how and when payments are made from your trust. To administer your account properly, it is very important that Capital First has your current SSI and Medicaid information on file. We must be made aware of this information because it will allow us to determine how and when payments are made from your trust, so you maintain eligibility and continue to receive benefits. This information will also help Capital First determine the kinds of distributions that can be made.

### *What Does the Distribution Request Process Look Like?*

The following outlines Capital First's distribution process, which you can refer to when requesting funds. Distributions may require Capital First to liquidate trust assets in the event the trust does not hold enough money market funds to process the request immediately. Requests for large disbursements may require further fiduciary review. Distributions are processed within 7-10 days.





# DISTRIBUTION REQUEST FORM



Trust Name: \_\_\_\_\_ Account # \_\_\_\_\_

*I am requesting the following distribution for the above-named trust:*

Amount \$ \_\_\_\_\_

Reason for the distribution request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SEND BY (CHOOSE ONE):**

- Check—regular mail
- Check—Fed Ex overnight \*
- ACH/Direct Deposit
- Same Day Wire\*\*

Make check payable to: \_\_\_\_\_

Mailing address: \_\_\_\_\_

\* Checks sent by FedEx will incur a \$40.00 fee (\$60.00 fee for Saturday delivery).  
\*\*Same Day Wire transfers will incur a \$30.00 fee.

**IMPORTANT INFORMATION**

- Please allow 7 to 10 business days from receipt of requests to receive distribution.
- Approval of distribution requests are subject to the terms and conditions of the Trust Document.
- ACH transfers and checks sent via regular mail are provided at no charge.

\_\_\_\_\_  
Authorized Person (signature) \_\_\_\_\_  
Date

**PLEASE RETURN THIS FORM AND ANY NECESSARY ATTACHMENTS BY (CHOOSE ONE):**

- EMAIL this form and any supporting information to your Trust Officer.
- FAX us at (800) 494-2429 or (414) 347-1440.
- MAIL to Capital First Trust Company, 234 W Florida St., STE 400, Milwaukee, WI 53204.

**INTERNAL USE ONLY**

Call back verification:  Completed  N/A

\_\_\_\_\_  
Trust Officer \_\_\_\_\_  
Date



## SPECIFIC DISTRIBUTIONS (WHAT YOU CAN BUY)

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What do these complicated rules mean for expenditures from a special needs trust? In-kind purchases – meaning purchase of goods or services for the benefit of the beneficiary – only potentially affect the SSI benefit amount, and not Medicaid benefits. However, Medicaid may restrict expenditures for approved things.



### ***Home, Upkeep, and Utilities***

Keep in mind that SSI's in-kind support and maintenance (ISM) rules deal specifically with payments categorized as “food and shelter.”

A payment for rent will implicate the ISM rules, as will monthly mortgage payments. The outright purchase of a home, whether in the name of the beneficiary or the trust, will not cause loss of SSI (although it may reduce the beneficiary's SSI benefit for the single month in which the home is purchased).

This brings up another consideration. Purchase of a home **in the trust's name** could subject it to a Medicaid “payback” requirement on the death of the beneficiary. This complicated interplay of trust rules, ISM definition, estate- recovery rules, and home ownership makes this area of special needs trust administration particularly challenging.

However, the Medicaid state agency's treatment of distributions from special needs trusts may differ from the Social Security interpretation—especially when the beneficiary of a self-settled trust is eligible for Medicaid benefits. For example, contrary to putting the house in the individual's name, a state may require that any purchase of a home by such a trust would result in title being held in the trust's name, thereby ensuring that the state will at least receive the proceeds from the sale of the residence upon the death of the beneficiary.





## SPECIFIC DISTRIBUTIONS (CONT'D)

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### ***Home, Upkeep, and Utilities (cont'd)***

Contact your Trust Officer for information about home purchases. Homes will not be purchased for minors without special considerations.

