



# First-Party Pooled Special Needs Trust Attorney Checklist

It is not the intent of Commonwealth Community Trust (CCT) to provide legal advice.  
**Please submit this checklist with the Joinder Agreement.**

- The Beneficiary of the trust has special needs.
- I have informed my client that The Trust Company of Virginia (TCVA) will provide a K-1 form to the Advocate, as required by IRS Regulations, and to consult with a tax preparer with any questions.
- There are currently no liens or claims against the trust sub account funds.
- I have informed my client that certain trusts may be subject to claims for some medical or hospital services under state law (e.g. VA Code § 8.01-66.2).

**For a client where a court appointment with qualification is required to establish the trust**

- CCT has been contacted in order to obtain the proper wording.
- Annual court accounting to the commissioner is required.
- Provide a copy of the proposed court order, and the entered order after the hearing.

**Protection of benefits for a client receiving Supplemental Security Income (SSI) and Medicaid**

- I have informed my client that in order to protect SSI benefits, the trust does not disburse funds for shelter or food as SSI is intended to pay for these expenses. If there is an unusual circumstance, such disbursements must be reported to SSA and may reduce the client’s SSI benefits.
- I have informed my client that the trust follows the rules regarding SSI and Medicaid in order to protect both SSI and Medicaid benefits.

**For a client receiving Medicaid**

- I have informed my client that federal law requires that upon the death of the Beneficiary the state’s Medicaid office is notified and funds can no longer be disbursed from the trust. CCT should be notified of the Beneficiary’s death as soon as possible. Once the Medicaid office provides an accounting of the amount owed to the state to reimburse Medicaid for expenses paid on behalf of the Beneficiary, CCT will follow the policy described in the Joinder Agreement under “Distributions Upon the Death of the Beneficiary”.

**For a Beneficiary 65 years of age or older**

- For Medicaid Long-term Care Recipients:** My client has been informed of the Transfer of Assets Penalty. Contact CCT to inquire whether this penalty is applicable in your state, as not all states abide by this rule, and to discuss your client’s situation.
- For SSI Recipients:** I have informed my client that the Transfer of Assets penalty would apply unless the Beneficiary is able to demonstrate to SSA that without SSI it would cause an undue hardship (no funds available for food or shelter). *Note: Documenting hardship is usually not a problem for SSI recipients.*

**For a client receiving Section 8 Subsidized Housing (HUD)**

- I have informed my client that a special needs trust may impact eligibility for subsidized housing.

Date: \_\_\_\_\_

Beneficiary Name: \_\_\_\_\_ Beneficiary Date of Birth: \_\_\_\_\_

Attorney Name: \_\_\_\_\_ Attorney Signature: \_\_\_\_\_