

Chapter 3

MASTER TRUST FOR CHILD WELFARE PROGRAM CLIENTS

3-1. Purpose. This chapter is intended to outline the responsibility of the Department of Children and Families (Department) as Trustee of the Declaration of Master Trust promulgated pursuant to the order of the Circuit Court of Leon County, dated July 8, 1997 (the "Master Trust Declaration"). In the event there is a conflict between the provisions of the Master Trust Declaration and this chapter, the provisions in the Master Trust Declaration will take precedence and prevail over the provisions in this chapter.

3-2. Authority.

a. Chapter 96-402, Laws of Florida, effective October 1, 1996, amended section [402.17](#), Florida Statutes (F.S.), to clarify the authority of the Department to hold in trust, as Trustee, money and property of Department clients. Pursuant to this clarification, a Master Trust was established.

b. Section [402.33](#), F.S.

c. Chapter [65C-17](#), Florida Administrative Code (F.A.C.).

3-3. Definitions.

a. Expenditure Plan. A plan of action developed to identify the item(s) and cost(s) to meet the needs of the client.

b. Extraordinary Actions. Actions of the Trustee as to the money and property of certain clients who are under 18 years of age as outlined in section [402.17\(2\)\(a\)](#), F.S. The term extraordinary refers to the exercise of the following statutory powers of the Trustee, as described in section [736.0816](#), F. S., which include, but are not limited to, the following:

(1) To acquire or dispose of an asset for cash or any interest in it; and to encumber, mortgage, or pledge a trust asset for a term within or extending beyond the term of the trust, as specified in section [736.0816\(2\)](#) and (6), F.S., but not including the other powers specified therein;

(2) To grant an option involving disposition of a trust asset, as specified in section [736.0816\(11\)](#), F.S., but not including the other powers specified therein;

(3) To hold property in the name of a nominee or in some other form without disclosures of the trust so that title to the property may pass by delivery, as specified in section [736.0816\(8\)\(b\)](#), F.S.;

(4) To borrow money to be repaid from trust assets or otherwise, or the advance of money because of the holding or ownership of trust assets, or for advances with any interest, for which the Trustee has a lien, on the trust assets as against the beneficiary, as provided in section [736.0816\(6\)](#), F.S.;

(5) To exercise any of the powers described in section [736.0414](#), F.S., respecting termination of a trust with a value of under \$50,000; and,

(6) To exercise any of the powers described in section [736.08163](#), F.S., respecting environmental and health laws, and the presence of toxic substances in property owned, sold, or acquired by the trust.

c. Fee Waiver. As defined in Rule [65C-17.002\(7\)](#), F.A.C., a reduction or deferment of assessed fees pursuant to procedures established in Rules [65C-17.004](#) and [65C-17.005](#), F.A.C.

d. Irrevocable. In the context of the establishment of client trust accounts or subaccounts within the Master Trust, there is no power to revoke, withdraw, or cancel a client trust account or subaccount.

e. Qualified Disability Expenses. As defined in 26 U.S. Code § 529A(e)(5), any expenses related to the eligible individual's blindness or disability which are made for the benefit of an eligible individual who is the designated beneficiary, including the following expenses: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses, which are approved by the Secretary of Treasury under regulations and consistent with the purposes of this section.

f. Revocable. In the context of the establishment of client trust accounts or subaccounts within the Master Trust, that the power to revoke, withdraw, or cancel a client trust account or subaccount has been retained by the Trustee.

g. Special Needs of a Disabled Child. Pursuant to Part III of the Master Trust Declaration, the requisites for maintaining the good health, safety, and welfare of a client beneficiary, as determined at the discretion of the Trustee.

h. Trustee. The Department as Trustee under the Master Trust Declaration, represented by lead agencies.

3-4. Establishing Benefits and Becoming Payee. For children placed in the Department's custody, excluding Level I licensed foster home and non-licensed placements, the lead agency must promptly apply to become representative payee, as defined in section [402.33\(1\)\(e\)](#), F.S., of any benefit payment, income, or asset. If the client is of sufficient age and ability to understand, he or she must be provided with the "Explanation of Master Trust Notice" (Attachment 1 to this chapter) to aid them in understanding what a Master Trust account is and how the funds will be used.

a. If a client potentially meets the requirements for Social Security Administration or third-party benefits, the lead agency must submit an application for such benefits on behalf of the client. The lead agency shall assist Level I licensed and non-licensed caregivers with applying for benefits.

(1) In the event an application for benefits is denied, the lead agency must determine if additional information has since become available that would support a review and appeal of the denial and take appropriate action.

(2) The notice of denial of Social Security Administration or third-party benefits must be filed with the court.

b. When a client is in receipt of income, asset(s), real property, or personal property (e.g., stocks, bonds, copyrights, etc.), consultation regarding appropriate actions to take should be initiated with Children's Legal Services (CLS).

(1) Such income, asset, or property would normally come through a probated will or by substantial gift. The personal representative of the estate, or the maker of the gift, shall be requested to provide a written appraisal or other document to be placed in the client's file showing the fair market value of the property used in the probate of the estate or in transferring the gift. When an appraisal or statement of fair market value is not provided, then the lead agency may have to arrange for a private appraisal with the costs to be charged to the client's trust subaccount.