#### **HOW:**

- Your Trust Officer will do a consultation with you and your real-estate agent to learn what type of home and purchase might best suit the beneficiary. This might include an accessibility and financial analysis.
- Capital First will provide your real estate agent our real estate checklist for steps that need to occur.
  - Offer to purchase
  - Contract Review
  - Home inspection
  - Appraisal
  - Closing
- Capital First will work with your real estate agent throughout the entire process to ensure timely submission and signature of documents and communication between all parties including the client.
- Generally, Capital First will work with your utility companies to have any utility bills sent directly to the trust company.
- The trust company will process payments directly to the utility company.
- Capital First will work directly with insurance companies and property tax entities to pay bills.



## SPECIFIC DISTRIBUTIONS (CONT'D)

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### ***Home Improvements/Modifications***

Requested disbursements for home improvements require pre-approval by Capital First. Capital First will review the disbursement request for determination of sole benefit; ownership of the property; home improvement estimates; credentials of the contractor; any taxes owed; liens or loans on the property; and other considerations before the disbursement request may be approved.

#### **HOW:**

- For larger home improvement projects Capital First will usually require three estimates to compare prices.
- The trust will work with contractors that are licensed and insured.
- The trust will pay contractors directly upon completion of the work.



### ***Vehicle***

In general, the use of trust funds for transportation expenses does not cause a problem for the SSI recipient. However, the trustee must be careful about how funds are distributed. **Capital First cannot give money for transportation directly to the beneficiary.** One technique that has worked well has been for the beneficiary or authorized person to obtain a gas company credit card or True Link card. Because eligibility for such cards is easier to meet, and because the cards cannot be used to purchase groceries, administration of the credit account is easier to set up and monitor, and the card can then be billed directly to the trust.





## SPECIFIC DISTRIBUTIONS (CONT'D)

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### **Vehicle** (cont'd)

SSI rules allow for a recipient to own one automobile. If the beneficiary wants to purchase an automobile, funds will be paid directly to the seller. The special needs trust would then be listed as the lien holder on the vehicle.

Some state Medicaid agencies have rules on the value of the vehicle and the title ownership.

A [Distribution Request Form](#) must be completed, submitted and approved by Capital First prior to purchasing a vehicle. **DO NOT TAKE POSSESSION OF THE VEHICLE UNTIL THE PURCHASE IS APPROVED AND PAYMENT HAS BEEN MADE BY CAPITAL FIRST.**

### **HOW:**

- Contact your trust officer to discuss the purchase of a vehicle from your trust.
- Capital First will work with you to determine a vehicle that is suitable and determine an amount that is appropriate.
- The dealership should provide the trust company with the bill of sale and we will distribute funds directly to the dealership.
- During this process, Capital First will work with you to make sure the vehicle is properly insured.



## SPECIFIC DISTRIBUTIONS (CONT'D)

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### **Travel**

Distributions for vacation and travel are often permitted from a special needs trust. Generally, Social Security does not pursue benefit reduction if a person goes on vacation. The current rules allow a recipient to receive food and shelter during a temporary absence from home, such as a vacation. A temporary absence is one of at least 24 hours of duration. 20 C.F.R. sec. 416.1149; POMS SI 00835.040.

### **HOW:**

- Capital First recommends working through a travel agency for large travel expenses such as hotel, flights, rental cars.
- This allows the trust company to pay for these expenses directly to a vendor and provides the beneficiary with the protection of working with a professional travel agency.
- True Link Card can be used for discretionary spending on vacation.

### ***Paid Companions:***

Some individuals with disabilities may require one-on-one assistance from parents or trained staff. The use of trust funds for paid companions does not cause a problem with SSI. Some states may impose limitations on companion travel not found in federal law. Generally, Capital First will distribute funds for one companion.

Some items or services cannot be paid for by Capital First. Frequency of vacations and their cost will also be considered by Capital First.



