



Introducing

GUARDIAN COMMUNITY TRUST

The Guardian Community Trust, a Massachusetts non-profit corporation, is pleased to announce its appointment as successor trustee for the Medicaid-exempt pooled trust program formerly administered by Family Trust of Massachusetts.¹ This program, now managed by Guardian Community Trust, remains the largest in Massachusetts, offering pooled special needs trust accounts to seniors and disabled persons throughout the Commonwealth. Under new leadership, the Guardian Community Pooled Trust Program is opening new accounts and is growing once again.

The Guardian Community Trust is fully approved by MassHealth and the Supplemental Security Income (SSI) program to hold assets in a pooled trust account, pursuant to 42 U.S.C. §1396p(d)(4)(C), for persons receiving Medicaid and/or SSI benefits. (A copy of MassHealth's certification to serve as Trustee is enclosed.) Excess assets placed in trust with Guardian Community Trust will remain available to provide supplemental support to the beneficiary, and are not counted for purposes of Medicaid or SSI eligibility.

1. A Tradition of Service

The vision of Guardian Community Trust is to preserve the dignity of persons, old and young, who are faced with long-term illness or disability. We foster cooperation among family members, social support organizations, medical providers and legal counsel to maximize the independence and quality of life of our beneficiaries. While receiving primary medical or income support from Medicaid and/or Supplemental Security Income (SSI), beneficiaries are able to live more normally with the help of a pooled trust account, and to experience quality of life that public benefits on their own usually cannot provide.

As a successor trustee, Guardian Community Trust is committed to the quality of service for which our predecessor Trustee was known. Our beneficiaries receive responsive, compassionate, and professional trustee services at every stage.

Opening and maintaining an account with Guardian Community Trust is as user-friendly as we can make it. There is no application fee. From the first contact, we communicate effectively with beneficiaries, their families and their support networks. As Trustee, we respond quickly, knowledgeably and helpfully to inquiries. We believe that the work required to build and maintain the best possible relationship with each beneficiary is worth the time that we invest.

¹ Family Trust of Massachusetts, Inc., resigned as Trustee, effective March 1, 2014.

2. People With Experience

Guardian Community Trust is managed by a team of professionals with substantial experience as providers of pooled trust services. The Director of Programs, **Peter M. Macy, Esq.**, is an attorney who has advised and managed pooled trust programs in Massachusetts for more than fifteen years. The Assistant Director, **Charles N. Gallo, Esq.**, also is a Massachusetts attorney, with more than eight years of experience as a pooled trust administrator and manager. **Danielle L. Howard** is a seasoned trust administrator who has worked with pooled trust accounts in Massachusetts for nearly six years.

3. Charitable Purpose

In addition to operating a pooled trust program, the mission of Guardian Community Trust is to establish and permanently fund a public guardianship agency in Massachusetts, to serve the indigent who need protective fiduciaries. Guardian Community Trust funds and manages an Endowment that has been established for this purpose. Grants for research, education and advocacy now are under review, for award in 2014.

4. New Accounts

An account with the Guardian Community Pooled Trust Program is created by signing an agreement, called the "Sponsor Agreement." The signed Sponsor Agreement and the funds for the trust account then are delivered to Guardian Community Trust at its offices in Andover, Massachusetts. Once the funds are received and the Sponsor Agreement is countersigned by Guardian Community Trust as Trustee, the account is established. The whole process usually takes just a couple of days. It can be completed, if necessary, within a single day, if documents are in order and timely delivered.

Sponsor Agreements can be signed by the beneficiary, by a parent or grandparent of the beneficiary, by a conservator for the beneficiary, or by an authorized person signing under order of a Court. The signature should be notarized, and it is very important to complete the remainder beneficiary designation, to direct any excess funds that may exist after Medicaid reimbursement.