(2) If the client is of sufficient age and ability to understand, he or she must be given the choice of retaining or liquidating the property (requires legal review; see paragraph 3-10 of this chapter). The value of the property or all or any portion of the liquidated funds shall be added to the Long-Term Needs Subaccount, or where appropriate, the Disabled Special Needs Trust subaccount. If the property is income producing or has potential income productivity (such as stocks which pay dividends), the lead agency has the option of utilizing in-house resources or retaining appropriate expertise to manage the property, with the fee being charged against the client's subaccount.

(3) If the client is not of sufficient age or ability to understand, the lead agency has the option of seeking a court determination as to disposition, or retaining the property (i.e., in a safe deposit box or in a brokerage account, etc., with the fee charged to the client's subaccount) for the client until he or she is able to exercise a choice, or the trust is terminated as to that client.

(4) As Trustee, the Department may delegate certain investment management functions as a "prudent investor" as permitted by section [518.112](#), F.S. If the real property is retained, and has income-producing potential, the lead agency has the option of utilizing in-house resources or retaining a rental management firm to manage the property, with the fee being charged against the client's subaccount.

(5) Because of the impact of the homestead exemption for tax and debt collection purposes, the handling and disposition of any real property that is eligible for the homestead exemption must be reviewed and documented on a case-by-case basis by the Department and lead agency's fiscal office and legal counsel.

3-5. Subaccounts.

a. Subaccounts for All Children (Disabled and Non-Disabled).

(1) Current Needs Subaccount. A Current Needs Subaccount holds funds intended to meet the client's current, ongoing, monthly needs. This subaccount is created for each client. For clients receiving SSI, Social Security Act Title II benefits (SSDI), or child support, this subaccount is revocable so that the representative payee may access the money or property for the client's current needs. For any other forms of money or property, this subaccount is irrevocable, but is freely accessible to meet the client's current needs. The current needs of the client include cost of care. The money in this account does count toward the SSI asset limit.

(2) Long-Term Needs Subaccount. A Long-Term Needs Subaccount holds funds intended to be conserved for the client's long-term needs such as college education, vocational training, and employment related costs. For children receiving SSI, SSDI, or child support, this subaccount is revocable so that the representative payee may access the client's money or property. For any other forms of money or property, this subaccount is irrevocable, and may not be accessed for any reason until the client reaches age 18 or leaves the custody, care, or control of the Department. The money in this account does count toward the SSI asset limit.

b. Subaccounts for Disabled Children Only.

(1) Disabled Special Needs Trust Subaccount. The Disabled Special Needs Trust Subaccount holds funds received as lump sum payments, underpayments, or past-due benefits for an SSI recipient. This subaccount is also known as a “dedicated account.” The funds in this account are intended to be conserved or invested to meet the “special needs of a disabled child.” The money in this account does not count toward the SSI or Medicaid asset limit.

(a) Allowable expenditures include, but are not limited to, the following:

1. Medical treatment;
2. Education or job skills training;
3. Personal needs assistance (other than basic maintenance costs) when beneficial to the client and related to the client’s impairment;
4. Special equipment when beneficial to the client and related to the client’s impairment;
5. Housing modifications when beneficial to the client and related to the client’s impairment;
6. Therapy or rehabilitation beneficial to the client and related to the client’s impairment; and,
7. Other items or services that the Social Security Administration determines to be appropriate but only when beneficial to the client and related to the client’s impairment and there is no other funding source (not including general revenue).

(b) Withdrawals or expenditures from these accounts can be made to meet specific “special needs of a disabled child” after written permission from the region Department designee. The region Department designee will review the request and provide a decision of approval or denial within 10 calendar days.

(2) Medicaid Income Trust Subaccount. The Medicaid Income Trust Subaccount holds funds for clients who are or will be qualified for skilled nursing home care under the Medicaid program. Only the current monthly income of the client may be deposited in this account and is available to pay the client’s share of the skilled nursing home care. The money in this account does count toward the SSI asset limit.

(3) Plan to Achieve Self-Support Subaccount. The Plan to Achieve Self-Support (PASS) Subaccount holds funds intended to be conserved to aid the disabled client, who has income or assets other than SSI, in meeting an educational or vocational goal, without effecting SSI eligibility. The client and child welfare professional must complete a PASS application to be approved by the Social Security Administration. For client’s receiving SSI benefits, this subaccount is revocable so that the representative payee may access the money or property in connection with expenditures related to the PASS approval, or for the reimbursement to the Social Security Administration of SSI benefit payments that were received in connection with the funding of the PASS prior to its transfer, amendment, abandonment, or termination. Withdrawals or expenditures from this subaccount must be consistent with the approved PASS.

(a) While the approved PASS is in effect, funds placed in this subaccount do not count toward the SSI asset limit.

(b) The lead agency must coordinate with the Social Security Administration to ensure all requirements are completed including, but not limited to, the following:

1. Complete and submit the PASS form SSA-545-BK. The local Social Security Administration office can be consulted for assistance with writing the Plan.

2. Submitting the approved PASS SSA-545-BK form and related approval correspondence to CLS to file with the court.

3-6. Establishing Subaccounts. The following actions must be completed within seven calendar days after the establishment of the client's Master Trust account.

a. The lead agency fiscal staff or designee must complete the Notarized Designation of Client Money and Property (form CF-FSP [5222](#), available in DCF Forms) indicating the establishment of the client's subaccount(s) following these guidelines:

(1) Complete the top portion as indicated.

(2) In all instances, check box "A" which indicates the creation of a Current Needs Subaccount. If the client receives either SSI or Social Security Act Title II benefits, check the "revocable" box. Otherwise, check the "irrevocable" box.

