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E Special Treatment Trusts and ALTCS Eligibility

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1) Disbursements

Disbursements can only be made for the benefit of the customer and for purposes listed in state law at ARS §36-2934.01.

NOTE For common household expenses or any other shared expense, only the customer's proportionate share is an allowed disbursement. The total expense divided by the number of people who share the benefit of the expense equals the customer's share.

The following table lists examples of allowed disbursements:

Disbursement type	Description
Share of Cost payment	The share of cost is the amount an ALTCS customer must pay toward the cost of long term care services.
Personal Needs Allowance (PNA)	<p>The PNA is the amount allowed for the customer's personal needs (see MA1201C.1). The PNA is considered a payment for food or shelter, and is counted for income eligibility. It may be issued as a lump sum or for individual items.</p> <p>NOTE Payments made for the PNA are only allowed from Income Only Trusts.</p>
Legal and professional expenses related to	<ul style="list-style-type: none"> Income taxes owed on income earned by the trust or assigned to the trust;

administering the trust or for the trust beneficiary	<ul style="list-style-type: none"> • Investment fees related to administering the trust. • Reasonable professional expenses, for example accounting and attorney fees, related to administering the trust. • Guardianship and conservatorship fees for the trust beneficiary based on the fair market value of the services provided.
Medical expenses	<p>Health insurance premiums, medically necessary medical expenses and special medical needs of the customer, including:</p> <ul style="list-style-type: none"> • Expenses to make the home accessible to the customer; • Purchase and maintenance of a specially equipped vehicle, if titled to the trust or a lien is placed on the title by the trust for the purchase price of the vehicle.; • Durable medical equipment; • Over the counter supplies and medications including diapers, lotions and cleansing wipes; and • Personal care service when determined medically necessary by the beneficiary's physician. The services must be provided by an AHCCCS-registered provider, including a financially responsible relative. <p style="margin-left: 40px;">NOTE Payments for personal care services provided by a financially responsible relative cannot be higher than the AHCCCS fee for service rate service.</p>
Spouse or family maintenance allowance:	<p>Payment for the maintenance needs of a spouse or other dependent as described in MA1201C.3 – 6 for the amount identified as being paid from the trust income.</p>
Burial expenses for the customer	<p>Disbursements for the customer's burial expenses are limited to one of the following:</p> <ul style="list-style-type: none"> • Purchase of a prepaid burial plan funded by an irrevocable life insurance policy, irrevocable burial account, irrevocable trust account or irrevocable escrow account. <p style="margin-left: 40px;">NOTE Any amount of the disbursement that exceeds the itemized burial expenses is an uncompensated transfer.</p> <ul style="list-style-type: none"> • Purchase of life insurance to fund a burial plan for the customer with a face value of not more than \$1,500 after allowing deductions for burial plot items. • A burial fund account of not more than \$1,500.

Other expenses for the customer’s benefit	<ul style="list-style-type: none"> • Costs for food, clothing and shelter. • Home property and other real property purchased by the trust if it is titled to the trust; • Items for entertainment, education or vocational needs consistent with the customer’s ability to use these items; • Travel expenses for a companion, including a financially responsible relative, when a companion is needed to allow the customer to travel for non-medical reasons; and • Other expenses personally approved by the Director.
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Disbursements that do not meet the requirements in ARS §36-2934.01 are not allowed.

Some examples of disbursements that are not allowed from an STT include:

- Gifts, payments or loans to or for the benefit of anyone other than the beneficiary;
- Child support and alimony payments;
- Paying all of the shelter costs for a shared household;
- Income taxes when there is no actual tax liability;
- Vacation expenses for family members;
- Payments on past debts;
- Health insurance premiums for other people; and
- Burial funds that do not meet the requirements listed in section 2) above.

When non-allowed disbursements have been issued the trust may lose its entitlement to special treatment. The disbursements may also need to be reviewed as a transfer with uncompensated value (see Chapter [900](#) – Transfers).

2) Counting Income for Special Treatment Trusts

Trust income and disbursements are counted as described in this section, regardless of the terms of the trust document.

