

# PLAN of Massachusetts and Rhode Island



*Planned Lifetime Assistance Network of  
Massachusetts and Rhode Island, Inc.*

12/2014

Thank you for your interest in PLAN of Massachusetts and Rhode Island. Enclosed please find informational materials on our organization and specifically our MARC Special Needs Pooled Trust, including:

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As you review the materials, please don't hesitate to contact us with questions. We look forward to the opportunity to work with you.

Sincerely,

Staff & Board of PLAN of Massachusetts and Rhode Island

## **Planned Lifetime Assistance Network (PLAN) of Massachusetts and Rhode Island**

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### **MISSION**

PLAN of Massachusetts and Rhode Island, a non-profit organization, provides planning and trust management services for individuals with disabilities to enhance their quality of life, support their integration into the community, and provide peace of mind to their families.

We do this by:

- Helping trust beneficiaries access supplemental resources to meet their needs.
- Supporting and implementing individualized life care plans.
- Administering the Albert N. Solomon Memorial Trust Fund.

### **TRUST MANAGEMENT SERVICES**

PLAN of Massachusetts and Rhode Island manages two special needs pooled trusts. The trusts are used to protect financial resources, including present and future entitlements, and enhance quality of life for individuals with disabilities:

- The *MARC Special Needs Pooled Trust* is the oldest and largest Pooled Trust serving Massachusetts and Rhode Island. It was established in 1995, and today nearly 480 beneficiaries participate. Assets under management exceed \$29 million. This Pooled Trust is funded with assets belonging to individuals who have disabilities -- assets often obtained through inheritances or personal injury settlements.
- The *PLAN Third-Party Special Needs Pooled Trust* is the organization's newest program. It is funded with assets belonging to families or other third parties to benefit a person with a life long disability. Funding can come from a variety of sources, including a will, an insurance policy, or savings. Approximately 60 families have joined this pooled trust. Fifteen accounts are currently funded, and total assets exceed \$700,000.

All Trust Beneficiaries receive supportive services from PLAN's Licensed Social Workers, including needs assessment, referral services, advocacy, and assistance accessing trust funds. All investments are professionally managed by PLAN's financial partner, Cambridge Appleton Trust.

*Please contact us for more information.  
We look forward to hearing from you!*

## **MARC Special Needs Pooled Trust | Protecting Resources**

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### **MEDICAID & SOCIAL SECURITY**

The MARC Special Needs Pooled Trust is also known as a "self-settled trust," a "Medicaid payback trust," or a "(d)(4)(C) trust." This type of trust is specifically permitted in both the Medicaid and Social Security statutes. Assets held in this trust are not countable assets for Medicaid (MassHealth) or for SSI eligibility.<sup>1</sup> The transfer of assets into such a trust is not a disqualifying transfer for Medicaid (MassHealth) eligibility.<sup>2</sup> Transfers into a pooled trust before the beneficiary reaches the age of 65, are not disqualifying transfers for SSI eligibility.<sup>3</sup>

PLAN of Massachusetts and Rhode Island carefully monitors disbursements from individual subaccounts to ensure Medicaid and SSI benefits are not adversely affected.

### **FINAL DISTRIBUTIONS**

Upon the death of a beneficiary, any funds remaining after the deduction of final closing costs are distributed as follows:

1. If the Trust Beneficiary dies within two (2) years of joining the trust, PLAN will retain 10% of the remaining balance to be used for charitable purposes to support people with disabilities after the payment of \$500 for closing costs; If the Trust Beneficiary dies more than two (2) years after joining the trust, PLAN will retain 20% of the remaining balance to be used for charitable purposes after the payment of \$500 for closing costs.
2. Medicaid is entitled to be "paid back" the amount of the actual Medicaid benefits that the beneficiary received during his or her lifetime.
3. Any remaining funds (after 1 and 2) are distributed to the remainder person(s) designated in the Instrument of Trust Assignment.

## **MARC Special Needs Pooled Trust | Enhancing Quality of Life**

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### **SERVICE COORDINATION**

Every beneficiary receives supportive services from a PLAN of Massachusetts and Rhode Island Service Coordinator. Service Coordinators are Licensed Social Workers. They serve as the primary contact for beneficiaries and families. They orient new enrollees to the program, and they maintain contact with beneficiaries and families throughout their participation in the program. Service Coordinators assist beneficiaries in identifying unmet needs and goals, developing distribution plans, and using trust funds to access supplemental items and services that will enhance the beneficiary's quality of life.

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<sup>1</sup> 42 U.S.C. § 1396p(d)(4)(C), 130 CMR 520.008(H), 520.023(D) and 515.001; 42 U.S.C. § 1382b(e), POMS § 01120.203(B)

<sup>2</sup> 42 U.S.C. § 1396p(c)(2), 130 CMR 520.019(D)

<sup>3</sup> 42 U.S.C. § 1382b(c)(1)(C)

## MARC Special Needs Pooled Trust | Fee Schedule

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### ENROLLMENT FEE

A one-time, non-refundable Enrollment Fee is payable to Planned Lifetime Assistance Network of Massachusetts and Rhode Island, Inc. (PLAN of Massachusetts and Rhode Island) at the time that the application form is submitted. The Enrollment Fee is used to defray the actual cost of enrollment, which includes:

- Legal and factual analysis of the individual's application;
- Preparation of the Instrument of Trust Assignment to establish a Pooled Trust sub-account;
- Preparation and submission of documents to establish the trust sub-account, including obtaining the IRS Tax Identification Number.