(3) If it is determined to be in the best interest of a client to have both a Current Needs Subaccount and a Long-Term Needs Subaccount, also check box "B." If the client receives either SSI or Social Security Act Title II benefits, check the "revocable" box. Otherwise, check the "irrevocable" box.

(4) If it is determined to be in the best interest of a client to establish a Disabled Special Needs Subaccount, check box "C."

(5) If it is determined to be in the best interest of a client to establish a Medicaid Income Trust Subaccount, check box "D."

(6) If it is determined in the best interest of a client to establish a PASS Subaccount, check box "E." If the client receives either SSI or Social Security Act Title II benefits, also check the "revocable" box. Otherwise, check the "irrevocable" box.

(7) If either box "C" or "D" is checked, then box "1" or "2" must be checked. If it is known that the client has a will or some other legal instrument concerning the disposition of his/her property after death, check box "1" and write in the name(s) of the persons designated in the will or other legal instrument as remainder/residual beneficiaries. Otherwise, check box "2." If there is any question concerning the validity or legal effect of any document that seeks to dispose of a client's property at death, the lead agency must consult with CLS.

(8) In the space provided at the bottom of the form, describe the money and property of the client that is being deposited in the client's subaccount(s) at the time the form is completed.

(9) The notarized signature and date of fiscal staff confirms the establishment of the accounts.

b. The original copy is maintained in the client's case file.

c. The lead agency must submit a copy to CLS for filing with the court.

3-7. Ongoing Accounting Procedures. Fiscal staff and child welfare professionals must collaborate to ensure the fiduciary responsibility to the client is being met.

a. The total amount of funds held in each countable subaccount, for a client receiving SSI benefits, must never exceed the \$2,000 SSI asset limit.

b. Upon receipt of a client's benefit or payment, excluding child support payments, the personal allowance, defined by Rule [65C-17.002\(11\)](#), F.A.C., must be applied to the client's Current Needs Subaccount pursuant to procedures established in [65C-17.003\(2\)\(c\)](#), F.A.C.

c. After the personal allowance is deducted from a client's benefit, the remaining amount must be applied to the client's cost of care.

(1) If the client receives SSI and child support, the cost of care is first applied to the child support payment and the remaining balance, if any, is applied to the SSI benefit for the intended month.

(2) The lead agency must submit monthly, or as determined by Attachment I of the lead agency contract, the total amount of the cost of care to the Office of Revenue Management (ORM) for the month in which the benefit or payment are intended. When a lead agency receives a lump sum payment for a client who receives Social Security Act Title II, Social Security Disability Insurance (SSDI), benefits that are to be deposited in a current needs account, the total cost of care from the months in which the benefit was intended is deducted and submitted to ORM.

(3) If an incorrect amount of cost of care is submitted to ORM, reconciliation must occur to ensure the funds are returned to the client's Current Needs Subaccount.

d. Each lead agency shall maintain up-to-date accounting records for each client's subaccounts.

(1) The accounting record for each client shall include, at minimum:

(a) Type of benefit payment;

(b) Monthly benefit amount;

(c) Month/year in which payment/benefit is intended;

(d) Date, description, and amount of all transactions such as withdrawals, interest earned, or adjustments; and,

(e) Current balance in each subaccount.

(2) The accounting record for each client must be reviewed by the lead agency at least quarterly unless the account warrants more frequent review.

(3) The most recent quarterly accounting record must be provided to CLS to be filed with the court at the time of each judicial review of the client's case to achieve the general provisions requirement.

(4) The lead agency must provide a combined report of accounting records for all clients with trust accounts to the Department designee on a quarterly basis. The report must identify the type of account (current needs, dedicated, or long-term) and include the data elements identified in d.(1)(a)-(d) of this section.

e. Master Trust Expenditure Plan. The lead agency must complete a Master Trust Expenditure Plan (form CF-FSP [5312](#), available in DCF forms) within 15 calendar days of establishing the client's Master Trust account. The expenditure plan shall be reviewed by the lead agency at least quarterly and updated as necessary. If, at any point, the balance is at least \$1,500 in SSI benefits, the lead agency must complete an updated Master Trust Expenditure Plan within 15 calendar days. The Master Trust Expenditure Plan must identify the following:

- (1) The item(s) and cost(s) planned to meet the needs of the client;
- (2) The anticipated amount to be accumulated in the subsequent three months that would jeopardize the client's ongoing eligibility for SSI benefits;
- (3) The client's specific needs, current or reasonably foreseeable future needs, as established in consultation with, at minimum, the client (as appropriate), parent(s) unless TPR'd, caregiver(s), guardian ad litem (GAL), client's attorney if appointed, and treatment providers; and,
- (4) Whether a PASS plan is in effect or is appropriate for the client. If a PASS plan is appropriate and has not been initiated/developed, the lead agency must take the steps necessary to apply for approval of a PASS plan. If the client has a PASS plan, steps should be taken to apply for an amendment to the plan.