## SPECIFIC DISTRIBUTIONS (CONT'D)

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### ***Personal Caregiver***

Often times, a family will want to hire a caregiver to assist in providing care for a child or adult with disabilities. A special needs trust can help pay for this care through a distribution, but certain rules must be followed. Insurance such as worker's compensation and casualty insurance must be addressed. Wage and hour laws must always be considered. Withholdings, agency usage, and other factors also come in to play. As every case is different, it is best to consult with your Trust Officer on how to best accommodate your case when it comes to hiring a personal caregiver.

#### **HOW:**

- Contact your trust officer to discuss a distribution for personal caregiver services and determine an appropriate salary.
- The trust will work with a private employer to establish the caregiver as an employee. The private employer will handle all of the employee payroll and workers compensation insurance. Additionally, by keeping the employee relationship separate from the trust, this limits liability and protects the trust funds.
- The caregiver will be provided an employee application packet.
- Payroll will be handled through the private employer.



### ***Phone, Cable, Internet***

Other than those utilities previously listed, there is no federal limitation on utility payments. The trust can pay for cable, telephone, internet connection, newspaper, and other utilities not on the list.

#### **HOW:**

- Capital First will work with you to update the addresses on your utility accounts so the bills are mailed directly to the trust company. Your trust officer will process the payment directly to the service company.



## SPECIFIC DISTRIBUTIONS (CONT'D)

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### ***Pre-Paid Burial/Funeral***

It is important to discuss a prepaid funeral plan with your Trust Officer during the beneficiary's lifetime. If the beneficiary passes away without a funeral plan in place, Medicaid may restrict the use of trust funds for funeral expenses.

Nothing in federal law prohibits or restricts use of special needs trust funds for purchase of burial and funeral arrangements during the beneficiary's lifetime—except to the extent that the beneficiary has access to the funds used to pay for the arrangements, and thereby subject to the asset limitations affecting SSI recipients. State Medicaid agencies may limit the value of the burial contract. **It is important to ask for an “irrevocable, prepaid” funeral plan.**

#### **HOW:**

- Examples can include a prepaid funeral contract, a gravesite, or a stone. Capital First will work with vendors and issue payments directly to make disbursements.



### ***Educational Needs and Programs***

Capital First will evaluate the beneficiary's current educational needs and programs and determine the appropriateness of existing program services. There is no limit under either federal or state law. This is an excellent use of special needs trust funds.

#### **HOW:**

- Examples would include tuition and books. Tuition bills can be directed to your trust officer. Funds for books can be placed on the True Link debit card.



## SPECIFIC DISTRIBUTIONS (CONT'D)

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### ***Household Furnishings/Furniture***

The trust can be used to purchase appliances, furniture, fixtures, and the like.

#### **HOW:**

- Invoice with direct payment to vendor
- True Link Card



### ***Television, Computers, Electronics***

There is no specific limitation on purchase of household televisions or other electronic devices, although under SSI rules, the individual is only allowed to own “ordinary household goods” that are not kept for collectible value and are used on a regular basis. The trust can also provide a computer for the beneficiary, plus software and upgrades.

#### **HOW:**

- Invoice with direct payment to vendor
- True Link Card

## SPECIFIC DISTRIBUTIONS (CONT'D)

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### ***Credit Card***

Goods and services purchased with a credit card are considered a “loan” that must be paid back to the credit card company. As long as the beneficiary does not use the card for food or shelter, the trust can pay back the credit card company without the payment counting as income.

#### **HOW:**

- You should provide your Trust Officer the credit card statement with the descriptions of the items purchased. Your Trust Officer may request copies of receipts to provide detail on the purchases.



### ***Medical Care***

**High Dollar Medical Procedures:** Advanced notice is requested before any disbursement for any high dollar medical procedures, including elective surgeries or elective medical procedures.

Medical expenses should always be submitted through your health insurance carrier first. This is intended to preserve your trust assets. The trust can act as the secondary payor for medical expenses not covered by insurance.

#### **HOW:**

- Provide your trust officer a copy of the medical invoice showing that it has been submitted through insurance.



## SPECIFIC DISTRIBUTIONS (CONT'D)

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### ***Taxes***

The trust can make a distribution for tax liability.