#### **Basic Enrollment Fee: \$600**

For enrollments that **do not** involve a Guardian, Conservator, Power of Attorney, or other fiduciary or agent.

#### **Enhanced Enrollment Fee: Fiduciary Case: \$750**

For enrollments that **do** involve a Guardian, Conservator, Power of Attorney, or other fiduciary or agent.

**Special Circumstances:** There are Special Circumstances which necessitate additional legal work in addition to the legal work specified above. Fees for the additional legal work are separate from the Enrollment Fees and will be billed to the beneficiary's sub-account. Examples of Special Circumstances include:

- Consultations between the individual beneficiary's attorney and the PLAN of MA and RI attorney;
- Transferring annuity payments or ownership;
- Transferring ownership of life insurance policies;
- Preparing and submitting documents to state or federal courts.

### MANAGEMENT FEE

An Annual Management Fee is charged which covers the cost of:

- Professional investment management services provided by Cambridge Appleton Trust, NA;
- Fiduciary and administrative services;
- All disbursements from each sub-account;
- Ongoing monitoring of public policies, rules, and regulations affecting special needs pooled trusts;
- Annual Reports showing all activity in the sub-account;
- Record keeping for each sub-account and providing documentation or information for any disbursement;

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[info@planofma-ri.org](mailto:info@planofma-ri.org) - [www.planofma-ri.org](http://www.planofma-ri.org)

- Timely contact with Service Coordinators which includes semi-annual consultations with each beneficiary and interim phone calls and emails.

The Annual Management Fee is as follows:

- 3% on the first \$500,000
- 2.25% on the next \$250,000
- 2% on the next \$250,000
- 1.75 % on the balance

The Minimum Annual Management Fee is \$500.00

### **TAX PREPARATION**

There is a \$200 annual fee for preparing and filing the Federal and State Fiduciary Income Tax Return and producing a “Beneficiary Information Tax Letter” or K-1 form that is used for the beneficiary’s personal income tax purposes.

### **LEGAL FEES FOR REPORTING ACCOUNT**

The establishment of a MARC Special Needs Pooled Trust for a beneficiary who receives public benefits (SSI or Medicaid) must be reported to the appropriate public agency. A beneficiary should anticipate some legal costs for preparing and submitting these mandatory reports to the Social Security Administration or MassHealth. This fee will be billed to the beneficiary’s sub-account.

### **SPECIAL ASSESSMENTS**

These include the costs of defending claims against the trust and other legal actions involving the trust, including attorney fees and other costs associated with the legal action. In the sole discretion of PLAN of Massachusetts and Rhode Island, Special Assessments will be billed to all sub-accounts on a pro rata basis or billed exclusively to the individual trust account(s) affected by the legal action.

### **TERMINATION OF TRUST ACCOUNT – ADMINISTRATIVE EXPENSES**

When a MARC Special Needs Pooled Trust is terminated because of the death of the trust beneficiary or for any reason prior to the death of the beneficiary (“early termination”), the following types of administrative expenses may be paid from the beneficiary’s Trust Account prior to the reimbursement of Medical Assistance:

- Taxes due from the trust to any state or to the federal government because of the termination of the account;
- Reasonable and documented fees for administration of the sub-account, such as an accounting to a court, completion and filing of documents, preparation of final accountings, and other administrative actions required in connection with terminating the sub-account.

**Fees are subject to change by the PLAN of Massachusetts and Rhode Island Board of Directors on prior written notice of at least 60 days to each affected trust beneficiary; individuals are entitled to an accounting from the trust.**

## MARC Special Needs Pooled Trust | Investments

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In consultation with the investment management professionals at Cambridge Appleton Trust, PLAN of Massachusetts and Rhode Island selects one of the following investment portfolio options for each beneficiary sub-account:

<b>Portfolio</b>	<b>Stocks</b>	<b>Bonds</b>	<b>Money Market Funds</b>
<i>Cash</i>	0%	0%	100%
<i>Income</i>	0%	85%	15%
<i>Income &amp; Growth</i>	20%	65%	15%
<i>Growth &amp; Income</i>	40%	45%	15%
<i>Growth</i>	65%	20%	15%

Among other factors, the beneficiary's age, disability, living situation, account size, and supplemental needs are considered when determining an investment strategy. The portfolio selection is reviewed annually and may change over time as the beneficiary's circumstances change.

## MARC Special Needs Pooled Trust | Disbursement Guidelines

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### GUIDING PRINCIPLES

Funds in an individual's MARC Special Needs Pooled Trust account are to be used for the sole benefit of the Trust Beneficiary. The funds are to be used to enable the Trust Beneficiary to lead as normal, comfortable, dignified and fulfilling a life as possible.