3-8. Use of Funds. Lead agency fiscal staff and child welfare professionals must collaborate to perform planning and budgeting functions by keeping track of the client's subaccount balance(s), monitoring the client's current and anticipated needs in relation to such balance(s), and the best interests of the client. The child welfare professional must, in effect, function as any prudent parent who must budget both for the client's day-to-day needs and future health, educational, or vocational needs. The child welfare professional is responsible for keeping the client and family (unless parental rights have been terminated) informed of the status of the client's subaccount(s) in the Master Trust, and the available options for utilizing the funds.

a. Within seven calendar days of the establishment of a client's Master Trust account, the lead agency must complete the Notarized Designation of Client Money and Property (form CF-FSP [5222](#), available in DCF Forms) and Notice of Fee Assessment and Rights of Foster Child (form CF [285D](#), available in DCF Forms) to be filed with the court providing notification of the cost of care or fees. The Notice of Fee Assessment and Rights of Foster Child (form CF [285D](#)) must be filed ongoing, at the time of each Judicial Review hearing.

b. Items which would normally be considered the responsibility of the licensed caregiver (such as furniture, outdoor swing sets or other play equipment, kitchen, or laundry appliances, etc.) shall not be purchased absent compelling circumstances. If it is determined that such items should be purchased from the client's account, there must be a signed written agreement from the foster parent agreeing to purchase the item at fair market value with the money being replaced in the client's trust account at the time the client leaves the home if the item cannot be transported to the client's next residence. Department approval must be obtained prior to making purchases as described in this paragraph. Refer to Accounting Procedures Manual, Volume 7, Chapter 6, Exhibit B for additional suggested uses of Master Trust funds.

c. Requests and authorization for withdrawals of funds from the client's subaccount must be submitted utilizing the Master Trust Withdrawal Request and Authorization (form CF-FSP [5463](#), available in DCF Forms), pursuant to Rule [65C-17.003\(2\)\(a\)](#), F.A.C.

d. Pursuant to section 10 of the General Provisions of the Master Trust Declaration, the Department, as Trustee, shall be reimbursed from the Master Trust for necessary legal and administrative fees reasonably incurred and not covered by any other source on behalf of the clients of

the Master Trust. Contractual legal services must be approved by the Department of Legal Affairs pursuant to section [402.17\(5\)](#), F.S. Administrative fees related to pooled investments shall be deducted proportionately in accordance with Accounting Procedures Manuals (APM) 7 APM 3 and 7 APM 6.

e. The client, the client's parent(s) or legal guardian(s), or the client's legal representative may request review of any issues or transactions concerning the administration and management of a client's trust subaccount(s). Initially, such review will be conducted by the child welfare professional's supervisor. Where warranted, further review may be conducted by, as appropriate to the issue, by the Department, CLS, Office of Child and Family Well-Being, or Office of CBC/ME Financial Accountability. It is intended that these consultations should resolve such issues through informal mediation in a non-adversarial manner.

f. The lead agency must submit findings of any audits conducted by or on behalf of the Social Security Administration to the Office of Child and Family Well-Being.

g. Allowable administrative fees must be within the scope of section [402.17\(6\)\(b\)](#), F.S., and may include the following:

- (1) Bank or investment company charges and fees, including investment counseling and management charges;
- (2) Independent auditing charges;
- (3) Property management fees; and,
- (4) Other fees or charges reviewed and approved by the region designee.

3-9. Legal Procedures.

a. A notice containing at least the following provisions must be provided, in a manner that affords appropriate due process, to the client, parent(s) or legal guardian(s), guardian ad litem, and, if applicable, the client's attorney in connection with the judicial proceeding under Chapter 39, F.S., in the court that has appropriate jurisdiction of the client. To achieve this, the Notarized Designation of Client Money and Property (form CF-FSP [5222](#), available in DCF Forms) and Notice of Fee Assessment and Rights of Foster Child (form CF [285D](#), available in DCF Forms) must be filed together with the court separate from any other documents within 30 calendar days from execution of form CF-FSP [5222](#). If the client is of sufficient age and ability to understand, he or she must be provided with the "Explanation of Master Trust Notice" (Attachment 1 to this chapter) to aid the client in understanding the language included in the legal notice.

"Under section [736.0813](#), Florida Statutes (F.S.), this is to notify you that the Department of Children and Families has accepted the position of Trustee of a certain trust, promulgated on July 8, 1997, pursuant to the order of the Circuit Court of Leon County, dated July 8, 1997 (the "Master Trust"). The address of the Trustee is:

Office of General Counsel
Florida Department of Children and Families
2415 North Monroe St., Suite 400
Tallahassee, FL 32303

Upon reasonable request, a beneficiary of this Master Trust and the beneficiary's representative are entitled to a complete copy of the trust instrument, including amendments. Upon reasonable request, the Trustee will provide a beneficiary, or the beneficiary's representative, with relevant information about the assets of the Master Trust related to that beneficiary and the particulars pertaining to administration of the

Master Trust. If the child, a parent, or legal guardian has a question concerning this notice or a question or disagreement about the management of these funds in the Master Trust, the matter shall be directed to the Department, acting as the Trustee, for review and response. The Department, acting as the Trustee, may seek a court determination as to matters involving an apparent conflict of fiduciary duty.

If the child who is the subject of this proceeding is eligible for Social Security Act Title II, Supplemental Security Income, or Veterans' benefits, the Department will be applying to the Social Security Administration or Department of Veterans' Affairs to be appointed as Representative Payee for the child. If appointed, the Department will be receiving the child's SSA/SSI/VA monthly checks instead of the parent or legal guardian. After setting aside a personal allowance for the child, the balance will be used to repay the state for the costs care for the child. If amounts are received that are greater than the cost of care, these excess amounts will also be set aside in the Master Trust for the child in accordance with section [402.17](#), F.S. The money or property placed in the Master Trust for the child is not available to the client's family or assistance group for their current needs in accordance with Rule [65C-17.003\(1\)](#), Florida Administrative Code (F.A.C.).