#### **HOW:**

- If you file a personal return, provide your trust officer a copy of the tax return showing the liability due along with any estimated tax vouchers.
- If Capital First prepares a tax return for the trust, we will process the tax liability due and estimated tax payments.



### ***Legal Fees***

In most cases, trust distributions will cover legal fees associated with the trust. Review with your trust officer and trust attorney in each instance.



## TRUE LINK CARD

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Your **True Link Card** is a prepaid Visa Card that is set up for you by Capital First and can be used for your personal spending needs. It's accepted everywhere Visa debit cards are accepted.

Capital First uses the True Link System to customize your card to work at specific approved merchants and types of stores. If you have questions about where your True Link Card can be used, check with your Trust Officer or follow the instructions on our [True Link One-Sheet](#) to log in to your True Link account online and see your Card settings.



## RECORD KEEPING

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As we have seen, it is very important to determine whether distributions from the trust are income, in-kind income, or in-kind support and maintenance for the beneficiary. To be certain that the distributions fall into the desired category, Capital First maintains records for all trust distributions. The beneficiary must request all distributions in writing. These records will be needed if Social Security or Medicaid requests an accounting of the expenditures that have been made.

If your special needs trust requires repayment at the death of the beneficiary to Medicaid (for all medical benefits paid by Medicaid for the beneficiary), then it is a “payback” trust. States generally have the right to monitor distributions from such trusts to be sure that the funds are used for the benefit of the disabled person. Medicaid may require that the trustee file an annual accounting with Medicaid, showing all receipts and disbursements to or from the trust for the prior year.

### **Receipts**

All distribution requests submitted to your Trust Officer must include copies of receipts, estimates, or proof of purchase. Please ensure all documents are legible.

For advanced funds, an estimate or invoice must be presented to your Trust Officer with the disbursement request. **Always make copies for your records.** When using credit cards as a payment option for purchasing items or services for a beneficiary, **a copy of the credit card statement is not sufficient** when sending in the distribution request. Receipts for items or services on the credit card statement must be sent to your Trust Officer.





## BUDGET (DISTRIBUTION PLAN)

A clearly-drawn-out spending plan provides the beneficiary with stability and assurance that their needs will be met. Our trust officers will work together with the trust beneficiary and their families to create a monthly spending plan that addresses how much will be necessary for shelter, transportation, and other personal expenses. The plan is reviewed periodically and can be adjusted as the beneficiary's needs change.

Capital First has developed a detailed [distribution plan form](#) that can be found on our website.

The image shows a screenshot of a digital form titled "DISTRIBUTION PLAN EXPENSES" with the subtitle "FILL OUT BUDGET FORM". The form is divided into a section for "PERSONAL AND FAMILY EXPENSES". This section contains a grid of 12 categories, each with two input fields for "MONTHLY" and "ANNUAL" amounts. All input fields currently show "\$0.00".

PERSONAL AND FAMILY EXPENSES		
ATTENDANT CARE	BOOKS / MAGAZINES / VIDEO / GAMING	CELL PHONE
MONTHLY	MONTHLY	MONTHLY
ANNUAL	ANNUAL	ANNUAL
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00
CLOTHING	CREDIT CARD DEBT PAYMENT	EDUCATION
MONTHLY	MONTHLY	MONTHLY
ANNUAL	ANNUAL	ANNUAL
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00
ENTERTAINMENT / SHOPPING	HOBBIES (Camps, Memberships)	HOUSEHOLD ITEMS / CLEANING
MONTHLY	MONTHLY	MONTHLY
ANNUAL	ANNUAL	ANNUAL
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00
LAUNDRY / DRY CLEANING	PERSONAL CARE / GROOMING	PET CARE / FOOD & VET
MONTHLY	MONTHLY	MONTHLY
ANNUAL	ANNUAL	ANNUAL
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00
SPECIAL DIET (Supplements, Prescriptions, etc)	SUBSCRIPTIONS	VACATION / TRAVEL
MONTHLY	MONTHLY	MONTHLY
ANNUAL	ANNUAL	ANNUAL
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00
PERSONAL AND FAMILY EXPENSES SUBTOTAL		
		MONTHLY
		ANNUAL
		\$0.00
		\$0.00