If the beneficiary is not competent to sign, an agent under a durable power of attorney ("DPOA") can sign for him or her, provided the DPOA gives the agent authority. Best practice is to fax or e-mail a copy of the DPOA to Guardian Community Trust before submitting the Sponsor Agreement. The DPOA must give the agent either (1) power to create and fund trusts, or (2) authority to make gifts of the individual's property. If the Sponsor Agreement names the agent as a remainder beneficiary, the DPOA also must expressly allow gifts to the agent (by name or by office).

Contact

To learn more about Guardian Community Trust, call us at (978) 775-3500, or visit our website, at www.guardiancommunitytrust.org. Forms for a pooled trust account can be downloaded from the website. We also can be contacted at the printed address, below.

5. Facts, Forms and Procedures

(1) **Trustee.** The legal name of the Trustee for the Guardian Community Pooled Trust Program is Guardian Community Trust, Inc. It is a Massachusetts non-profit organization.

(2) **Trust Instrument.** The master trust instrument for the program is the Guardian Community Trust for Supplemental Needs. This instrument was created on March 23, 2004, and subsequently was amended on November 24, 2004, and again, on February 20, 2014, to name Guardian Community Trust, Inc., as the successor Trustee.² A PDF of the master trust instrument can be downloaded from Guardian's website, www.guardiancommunitytrust.org.

(3) **Distributions.** Guardian Community Trust is instructed in the master trust agreement to use funds to supplement other sources of support, rather than displacing them, unless there is a clear reason for doing otherwise. Each beneficiary is asked to complete a Use of Funds Plan, to help the Trustee identify needs and likely supplemental support costs for the beneficiary.

(4) **No Application Fee.** There is no fee to open an account with Guardian Community Trust. Documents are reviewed and signed, usually on the day that they are received, without charge.

(5) **No Minimums.** There is no minimum account size, and no minimum annual fee.

(6) **Trustee Fee.** The fee for Trustee services is set as an annual percentage of principal and is paid quarterly. The following schedule is applied:

- 3.00% of the first \$80,000;
- 2.50% of amounts over \$80,000 but not over \$120,000;
- 1.75% of amounts over \$120,000 but not over \$200,000;
- 1.25% of amounts over \$200,000;

(7) **Retained Amount.** Guardian Community Trust retains an account-closing fee of \$1,000 upon the death of the beneficiary, along with a percentage of the account, based upon the amount of time that the account existed. The following schedule is applied:

- 5% if the account terminates during the first year;
- 10% if the account terminates during the second year;
- 15% if the account terminates during the third year or later.

(8) **Medicaid Reimbursement.** As required by the Medicaid statute, the balance remaining after the trust-retained amount is subject to lien by the MassHealth program for Medicaid benefits paid during lifetime. If the lien amount is less than the remaining balance, the remainder will be paid to remainder beneficiaries, as directed in the Sponsor Agreement.

(9) **Forms.** The master trust instrument, Sponsor Agreement, Use of Funds Plan, and forms to request benefits can be viewed and downloaded from program's website, www.guardiancommunitytrust.org.

² The original Trustee, Family Trust of Massachusetts, Inc., resigned, effective March 1, 2014.



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February 25, 2014

Dean Richlin, Esq.
Foley Hoag LLP
Seaport World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2600

RE: The Guardian Community Pooled Trust

Dear Attorney Richlin:

Thank you for providing MassHealth with a copy of the second amended and fully restated master trust agreement for the Guardian Community Trust for Special Needs and its supporting documents.

Based on the master trust agreement and supporting documents you provided, the Guardian Community Trust for Special Needs, as executed on February 20, 2014, is currently a qualifying Pooled Trust pursuant to 42 U.S.C. § 1396p(d)(4)(C) and applicable federal and state law. To retain this status, the Trust may require amendment from time to time as necessary to conform to changes in applicable federal or state law, regulations, guidance or court decisions.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Boyle".

Sharon Boyle, Esq.
Chief MassHealth Counsel

cc: Jane A. Murray, President
Guardian Community Trust, Inc.