If the child who is the subject of this proceeding has any significant amount of money, property (other than the normal personal possessions), or other income, it may be necessary for the court to direct that this money, property, or income be placed with the Department as Trustee in order to permit the Department to appropriately act in the child's best interests and provide for the child's current needs, long-term needs, and, if applicable, the special needs for a disability while the child is in the custody, care, or control of the Department.

Pursuant to sections [402.17\(2\)\(c\)](#) and [402.33](#), F.S., children who receive services may be entitled to a waiver or reduction of the fees customarily charged. The lead agency or regional legal counsel can discuss these charges as well as procedures for review of assessed fees, pursuant to Rules [65C-17.004](#) and [65C-17.005](#), F.A.C, and as established in paragraph 3-9 of CFOP 170-16.

The Department is required to notify the Agency for Health Care Administration of pending personal injury claims involving clients. Failure of a client to report such possible third-party liability could result in ineligibility for Medicaid benefits.

By law, a beneficiary, and the beneficiary's representative are entitled to an annual statement of accounts of the Master Trust relevant to that beneficiary, and upon termination of the Master Trust as to that beneficiary. In addition, copies of these annual accounting reports will be provided to the client's parent(s) or legal guardian(s) and, if applicable, the client's attorney if different from the beneficiary's representative. Region accounting files are also available for inspection by these individuals. These requests may be directed to the lead agency fiscal office. A copy of the client's most recent quarterly accounting record will be filed in the official record of the court having jurisdiction over the client or the client's money and property at the time of each judicial review held in regard to the Trust related to that beneficiary and the particulars pertaining to administration of the Master Trust."

b. The Leon County Circuit Court made a specific finding in the Order Promulgating Declaration of Trust that the trust is unavailable to the client, his or her family or assistance group, and that the Aid to Families with Dependent Children transfer of assets policy does not apply. This order shall be accepted as dispositive by the regional legal counsel that the money or property designated to the individual client's Long-Term Needs Subaccount is unavailable when requested to do an asset availability or transfer of assets clearance pursuant to Economic Self-Sufficiency Services guidelines.

c. There may be circumstances where the lead agency identifies a situation where the client who is coming into the custody, care, or control of the Department has significant assets (whether money, property, or income, and other than normal personal possessions such as clothes, toys, etc.) and these assets are held by the client, the client's family or relatives, or by a legal representative (such as a guardian, trustee, or custodian of a Florida Uniform Transfers to Minors Act [Chapter 710, F.S.] account). Some or all these assets may affect the Department's ability to properly act in the client's best interests while the client remains in the custody, care, or control of the Department, including making application for assistance or in properly planning for the client's current needs, long-term needs (or the reasonably foreseeable future needs of a client receiving SSI or other benefits), or the special needs of a disabled child. The lead agency is required to report any discovered assets or resources of the client to the regional legal counsel or CLS to determine whether, in these instances, a motion is to be made to the court having jurisdiction of the client for a court order that would direct that such assets be delivered to the Department in its capacity as Trustee of the Master Trust to be held and managed while the client is in the custody, care, or control of the Department.

d. To establish a Qualified Medicaid Income Trust for a client who is leaving the custody, care, or control or receipt of services from the Department, the lead agency, if practicable, should provide the attorney presenting the motion to promulgate an individual declaration of trust with the names of individuals or entities that may be willing to act as the trustee of such individual declaration of trust being proposed to the court.

e. Any further legal proceedings involving an individual client's trust account, or any subaccount(s), will take place at the regional level in a court of competent jurisdiction (being the court having jurisdiction over the client, court where the property is located, or court where the client's legal residence exists). Such proceedings will normally fall into one of the following categories:

(1) The client reaches age 18 and has a physical or mental disability or is otherwise incapacitated or incompetent to handle that client's own financial affairs. In such cases, pursuant to section [402.17\(7\)\(c\)](#), F.S., the Department must apply for an order from a court of competent jurisdiction to establish a trust on behalf of that client. Where there is no willing relative of the client or other person acceptable to the court available to serve as trustee of such proposed trust, the court may enter an order authorizing the Department to serve as trustee of the separate trust under such terms and conditions as the court determines appropriate to the circumstances.

(2) A client under the age of 18 is the subject of an ongoing proceeding or leaves the custody, care, or control of the Department due to adoption or placement of the client with a relative, or as otherwise directed by a court of competent jurisdiction. In such cases, pursuant to section [402.17\(7\)\(d\)](#), F.S., the Department must notify that court of the existence of the money, excluding Social Security benefits, and property in the possession of the Department either prior to, or promptly after, receiving knowledge of the change of custody, care, or control. The Department must apply for an order from the court exercising jurisdiction over the client to direct the disposition of the money and property belonging to that client. The court order may establish a trust in which the money and property of the client will be deposited, appoint a guardian of property as to the money and property of the client, or direct the creation of a Uniform Transfers to Minors Act account (see Chapter [710](#), F.S.) on behalf of that client, as the court finds appropriate and under the terms and conditions the court determines appropriate to the circumstances.

(3) If practicable, the lead agency should provide the Department legal counsel or child welfare attorney with the names of individuals or entities that may be willing to serve as the trustee of an individual declaration of trust being proposed to the court in connection with items (1) and (2) above.