## INVESTMENTS

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Capital First Trust Company focuses on providing trust services to personal injury victims. We pair our specialized expertise in servicing special needs trusts with high quality, cost efficient investment solutions crafted by experienced asset managers. The primary investment objective for special needs trusts is to achieve long term growth of capital while mitigating downside risk to preserve the trust principal.

A special needs trust invests in a diverse, moderate portfolio of stocks, bonds, and a money market. Portfolios are based on specialized knowledge of beneficiaries' risk tolerance, earning power, and unique understanding of their liquidity needs. Capital First works with the beneficiary to design a distribution plan as part of our investment approach. The goal is to use the trust assets prudently and in better support of quality of life.

### ***Advisor Directed/Delegated Trusts***

Clients often would like to continue working with a long-time family advisor. An advisor directed or delegated trust is a trust where the administrative duties and the investment management duties are separated. Capital First Trust Company serves as the trustee and administrator. The responsibility for investing the trust's investment assets lies with the advisor or investment manager.

## CONTRIBUTION INSTRUCTIONS

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Capital First works with many clients who receive structured settlements as part of a personal injury settlement. For disabled individuals with a special needs trust, proceeds from lump sum cash payments and structured settlements can be used to fund the trust, while allowing the individual to remain eligible for government benefits.

It is important to understand that a special needs trust should be initially funded with sufficient seed money, and thereafter supplemented with structured settlements.

Other forms of funding might come from insurance, real estate, retirement plans, or gifts of money. Anyone, except the beneficiary, can contribute to a special needs trust. You do not need to be related to the beneficiary to create or give to a trust, and there is no limit to the number of trusts that may be created for a particular beneficiary.

Contact your Trust Officer for instructions on how to make checks payable to the trust.



## TAXES

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### *What tax information is sent to beneficiaries?*

#### ***First Party Special Needs Trust***

- **Grantor Tax letters** are issued to beneficiaries of self-funded accounts to incorporate the trust sub-account tax transactions on their personal 1040 income tax returns.

#### ***Third Party Special Needs Trust***

- A **1041 Fiduciary Income Tax return** is prepared for third party funded trust accounts and a **K-1 tax document may be issued** from this tax return to a beneficiary. The beneficiary then reports the K-1 tax information onto the beneficiary's personal 1040 income tax return. The IRS website publishes K-1 instructions for a beneficiary filing a 1040 income tax return. A beneficiary should wait to receive the K-1 tax form before filing his/her personal 1040 income tax return. If a beneficiary doesn't wait for the K-1, there is the possibility that his/her 1040 income tax returns may need to be amended.

### ***When will tax information be sent to beneficiaries?***

It is anticipated that, absent circumstances that may be unique to a particular trust file(s), the tax information will be placed in the mail to beneficiaries **on or before March 15th**, though the actual delivery date will depend on the U.S. Postal Service.

Completion of tax reporting may be delayed by the final tax information for the investment account; a K-1 tax document from an estate; REIT or other unique asset that contributed money to or was held by the trust.



## REPORTING GUIDELINES (SSA RULES)

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The SSI program requires periodic reports for all SSI recipients. **These reports MUST be completed for eligibility to continue.** The representative payee must report the existence of the special needs trust to the Social Security Administration, and provide a copy of it if requested.

In addition, the beneficiary must report all of the following:

A change in: (1) the beneficiary's address, (2) employment status, (3) his or her living arrangements (such as adding or losing a roommate), (4) his or her income (including the receipt of any direct income or ISM from the trustee), (5) any countable resources, (6) health insurance, (7) the beneficiary's marital status, as well as (8) changes or improvements in the beneficiary's physical or medical condition (for example, the beneficiary improves so much that he/she is no longer considered disabled), (9) admission to or discharge from health facility or public facility (such as a hospital or nursing home), (10) any trip outside the U.S. and (11) new eligibility for other public benefits.