The following table describes how income and disbursements are treated for income eligibility and for Share of Cost (SOC):

Counted for Income Eligibility	Counted for SOC

<ul style="list-style-type: none"> Income received by the customer that is not assigned to the trust, or Income assigned to the trust but not deposited to the trust account in the month received 	Income assigned to the trust that is manually or direct deposited into the trust account in the month received
Amounts from the trust paid directly to the customer for any reason	Interest or dividends earned by the trust corpus and added to the trust principal
Any payments from the trust on behalf of the customer for food or shelter. This includes room and board in a boarding home or an alternative HCBS arrangement	Disbursements that are not issued to the customer or not issued for the customer's food or shelter. (For example, disbursements for trustee fees, educational items, special medical needs, etc. are not counted as income.)

For Examples see [STT Income Eligibility Calculation](#) and [STT SOC Calculation](#)

3) Requirements for Trustees

The trustee of a STT has specific responsibilities related to providing proof and reporting changes. If the trustee fails or refuses to cooperate with these requirements, the trust can lose its special treatment status.

A trustee must:

- Provide proof needed to determine if the trust qualifies as a STT;
- Provide proof of disbursements and the related expenses;
- Report changes in trust income or disbursements;
- Report changes in trustees, as well as changes to an existing trustee's phone number or address;
- Report if the trust purchases real or personal property; and
- Report when the trust is revoked or terminated.

Other trustee responsibilities depend on whether or not the trust is in still in its initial review to see if it qualifies as a STT, or it has already been approved as a STT.

Initial Special Treatment Trust Review

When an STT is reviewed to see if it qualifies for special treatment, the trustee must provide the entire trust document, proof of trust assets and disbursements to date since its creation, and the source of the trust funding.

The trustee must also complete and sign the following forms to attest that he or she will cooperate with the agency and perform the responsibilities of a trustee, and understands that failure to do so can result in an adverse action against the customer:

- The Acknowledgment of Responsibilities as Trustee for a Special Treatment Trust form (DE-522); and
- The Special Treatment Trust Anticipated Disbursements form DE-312 (used for Trusts for Individuals Under Age 65 with a Disability or Pooled Trusts); or
- The Income Only Trust Anticipated Disbursements form DE-313 (used for income-only trusts).

NOTE The Anticipated Disbursement forms are used to state what costs and expenses will be paid from the trust. If a customer must pay the SOC from an IOT, the SOC disbursement listed on the form cannot be reduced to allow for payment of trust trust expenses. The trustee must complete a new DE-312 or DE-313 showing the full share of cost amount.

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Reporting Changes Before a Renewal

After the STT been approved, the trustee must report any new trust funding or changes to the planned disbursements listed on the DE-312 or DE-313 forms at least 45 days in advance.

When the trustee cannot report changes by this due date because of circumstances beyond his or her control, the trustee must report the change within 30 calendar days from the date of the change or emergency disbursement. However, the notice is still considered late.

NOTE When the trustee fails to report changes in trust income or disbursements on time, and the change would have resulted in an adverse action had it been reported on time, certain penalties are applied. See section 4) below for details.

A major change in living arrangement, such as the customer moving from an HCBS living arrangement to a nursing facility, may cause a change in the trusts disbursements needed, especially with an IOT. When this happens, the trustee must provide trust account records and complete a new DE-312 or DE-313 form listing anticipated disbursements for the next 12-months, including any new share of cost and personal needs allowance amounts.

Reporting Requirements at a Renewal

At renewal, the trustee provide information and update forms as described in the table below:

Type of Trust	Requirements
Trusts for Individuals Under Age 65 with a Disability OR Pooled Trust	The trustee must report the amount of the trust corpus at the time of the renewal, and provide both of the following. <ul style="list-style-type: none"> • Trust account records showing the actual trust income and disbursements since the last renewal; and • A report of expected trust income and disbursements over the next twelve months, using the Special Treatment Trust Anticipated Disbursements form (DE-312).
Income-Only Trust	The trustee must report the amount of the trust corpus at the time of the renewal. If the amount in the trust is lower or higher than expected, the customer has not been paying the SOC or there is some other reason to question the management of the trust then the trustee must: <ul style="list-style-type: none"> • Provide trust account records showing receipts and disbursements; and • complete a new IOT Anticipated Disbursements form (DE-313).