Federal law which governs the MARC Special Needs Pooled Trust requires that these funds be used to supplement public benefits. Payments of trust funds are to be made to third party vendors.

PLAN of Massachusetts and Rhode Island, as the Trustee of the MARC Special Needs Pooled Trust has total and sole discretion in making any payment from an individual's MARC Special Needs Pooled Trust account. Neither the Trust Beneficiary nor any person acting on behalf of the Trust Beneficiary can require payments from an individual's account.

### SAMPLE DISBURSEMENTS

The following examples are not exclusive, but will illustrate the types of special, supplemental, non-support disbursements that are appropriate disbursements from the MARC Special Needs Pooled Trust:

- Health and dental treatment and equipment for which there are not funds otherwise available (e.g. eyeglasses, supplemental nursing care, dietary supplements, rehabilitative services, private therapy)
- Social services (e.g. companion services, private case management)
- Clothing
- Household items (e.g. furniture, bedding, television, microwave)
- Personal needs items (e.g. toiletries, haircuts)
- Telecommunications (e.g. cable, internet, phone/cell phone)
- Transportation (e.g. chair car service, taxi rides, adaptive vehicle purchase)
- Recreational & cultural items and services (e.g. travel, reading materials, movies, entertainment, education & training programs)

### PROHIBITED USE OF FUNDS

- Gifts for Others
- Alcohol or pornography
- Gambling
- **\*\*Note:** The Social Security Administration has determined that restaurant charges and charges for food items at such places as convenience stores are payments for food. PLAN of Massachusetts and Rhode Island Special Needs Pooled Trust Funds therefore cannot be used to pay for restaurant charges or charges for items of food at convenience stores or other locations for beneficiaries who receive SSI benefits.

### REQUESTING PAYMENTS

There are several methods for requesting distributions, including the following:

- Submit a Disbursement Request Form along with a **written estimate or invoice** to PLAN of Massachusetts and Rhode Island **-or-**
- After receiving pre-approval from PLAN, instruct a vendor to change the mailing address on future bills to:
 

Beneficiary's name  
c/o PLAN of Massachusetts and Rhode Island  
1340 Centre Street, Suite 102  
Newton Centre, MA 02459 **-or-**
- An approved third-party who makes purchases on behalf of the beneficiary submits a Disbursement Request Form along with **itemized receipts** to PLAN of Massachusetts and Rhode Island. **No disbursements will be made if itemized receipts are not submitted along with the request form.** Copies of cancelled checks and accompanying invoices may also be submitted as receipt for payment.

Payments are generally made within 5 to 10 business days after receipt of request.

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Please note: If any single request for payment exceeds \$3,000.00, it must be approved by the Executive Committee of the PLAN of Massachusetts and Rhode Island Board of Directors.

## **MARC Special Needs Pooled Trust | Considerations Before Enrolling**

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A Special Needs Pooled Trust is a valuable tool for supplementing public benefits and enhancing the quality of life for individuals who have disabilities. The administration of these trusts is governed by federal and state law, and requirements include the following:

- The trust is **irrevocable**; once the trust is established, the beneficiary cannot change his/her mind and undo the trust.
- The trust is **discretionary**; PLAN of Massachusetts and Rhode Island is the only one who can authorize a payment from the trust. Neither the trust beneficiary nor anyone acting on behalf of the trust beneficiary can require payments from an individual's account.
- The trust funds are used for the **sole benefit** of the trust beneficiary; the funds in the trust account cannot be used for gifts or for the benefit of someone else.
- Payments from the trust are made to third-parties, not to the trust beneficiary. Sufficient documentation is required when requesting a payment.
- Annual management and other fees are deducted from each trust account. These fees are detailed on the fee schedule.
- Although PLAN of Massachusetts and Rhode Island does not have a stated minimum deposit for establishing a Special Needs Pooled Trust, an evaluation of the net benefits in light of the fee structure is strongly encouraged prior to enrollment. In some cases a spend-down of assets might be more appropriate.
- Sufficient funds must remain in the beneficiary's account at all times to cover fees.
- Upon the death of a trust beneficiary, no distributions will be made from the sub-account for **one year** after the date of death.

The decision to join the MARC Special Needs Pooled Trust is an important one. Please contact us if you have questions or need additional information as you make your decision.

## **MARC Special Needs Pooled Trust | Creating an Account**

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PLAN of Massachusetts and Rhode Island strongly encourages anyone interested in establishing a MARC Special Needs Pooled Trust to consult their own attorney. The process for creating an account generally takes 2-3 weeks and includes the followings steps:

1. Applicant's attorney submits an application and enrollment fee.
2. PLAN attorney prepares an Instrument of Trust Assignment.
3. The Instrument of Trust Assignment is signed in the presence of a notary. Applicant's attorney submits this document along with a check to fund the account.
4. The Instrument of Trust Assignment is fully executed by a member of PLAN's Board of Directors.

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5. PLAN submits new account paperwork and check to the financial institution.
6. PLAN forwards account confirmation materials to applicant's attorney.
7. Applicant and/or his or her representative are contacted by a PLAN Service Coordinator to set up an initial meeting to orient the applicant to the program and discuss spending.