(4) Pursuant to section 05(4) of the General Provisions of the Master Trust Declaration, and section [402.17\(2\)\(a\)](#), F.S., in the event the action or proposed action of the Trustee as to the money and property held for the sole use or benefit of a particular client of the Department, appears to

create an apparent conflict between the provisions of Chapter [736](#), F.S. (in particular the provisions of section [736.0816](#), F.S.), or of any other provision of federal or Florida law, administrative regulation or policy with the provisions of section [402.17](#), F.S., the Trustee is directed to comply with the applicable provisions of sections [736.0816](#), [736.1207](#), [402.17\(2\)\(a\)](#), and [402.17\(6\)\(b\)](#), F.S., to bring the matter to the appropriate court having jurisdiction over the client or the money and property being held for the sole use and benefit of that client for the court to determine what action the Trustee shall take.

(5) "Extraordinary" actions of the Trustee.

f. Pursuant to section 10 of the General Provisions of the Master Trust Declaration, the Department, as Trustee, shall be reimbursed from the Master Trust for necessary legal and administrative fees reasonably incurred on behalf of the clients of the Master Trust. Contractual legal services must be approved by the Department of Legal Affairs, pursuant to section [402.17\(5\)](#), F.S..

g. The lead agency shall conduct a review of the client's trust subaccounts and notify CLS regarding any court disposition of such funds in sufficient time to allow for necessary filings and court preparation, which, unless emergency circumstances dictate otherwise, is to be no less than three business days before the date of any court hearing or the filing of any document with the court, with respect to:

(1) A foster client turns age 18 (and does not fall within the category described in paragraph (3) below) and thereby will no longer be in the legal custody of the Department.

(2) A foster client over the age of 18 who no longer requires the care, custody, control, or services of the Department.

(3) A foster client who attains the age of 18 and who has a physical or mental disability or is otherwise incapacitated or incompetent to handle his or her own financial affairs, and the Department applies for a court order from a court of competent jurisdiction establishing a separate trust for that individual.

(4) A client under the age of 18 who leaves the custody, care, or control of the Department due to adoption or permanent placement of the client with a relative, or as otherwise directed by the court.

(5) There is extraordinary action of the Trustee (e.g., disposition of property).

h. Upon receipt from the lead agency, CLS is responsible for filing a copy of the client's latest quarterly accounting record in the official record of the court exercising jurisdiction over the client or the client's money and property at the time of each judicial review hearing held regarding the client and ensuring copies are provided to all parties.

3-10. Fee Waiver and Change in Allowance Procedures. Please refer to Rules [65C-17.004](#) and [65C-17.005](#), F.A.C., for criteria and procedures. Any client who has a Master Trust account is eligible to apply for a fee waiver. The lead agency shall not deny requests for a fee waiver or change in allowance. All requests with sufficient documentation must be submitted to the region Department point of contact.

a. The Department must appoint a minimum of three members to include lead agency and a Department designee to form a committee to review all fee waiver and change in personal allowance requests. The committee must not include the child welfare professional assigned to the client's case, an individual acting as an advocate of the client, or any person who may have a conflict of interest. The composition of the committee must be balanced as to representation from lead agency fiscal, lead agency operation/program, and region Department designee.

b. Upon submission by the lead agency, the region Department designee must review the fee waiver and change in personal allowance request for completeness and forward to the committee members. The review must be conducted in accordance with the criteria in Rule [65C-17.004](#), F.A.C. The region Department designee may request a review of quarterly accounting record, cost of care submissions, expenditure plans, and/or PASS account documentation. The chair of the committee shall be responsible for preparing a written recommendation, utilizing the Application for Review of Assessed Fee and Committee Findings (form CF [285E](#), available in DCF Forms).

c. The effective date of the request must be in accordance with the criteria in Rule [65C-17](#), F.A.C. The lead agency should temporarily suspend the application of cost of care to the clients account during the period the fee waiver and personal allowance is under review to ensure funds remain in the clients account and available if the request is approved. If the request is denied, cost of care must be submitted to ORM for the period it was held.

d. The lead agency must track requests for fee waivers and change in allowance and their outcomes. At a minimum, tracking should include date of request, requestor, client name and child welfare information system Person ID, committee members, committee recommendation, and outcome. Information must be made available upon request by the Department.

3-11. Termination of Trust.

a. The Department will remain Trustee of the client's trust account/subaccounts until one of the following events occur:

(1) The client turns 18 and is no longer in the legal custody of the Department.

(2) The client is between age 18 and 21, is participating in Extended Foster Care, and the Social Security Administration has not selected the lead agency to remain Representative Payee.

(3) The client turns 18 and has a physical or mental disability or is otherwise incapacitated or incompetent to handle his or her own financial affairs, and the Department applies for a court order from a court of competent jurisdiction establishing a separate trust for the client.

(4) A client under the age of 18 who has been in the legal custody, care, or control of the Department leaves the custody, care, or control of the Department due to adoption or placement of the client with a parent or relative, or as otherwise directed by a court of competent jurisdiction.

b. CLS shall be consulted as to disposition of funds. Refer to section [402.17\(7\)](#), F.S., and Paragraph 04 of the General Provisions of the Declaration of Master Trust dated July 8, 1997.

c. When the source of the client's income are benefits issued by the Social Security Administration, the Social Security Administration must be notified that the client is no longer in the custody of the Department and the conserved funds must be returned to the Social Security Administration. The conserved funds and/or future benefits will be paid as determined by the Social Security Administration. If a court order is issued to disperse the funds in another manner, the Social Security Administration should be consulted.

d. In the event of the death of the client while in the custody of the Department, any amount remaining in the trust account up to the total of medical assistance paid under Medicaid for the client shall be deducted and reimbursed to Medicaid prior to any other distribution to a designated remainder beneficiary pursuant to Section 11(5) of the General Provisions of the Master Trust Declaration or as otherwise provided by law. The Department, as soon as possible, shall also honor all unsatisfied Medicaid Third Party liens under section [409.910](#), F.S., known to the Department, which involve personal injury court judgments or personal injury settlements received by Master Trust beneficiaries.

e. Except as provided paragraph d above, and except for certain allowable fees and costs, funds in the client's trust subaccount are not subject to the debts of the client.