Annual Accounting Statements Placed with the Court

Trustees of STTs with a large trust corpus (usually Trusts for Individuals Under Age 65 with a Disability) are sometimes required to file quarterly, semi-annual, or annual accounting statements with the court that approved the trust creation.

4) Penalties for Late Reporting

Changes to income or trust disbursements can result in the customer losing eligibility or paying an increased share of cost for one or more months.

The trustee of an STT must report changes in income assigned to the trust or to disbursements from the trust at least 45 calendar days before the change happens. This is

to allow enough time, if needed, to process any change in the share of cost (SOC) or eligibility for the month the change will happen.

When the trustee reports these changes late, the change is reviewed to see if the share of cost (SOC) would have been higher or eligibility would have been affected for past months. If so, the adverse action that would have been applied if the change had been reported on time is applied to the next month possible allowing for advance notice.

When an adverse action is taken to stop ALTCS eligibility or increase the customer's SOC due to late reporting, the customer may appeal the decision. This may result in eligibility or SOC being continued at the previous level during the appeal. If the Agency decision is upheld at the hearing, the adverse action is applied for future months.

5) Violations of Special Treatment Trust Requirements

Violating the terms or conditions of a STT can result in the trust losing its Special Treatment status. Actions that violate the terms of a STT include:

- Depositing resources into an income-only trust;
- Depositing income or resources belonging to someone other than the customer into the trust;
- Breaches of "spendthrift" restrictions such as assigning, pledging, or otherwise obstructing the trust resources for certain personal debts or other obligations;
- Issuing disbursements from the trust that are not for the benefit of the customer;
- Giving false information about trust income or disbursements; and
- Failing to cooperate with trust reporting or proof requirements.

When a violation has occurred and the trust is no longer entitled to special treatment, it is treated as either a revocable or irrevocable trust (see [MA802](#)), until the trustee corrects the violation.

NOTE If counting the trust resources and income as available due to losing special treatment would cause an undue hardship, the situation is reviewed by the agency on a case-by-case basis.

Definitions

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Term	Definition
Advance notice	A period of at least 10 days before the date the adverse action will be taken.
Adverse action	A change to decrease or stop benefits or to increase the customer's costs.
Disbursement	A payment or distribution from the trust corpus or trust earnings.
Financially Responsible Relative	Includes the following: <ul style="list-style-type: none"> ● Customer's spouse; or ● If the customer is under age 18, the customer's parents.
Trust Corpus	The income and resources that fund the trust. The resources or income in the trust corpus may be available to the customer, but are no longer owned by the customer. The trust corpus may also be called the trust principal.

Proof

Proof of disbursements

- Anticipated Disbursements form (DE-312 or DE-313) with all 12 months completed, signed by the trustee;
- Check registers or other records of payments that were made from the trust. The records should show the payments date, amount paid, and what was received. Include explanations for changes made to the trust assets, such as accounts closed, properties sold, or titles changed.
- Receipts, invoices or billing statements for any legal or professional services to be disbursed from the trust;
- An explanation of any planned medical expenses, entertainment, vocational, or transportation expense disbursements;
- Proof of health insurance premium amounts that will be paid from the trust;
- Proof of any shelter expenses that will be paid from the trust;

- For burial expenses, a quote or estimate from the burial provider showing the type of pre-need burial plan and costs, unless the request is for a life insurance policy or designated burial account of \$1,500 or less.

Proof of Trustee agreement to abide by the STT requirements

- Acknowledgement of Responsibilities as Trustee for a Special Treatment Trust form (DE-522) signed by the trustee

Programs and Legal Authorities

Program	Legal Authorities
ALTCS	42 USC § 1396p(d) ARS 36-2934.01 AAC R9-28-407.E AAC R9-28-408.F



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