The report may be brief, but it should be in writing to the Social Security Administration and it should include the beneficiary's name and Social Security number, a description of the event that triggered the report and the date of the event. **The report is due within 10 days after the end of the month in which the event took place.** The trustee is not required to send these reports to SSA, but if they do, they must keep a copy.

If a required report is not made on time, the SSI program is entitled to reimbursement for all SSI benefits incorrectly paid to the beneficiary. SSI can also assess a penalty of up to \$100, depending on how late the report is. The trustee may also need to inform the Representative Payee of this requirement. Remember that the SSA will have access to any tax information filed itemizing the income from the trust used for the trust beneficiary. This may raise questions about the distributions and the trustee may receive any inquiry from SSA about them. **If you receive any correspondence from SSA, please inform us of it immediately. We are here to help you respond to these inquiries. Failure to respond, or an incomplete explanation, may result in a loss of benefits.**

The beneficiary should report all distributions. It is safer to report and explain a distribution to the beneficiary than to be discovered later by SSI's Income and Eligibility Verification System (IEVS). At that point, the explanation will then have to be made to a very skeptical investigations unit.

### **NOTE:**

If your trust is required to report tax information to the IRS, as most special needs trusts are, the IRS and the State Tax Commission will know about all income distributed from the trust, and they regularly exchange reporting information with SSI and the Medicaid program. This is why all reports should be filed on time as required by the governmental agencies and in the proper fashion.



## PREVENTING A REDUCTION IN BENEFITS

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In administering the trust, the beneficiary must pay attention to any notice regarding a change in benefits and remain reasonably well informed of new developments. **If SSI or Medicaid notifies you that it intends to reduce or eliminate your benefits, you should appeal in writing within 10 days.** If you act quickly, the SSI and Medicaid benefits will continue and not be suspended during the appeal. Although you are allowed up to 60 days to appeal an SSI decision, and 90 days to appeal a Medicaid notice of action or decision, asking for an appeal after 10 days have passed will result in the loss of the SSI and Medicaid benefits while you await the results of the appeal.

The beneficiary must also keep Capital First informed about changes in benefits so that we are able to make intelligent decisions as trustee of the trust. **Failure to report a change in benefits can have catastrophic results.**

Although SSI is a federal program run by the Social Security Administration, the federal contribution is only a portion. **Make sure that the SSI and Medicaid programs have Capital First's address, in addition to the beneficiary's address, and request that Capital First receive copies of all communications affecting your benefits.**

Be sure to let Capital First know promptly of receipt of any such notice and keep copies of all correspondence from each benefit agency. This will help in determining the applicable rules on eligibility, reporting and appeals.





## WHAT HAPPENS AT DEATH?

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### ***Special Needs Trust Termination Upon Death***

If a beneficiary passes away, the trustee will pay off the final expenses and taxes, satisfying liens against the special needs trust before distributions can be made to remaining beneficiaries. When a first party special needs trust is in use, the trustee must reimburse state Medicaid for the provided services throughout the beneficiary's life. If the beneficiary owned real estate at the time of death, it is possible that the real estate may be used for Medicaid payback. Your Trust Officer will work with your trust attorney as to possible Medicaid payback.

**In the case of a third party special needs trust, Medicaid does not need to be paid back upon the beneficiary's death.** This law varies state by state, so make sure to work with your Trust Officer to assess your payback provisions correctly.

### ***Remainder Distributions***

It may take time to satisfy liens in special needs trusts holding assets other than cash. Once done, however, there might be a large amount of funds remaining. Under court supervised special needs trusts, a trustee must attain approval before making decisions on further distribution plans. Standalone special needs trusts may name beneficiaries-individuals, classes of beneficiaries (such as surviving siblings), or charities to receive the remainder of the funds. If the remainder of the funds are indented for residual beneficiaries including minors or individuals with disabilities, a trustee may be arranged to continue to manage the funds for their benefit in a new trust.