3-12. ABLE United Accounts. The Achieving a Better Life Experience (ABLE) Act is a Federal Law that was enacted in December 2014 which authorizes each state to establish a program that offers tax-free savings and investment accounts for individuals with a disability. Florida operationalized the ABLE United program to offer these accounts.

a. Prior to pursuing an ABLE United account for a client, the following factors must be considered:

- (1) Age of client;
- (2) Needs of the client;
- (3) Account balances; and,
- (4) Progress towards Permanency Goal.

b. The client must meet the following eligibility requirements to open an ABLE United account:

- (1) Must be a Florida resident at the time of application; and,
- (2) Must meet one of the following:

(a) Entitled to Supplemental Security Income (SSI);

(b) Have a condition listed in the "List of Compassionate Allowances Conditions" maintained by the Social Security Administration and found at (<https://www.ssa.gov/compassionateallowances/conditions.htm>);

(c) Certify that the individual is blind within the meaning of Section 1614(a)(2) of the Social Security Act; or,

(d) Certify that the individual has a medically determinable physical or mental impairment that results in marked and severe functional limitations and that: (i) can be expected to result in death; or (ii) has lasted, or can be expected to last, for a continuous period of not less than 12 months.

c. Prior to establishing an ABLE United account, the child welfare professional must explain to the client, if age and developmentally appropriate, what ABLE United accounts are and the plan to establish an account on the client's behalf. This information must also be shared with the client's parents if termination of parental rights has not occurred. A child welfare information system case note must be created and the signed ABLE United Acknowledgment (Attachment 2 to this chapter, form CF-FSP [5464](#), available at DCF forms) must be attached to document the outcome of these conversations.

d. Conserved funds in a client's Current Needs subaccount are used to establish and invest in an ABLE United account.

e. The investment type for a client's ABLE United account must be the FDIC Savings Fund.

f. Within seven days of establishing the client's ABLE United account, the lead agency must notify SSA of the account and the authorized legal representative for the client.

g. Withdrawals or expenditures from this account must follow the same guidance and procedures outlined for Master Trust subaccounts. These funds are to be used for “qualified disability expenses.”

h. The most recent account statement must be filed with the court for each judicial review hearing.

i. The Representative Payee report documenting the use of benefits must be completed annually. The form is mailed annually from SSA or can be completed online (available at [Representative Payee Portal | SSA](#)).

j. When a client leaves licensed care or reaches the age of 18, unless the lead agency remains payee of the client’s benefits, the appropriate ABLE United forms must be completed to change the authorized legal representative (ALR). Prior to changing the ALR, the lead agency must download and save all records from the clients ABLE United account and upload documents into child welfare information system. SSA must be notified of a change in ALR.

(1) When the client leaves licensed care, the lead agency designee or child welfare professional must discuss with any potential caregiver or appointed representative payee about the existing ABLE United account, provide them with expectations for the use funds, and the ABLE United website to access additional information. Upon placement, the lead agency must complete the “Change Authorized Legal Representative” form (available at [ABLEUnited.com](#)) and assist the caregiver with the transfer of the ABLE United account.

(2) When the client reaches the age of 18, and the lead agency will no longer be the representative payee, the lead agency will review the ABLE United account information with the client and provide the client with the ABLE United website to access additional information. The lead agency must complete the “Remove Authorized Legal Representative” form ([available at ABLEUnited.com](#)) and assist the client with transfer from an ALR to the client assuming administrative duties and gaining access to their ABLE United account. In the event the client has an appointed Representative Payee for their social security benefits, the lead agency must inform the Representative Payee of the client’s ABLE United account, expectations for its use, and provide the website to allow the Representative Payee to assist the client in managing these funds.

k. The lead agency must follow all guidelines and procedures of the ABLE United program.

3-13. Child Welfare Information System Documentation.

a. The lead agency must enter and maintain benefit amounts in the child’s Assets/Liabilities and Unearned Income page in child welfare information system. If the client receives more than one benefit type, an entry must be made for each.

b. The completed Notarized Designation of Client Money and Property (form CF-FSP [5222](#), available in DCF Forms) must be uploaded into the child welfare information system File Cabinet under the Image Category Trust Account and Image Type Signed Notarized Designation of Client Money and Property utilizing the name of the document as the file name.

c. The completed Notice of Fee Assessment and Rights of Foster Child Regarding Government Benefits (form CF [285D](#), available in DCF Forms) must be uploaded into the child welfare information system File Cabinet under the Image Category Trust Account and Image Type Signed Notice of Fee Assessment utilizing the name of the document and date as the file name.

d. The completed Social Security Application must be uploaded into the child welfare information system File Cabinet under the Image Category Participant Documents and Image Type

Social Security. The naming convention shall include type of application (SSI or SSA) and date of application. Example: SSI Application 02022021 or SSA Application 02022021.

e. If the application is denied by Social Security Administration, the denial letter must be uploaded into the child welfare information system File Cabinet under the Image Category Trust Account and Image Type Denial Letter utilizing the naming convention SSI Denial MMDDYEAR or SSA Denial MMDDYEAR.

