



THE DISABILITY  
FOUNDATION

*Enriching lives, securing futures.*

# Personal Representatives Handbook

THE OHIO COMMUNITY  
POOLED ANNUITY  
AND FLEXIBLE  
SPENDING  
TRUSTS



## Welcome to The Disability Foundation

*Now that you have opened a trust account with us, we consider you part of the family. We understand you may have some questions. You will find most of the answers on the following pages, but please know we are here to help you improve the quality of life for your loved one by careful use of the trust. Feel free to call us and let us walk you through your first distribution or even your tenth, if necessary, or visit our website for more information anytime, day or night.*

*Again – welcome!*

# PERSONAL REPRESENTATIVES HANDBOOK

## Distribution Procedure

Each quarter you will receive, on behalf of the individual for whom you are serving as Personal Representative, a form stating the amount available for distribution from that beneficiary's fund. This form is intended to provide you with a reminder as well as giving you a form to make a Distribution Request. Please know you can submit a Distribution Request any time there is a need, not just quarterly. You can access a writable Distribution form on our website at any time.

To access the beneficiary's fund, you must submit a completed "Request for Distribution" form to The Disability Foundation stating the purpose(s) for which you wish the funds to be used. Because misused funds may jeopardize the beneficiary's entitlement to benefits, your requests must be reviewed and approved by The Disability Foundation before checks will be issued.

Funds may not be used for anyone's benefit other than the beneficiary, and cannot be used for a purpose which has not been specifically authorized by The Disability Foundation. This is for the protection of the beneficiary and is not intended to be overly burdensome on you. The Disability Foundation will be responsive to the beneficiary's needs as quickly as possible, especially in emergency situations.

Once a Distribution Request has been approved by The Disability Foundation, payment(s) will be made by checks issued from the Foundation, either to you directly or to vendor(s) from whom goods and/ or services are to be (or have been) purchased. If payments are made directly to a vendor (and we are paying from an invoice), then further receipt documentation from you is not necessary. However, if payments are made directly to you, then you will need to furnish The Disability Foundation with a receipt or other verification as to how the funds were spent. This is for the protection of the beneficiary, as his or her fund may be audited by the public agencies which provide benefits to the beneficiary.

If you deposit check(s) from the Foundation into an account in your name and then write checks from your personal account to pay for items for the beneficiary, you may provide copies of the canceled checks showing payment to vendor(s) or copies of receipts, whichever you prefer. If you cash the checks and use cash to pay for items for the beneficiary, you must provide copies of the receipts for the items purchased. If you have previously received distributions from the beneficiary's fund and have not yet provided The Disability Foundation with any required documentation, as outlined above, then no further distributions to you will be approved until such documentation is received. Distributions directly to vendors will still be allowed. Further, if you use the funds for anyone other than the beneficiary, or if you use the funds for a purpose which has not been authorized by The Disability Foundation, then The Disability Foundation may refer the matter to appropriate agencies for further action. In extreme cases, The Disability Foundation has the right to request repayment of the funds you have spent and to

remove you as Personal Representative if you have violated the Foundation's rules, especially if your actions have jeopardized the beneficiary's eligibility for public benefits.

Please remember that these rules are necessary to protect eligibility of the beneficiary. We must always be able to prove how the funds were spent in the event of an audit from the public agencies involved.

All distributions must be documented with receipts or other proof of expenditure, as stated previously. If cash advances are made, you must provide the following documentation to the Executive Director within 90 days of the approval of the distribution request:

- 1. Receipts or other verification proving how the distributed funds were used as evidence that the funds were used in the manner listed on the distribution request form and for allowable expenditures; or**
- 2. A written explanation detailing why you were unable to provide receipts or other verification by this deadline. Failure to provide sufficient verification may result in the loss of ability to receive 333 advancement of funds (direct payments to vendors and reimbursements would still be permitted). We provide a "Lost Receipt" form on our website for use in this case.**

If you do not provide all of the receipts or other verification within the prescribed time (or fail to provide a written explanation) by the 90-day deadline, or if The Disability Foundation determines that your written explanation was not sufficient or did not warrant an extension of time, then The Disability Foundation will not approve or make any further advance distributions from the fund.



# PERSONAL REPRESENTATIVES HANDBOOK

## Annual Planning

It is helpful if you carefully plan the way(s) in which you and the fund beneficiary intend to use funds for an upcoming year. Occasionally, we will request you to submit a plan. The purpose of this planning is to help you anticipate the best way to use the money available to the beneficiary. This will also help the Foundation if a new Personal Representative must be appointed.

## Tax Issues

### **Annuity Trust**

For the Ohio Community Pooled Annuity Trust, each quarterly distribution includes a portion which is treated as “taxable income” to the beneficiary for income tax purposes. (Part of each distribution is also nontaxable). Each year, in January, you will receive an IRS Form 1099 showing the part of the beneficiary’s distribution(s) which is considered taxable income for IRS purposes. You will also be provided with an estimate of this amount when the fund is established. If the beneficiary established the fund initially with his or her own funds, then the beneficiary recipient will also be entitled to a charitable income tax deduction, which may help to offset any anticipated tax liability, provided that the beneficiary itemizes his or her personal income tax deductions.

