

# Legal Tools for Handling Money Belonging to a Person with a Disability

Some people with disabilities handle all their financial affairs themselves, or with limited assistance.

Some people need assistance with finances. There are relatively easy tools that can help to provide this assistance.

**Direct deposit banking and automatic bill payment:**

- Carefully consider the impact of bank accounts titled jointly in the name of a person with a disability and another person
- Either owner may withdraw or use contents of the account
- Contents of joint accounts are generally considered to be “countable resources” for the person with a disability for public benefit purposes.

A **Representative Payee** may be helpful if a person cannot manage his or her money and receives cash benefits, like Social Security, Supplemental Security Income (SSI) or Veteran’s Benefits.

- This means that another person is authorized by the agency providing the benefits to receive and manage cash benefits **for the sole benefit of** the person with a disability.
- Each benefit program has forms that need to be completed by the person’s doctor and by the person agreeing to serve as the Representative Payee.
- Social Security publishes information outlining the requirements, roles and responsibilities of a representative payee. See [www.ssa.gov/pubs/10076.html](http://www.ssa.gov/pubs/10076.html) or call your local Social Security office for a copy of this publication.

Sometimes, a person with a disability has resources in his or her own name. These resources can make a person ineligible for necessary public benefits that are needs-based and have maximum resource limits like Supplemental Security Income (SSI) or Medicaid.

For more information on topics discussed in this fact sheet, contact  
The Arc of Frederick County.  
Phone: 301-663-0909  
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How does this happen?

- A person may receive an inheritance from a relative who has not planned appropriately and did not create a special needs trust
- A person may receive funds when s/he becomes an adult that were held in a Uniform Transfers to Minors Act (UTMA or UGMA) account
- A person may receive an award or settlement in a personal injury or other type of lawsuit.

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### What Can A Person Do?

- A person can “**spend down**” the money to the required resource limit by purchasing items the person wants or needs, but that will not be “countable” resources for public benefit purposes.
- A person can create a “**Pay Back**” **Supplemental Needs Trust**, (also known as a “d4A Trust”)
  - This trust is funded with money already belonging to a person with a disability.
  - The trust must be drafted by a lawyer, and established by a legally authorized party like a parent, guardian or court.
  - The benefit of this trust is it allows a person with a disability to use the money for certain supplemental needs during his or her lifetime.
  - The downside of this trust is that distributions from the trust during the person’s lifetime are limited to certain items approved by state regulation and if money remains in the trust upon the death of the person with a disability, Medical Assistance can require reimbursement for the cost of services it funded.
  - The trust must be for the sole benefit of the person with a disability and must be irrevocable (the person can’t change his or her mind and terminate the trust)
  - The person with a disability must be under 65 years old when the trust is established
  - The trust must be approved by the state (Attorney General’s Office)
  - This trust is different than a supplemental needs trust funded by a third party – like a parent or grandparent. (See Fact Sheet Entitled “What’s Involved in Planning by Parents and Other Relatives?”)

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If a one-time court transaction is necessary to accomplish the planning goals, a person may petition the court to grant an “**Authorization for a Specific Transaction,**” and provide permission to for a one time financial act (e.g. putting money into a Trust) without the need for a guardianship

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*These Fact Sheets are designed to provide general information only and are not designed to provide legal advice. Families and individuals are strongly urged to consult with an attorney and other appropriate professionals regarding their individual situation before taking action.*