

## Additional information

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You may wish to contact your personal legal counsel to determine if a supplemental needs trust is appropriate for you.

If you have questions, or need additional information, please call us at 651.296.2409 or 800.657.3669. Our office hours are Monday through Friday from 7:30 a.m. to 4:30 p.m.

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## Qualified Supplemental Needs Trust

If a discrepancy develops between this summary and state law, the law will govern. The primary statutory provisions are Minnesota Laws 1999, ch. 22, article 10, section 1.

## What is a supplemental needs trust?

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A supplemental needs trust is a trust created for a chronically and severely disabled beneficiary which supplements government benefits such as Medicaid rather than diminishing such benefits. For purposes of a supplemental needs trust, “a person with a disability” means someone who has a physical or mental illness or condition which lasts for a continuous period of 12 months or more and would substantially impair the person’s ability to provide for their own care or custody.

Government benefit programs consider the resources and income of an individual for purposes of determining eligibility for assistance and the amount of such assistance.

A supplemental needs trust must contain provisions that prohibit disbursements that would have the effect of replacing, reducing, or substituting for publicly funded benefits otherwise available to the beneficiary or rendering the beneficiary ineligible for publicly funded benefits. Payment for items such as additional medical therapies or medical/dental expenses, eyeglasses, clothing and equipment, travel and entertainment, premiums on life insurance, etc., would be considered appropriate under a supplemental needs trust.

## What are the requirements for establishing a supplemental needs trust?

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As a TRA member (active, inactive, disabled or retired), you may designate a supplemental needs trust as the recipient of your TRA assets. *Upon death*, the law allows you to transfer assets to a disabled child or person who is not your spouse, and is under the age of 65, without eliminating the person from eligibility for federal and state welfare programs.

Several requirements must be met for the trust to be considered valid. A qualified supplemental trust is a trust that:

- 1) was established on or after July 1, 1992;
- 2) was established solely for the benefit of one person who has a disability under federal social Security Administration supplemental security income or retirement, survivors, and disability insurance disability determination standards and who was determined as such *before* the creation of the trust;
- 3) is funded, in whole or in part, by the primary recipient of the optional annuity form and, unless the trust is a Zebley trust, is not funded by the beneficiary, the beneficiary’s spouse, or a person who is required to pay a sum to or for the trust beneficiary under the terms of litigation or a litigation settlement;
- 4) is established to cover reasonable living expenses and other basic needs of the disabilitant, in whole or in part, in instances when public assistance does not provide sufficiently for these needs;

- 5) is not permitted to make disbursement to replace or reduce public assistance otherwise available;
- 6) is irrevocable;
- 7) terminates upon the death of the disabled person for whose benefit it was established; and
- 8) is determined by TRA’s executive director to be a trust that contains excluded assets for purposes of the qualification for public entitlement benefits under the applicable federal and state laws and regulations.

## What information does TRA require?

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If you decide to establish a supplemental needs trust, you will need to submit the following to TRA:

- 1) a copy of the trust document for your file;
- 2) documentation clearly outlining the funding of the trust, if not specifically stated in the trust document; and
- 3) designation of a contingent survivor in the event TRA determines that the trust does not qualify.

## When will payments be made to the trust?

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Payment to the trust will be made upon the member’s death, *providing TRA determines that the trust qualifies under the law at that time.*