If the funds used to establish the account came from a parent or grandparent of the beneficiary then the beneficiary is not entitled to a charitable income tax deduction, but the parent or grandparent might be. *(Parents and grandparents who establish accounts with the Foundation for the benefit of a child or grandchild with disabilities should always consult with their tax advisors to clarify potential income tax benefits and to file a gift tax return for the year in which the account is established.)*

One of your responsibilities as Personal Representative is to contact a tax advisor for the beneficiary as soon as the fund is established to determine whether the beneficiary will be liable for any income tax payments on the distributions credited each quarter. In most cases, the beneficiary’s income from all sources, including the Trust, will probably be too low to generate any income tax liability. However, if the beneficiary is not currently on public benefits and therefore receives substantial income from other sources, or if the beneficiary receives a large quarterly distribution from the Trust, it is possible that income tax payments will be due. In the rare cases where taxes are anticipated, funds in the beneficiary’s account can be used to pay such taxes. If taxes will be due, you should make arrangements either to pay such taxes from other funds available to the beneficiary or, alternatively, you should leave sufficient money in the beneficiary’s fund to assure that check(s) can be issued from the beneficiary’s fund in the Trust prior to April 15th each year for payment to the appropriate tax agencies.

### **Flexible Spending Trusts**

At the conclusion of every tax year, KeyBank will compute whether the participant had “Distributive Income.” If they did, KeyBank will issue a K1 tax form. The vast majority of our beneficiaries do not receive a K1 and of those that do, the taxable income is usually very low, therefore should not have an impact on the beneficiary’s tax liability.

## Disposition of Funds After Death of Beneficiary

If any money remains in the beneficiary’s fund after death, please remember as per the account agreement, The Disability Foundation retains some of the money. Then the balance remaining in the beneficiary’s account must first be used to pay the State of Ohio to repay any Medicaid liabilities incurred on the beneficiary’s behalf during his/her lifetime. For this reason, if you know that the beneficiary is in very poor health, you may wish to use the funds to fulfill the beneficiary’s last wishes, or possibly purchase a pre-need funeral or burial plan, if this hasn’t already been done. It is important to remember that after the death of the beneficiary, the fund will no longer be available for purchases, including burial or funeral expenses.

If the beneficiary has a 2014 Flexible Spending Trust, there may be remaining beneficiaries who will receive money (once the Medicaid liability has been satisfied).

Monies retained by The Disability Foundation are not used for operating purposes. Instead, they are treated as an endowed fund and growth is used to fund grants to benefit nonprofit organizations serving individuals living with disabilities.

## Further Help

Please feel free to contact Greg Darling, Executive Director of The Disability Foundation at (937) 225-9939 with any questions you have. If you wish, a special training session can be set up at your convenience prior to the first distribution deadline, to assist you with understanding the forms you must complete.

**NOTE: This Handbook reflects policies and guidelines set by The Disability Foundation, Inc. regarding administration of The Ohio Community Pooled Trusts, and may be modified from time to time, as deemed necessary by The Disability Foundation, Inc.**



**THE DISABILITY  
FOUNDATION**

# PERSONAL REPRESENTATIVES HANDBOOK

## Appropriate Uses of the Fund

When considering how the funds can be used remember they may be used for:

1. Medicaid will not cover.
2. Generally, everything else that does not include food or shelter, and as long as its use is for the sole and exclusive benefit of the beneficiary.

Of course, the regulations that govern the trust frequently go through changing interpretations so if you have any questions whether an anticipated expenditure is allowable, call the Foundation so we can discuss it with you.

## Examples of How Beneficiaries Use Funds

- Reimbursement for attendance at or participation in recreational or cultural events
- Travel and vacations
- Participation in hobbies, sports or other activities
- Items beyond necessary food. Meals are permitted if outside the home and associated with an entertainment activity
- Cosmetic, extraordinary, experimental or elective medical or dental care, if not available through other third party sources
- Visiting friends, companionship
- Exercise equipment or special medical equipment if not available through other third party sources
- Cost differential between a shared room and a private room
- Equipment such as cable TV, cell phone, electronic equipment such as iPads, computers, etc.
- Memberships to clubs, gyms, etc.
- Subscriptions to magazines and newspapers
- Advocacy (guardianship, attorney fees, etc.)
- Services of a representative payee or conservator if not available through other third party sources
- Intervention or respite when the beneficiary is in crisis if not available through other third party sources
- Vocational rehabilitation or habitation, if not available through other third party sources
- Reimbursement for attendance at or participation in meetings, conferences, seminars or training sessions
- Reimbursement for the time and expense for a companion or attendant necessary to enable the individual to access or receive supplemental services including, but not limited to, travel and vacations and attendance at meetings, conferences, seminars, or training sessions
- Items which Medicaid and other Governmental programs do not cover or for which they have denied payment (must show denial) or reimbursement for, even if those items include basic necessities such as physical or mental health care or enhanced versions of basic care equipment (e.g. wheelchairs) and items which are not included for payment by the per diem of the facility in which the beneficiary lives
- Other expenditures used to provide dignity, purpose, optimism and joy to the beneficiary of a supplemental trust. Clothing is permitted.
- Pre-paid funeral expenses



**THE DISABILITY  
FOUNDATION**

*A Supporting Organization of The Dayton Foundation*

## The Disability Foundation

1401 S Main St • Suite 100  
Dayton, OH 45409  
937-225-9939 • 937-222-0636 (fax)  
gdarling@daytonfoundation.org

**Disability-Foundation.org**