### ***Terminating Special Needs Trusts Prior to Death***

It is possible that circumstances support the termination of a special needs trust prior to a beneficiary's death. If this is the case, government regulations require the decision to close the trust must not come from the beneficiary and must be done for the sole benefit of the beneficiary. Facts and circumstances may also support the continuation of the special needs trust even if government benefits are no longer being received by the beneficiary. This might be to protect assets from creditors, or to assist in managing finances, for example. If the trust is terminated after all, expenses, taxes, and Medicaid liens must be satisfied prior to distributing remaining assets.

The termination of an special needs trust can be complicated. Make sure to consult with your Trust Officer and/or your trust attorney when considering the termination of an special needs trust prior to death.



## FAQs

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### ***What is unique about Capital First Trust Company?***

Capital First Trust Company is an independent trust company. We have decades of experience serving as the corporate trustee for special needs trusts and provide exceptional personal service to beneficiaries and their families. As each trust is a unique document, we customize the services we provide to fit the needs of the beneficiary.

### ***Why choose a professional trustee?***

A corporate trustee provides professional, independent, and objective trust administration and management. The advantages of using an independent professional trustee are numerous. A corporate trustee assumes the legal responsibility for the proper administration of the trust. At Capital First, we have over two decades of experience in the accounting, investment, and tax-related responsibilities of being a corporate trustee.

### ***Can my advisor manage the assets in the trust?***

Yes. Capital First offers both discretionary and directed trust arrangements. In a directed trust, the client directs the investment function to an investment advisor. If you do not have an advisor to manage the assets in the trust, trust assets can be managed via Capital First's Model Portfolio.

### ***Can the trust purchase and own a home?***

In most cases, yes. The purchase of a home may be titled in the name of the trust or the individual, depending on the beneficiary's circumstances. Capital First will support you through the home purchase process. The Trust Officer will work with you to analyze distribution needs, impact on government benefits, and ownership considerations.

### ***Can the trust purchase a vehicle?***

In most cases, a trust can purchase a vehicle. Providing safe and reliable transportation plays a key role in supporting a beneficiary's quality of life. We are aware of Social Security and Medicaid resource guidelines for the ownership of a vehicle. The Trust Officer assists in the process of shopping for and purchasing a vehicle by discussing what key features the vehicle needs to have, budgetary concerns, and ownership specifics.



## FORMS

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Capital First Trust Company online distribution request and distribution forms, along with other downloadable PDF forms can be found at: [capitalfirsttrust.com/forms](https://capitalfirsttrust.com/forms)

### [Distribution Request Form \(Online Portal\)](#)

This online portal will give beneficiaries access to submit their distribution request of up to \$999.99 right from our website. For requests of \$1,000 or greater, you must contact your Trust Officer directly.

### [Distribution Plan Form \(Online Portal\)](#)

This online portal can be used to input recurring and one-time expenditures.

### **PDF Forms (to download and print)**



**DIRECT DEPOSIT FORM**



**DISTRIBUTION REQUEST PROCESS**



**DISTRIBUTION REQUEST FORM**



**INITIAL TRUST INTAKE FORM (ADVISOR DIRECTED)**



**INITIAL TRUST INTAKE FORM (SETTLEMENT)**



**NAME AND ADDRESS FORM**



**PUBLIC BENEFIT SUMMARY**



**THIRD PARTY DISCLOSURE FORM**





**P: 800.521.2359**

F: 800.494.2429

*Sioux Falls Office:*

701 North Phillips Avenue, Suite 140  
Sioux Falls, SD 57104

*Milwaukee Office:*

234 West Florida Street, Suite 400  
Milwaukee, WI 53204

*Email:*

[info@capitalfirsttrust.com](mailto:info@capitalfirsttrust.com)

[CapitalFirstTrust.com](http://CapitalFirstTrust.com)