f. The Social Security Award Letters, Continuing Disability Reviews, Representative Payee Reports, and Notice of Change in Payments must be uploaded into the child welfare information system File Cabinet under the Image Category Trust Account and Image Type Other. The naming convention must include document type and date. Example: SSI Award Letter MMDDYEAR or Notice of Change in Payment MMDDYEAR.

g. Fee Waiver or Change in Allowance Packet to include, at a minimum, the request, communications from the committee, and decision from the region designee shall be uploaded into the child welfare information system File Cabinet under the Image Category Trust Account and Image Type Application utilizing the naming convention Fee Waiver, Approved (or Denied), date of decision. Example: Fee Waiver Approved MMDDYEAR or Change in Allowance Denied MMDDYEAR.

h. Completed Master Trust Expenditure Plans must be uploaded into the child welfare information system File Cabinet under the Image Category Trust Account and Image Type Expenditure Plan utilizing the naming convention Expenditure Plan MMDDYEAR.

i. Master Trust Withdrawal Requests and Authorization (form CF-FSP [5463](#), available in DCF Forms) and receipts for purchases must be uploaded as a completed packet into the child welfare information system File Cabinet under the Image Category Trust Account and Image Type Other utilizing the naming convention Expenditure Documentation MMDDYEAR.

j. Quarterly Accounting records for Master Trust subaccounts must be uploaded into the child welfare information system File Cabinet under the Image Category of Trust Account and Image Type Other. The naming convention must be Quarterly Accounting listing months and year. Example: Quarterly Accounting Jan-Mar2020 or Quarterly Accounting Apr-Jun2020.

k. The submitted application for the ABLE United account must be uploaded into the child welfare information system File Cabinet under the Image Category of Participant Documents and Image Type Other. The naming convention must be ABLE United Application and date of submission (MMDDYYYY). Example: ABLE United Application 02132021.

l. ABLE United account statements must be uploaded into the child welfare information system File Cabinet under the Image Category of Assets and Income and Image Type Bank Statement. The naming convention must be ABLE United Account Statement listing month(s) and year. Example: ABLE United Account Statement Apr-Jun2020.

Explanation of Master Trust Notice

1. Why am I getting this Notice?

The Florida Department of Children and Families (Department) is keeping money for you in an account called a Master Trust. This document explains what that means and what your rights are.

This Master Trust is for children who have an open dependency (foster care) case.

The Department or your Community Based Care Lead Agency (lead agency) keeps track of how much money is put in and taken out for each child.

The Department is required by law [section 736.0813, Florida Statutes (F.S.)] to give you this notice.

2. Why does the Department have my money?

- a) If it comes from the federal government, the government will not send money directly to a child. Instead, it sends the money to a “representative payee” or “rep payee.” That is a person or organization that is responsible for using the money for the child’s needs. Parents are usually the rep payee for their children. But when children are in foster care, the parent cannot have access to the money. If there is not another adult who can be the rep payee, then the Department and/or your lead agency has that responsibility.
- b) If you have money or property (like stocks or a house) the court can order that it be put into the Master Trust. It still belongs to you. It is put in a trust to protect it from others.

3. Where does the money come from?

There are two main sources of money in the Master Trust. The first is Supplemental Security Income (SSI) which is money paid to care for a child with disabilities. The second is Social Security Administration (SSA) payments. These are for children whose parents worked and paid into the Social Security system and then the parent died, retired, or became disabled. Some children who lived with their grandparents may also get those funds.

Other possible sources of money are Veteran’s benefits and Railroad Retirement benefits. Sometimes children get money from other sources, like from a lawsuit or an inheritance.

4. Why does the Department take my money to pay for cost of care (room and board)?

Florida law requires the Department to take money from your account to pay for the cost of your care (section 402.33(2), F.S.). The cost of care is the amount the Department pays your caregiver or group home for your care. It may also include costs for other fees for your placement or medical or mental health services not covered by Medicaid. If another agency paid for the cost of your placement, or there was no cost, then the Department cannot take money from your account.

The Department has to set aside a minimum amount of money in your account for a “personal allowance”. If the amount of money you get each month is more than the cost of care, the extra money stays in your account.

5. What else can the money be used for?

The money is supposed to meet your short-term and long-term needs. You can talk to your caregiver, case manager, guardian ad litem, or attorney about using the money for things that you want and need.

6. Is there any way to save up more money in my account?

Yes. You have the right to ask for a “waiver or reduction of assessed fees.” If it is granted, the Department will reduce the amount it takes for the cost of care. Your caregiver, case manager, guardian ad litem, or attorney can help you fill out the form explaining how much you want and what you want to do with the money.

Your request will be reviewed by a committee. If your request is denied, you can request an administrative hearing. [Rule 65C-17.005, Florida Administrative Code (F.A.C.)] Your request must be made within 21 days of the date of the denial. An administrative hearing is held by a hearing officer (like a judge) who listens to both sides and makes a decision. If you don’t already have a lawyer, ask your guardian ad litem or case manager to help you get one.

7. How do I find out what is happening with my money?

- a) Your case manager is supposed to tell you about all purchases made from your account (Rule 65C-17.003, F.A.C.).
- b) At least twice a year, at the time of your judicial review hearing, your lead agency must provide you with information about asking for a “waiver or reduction” in the cost of care (Rule 65C-17.005, F.A.C.) and your court file should be updated with a current report about your money.
- c) You do not have to wait for a judicial review hearing to find out about your money. You can ask your caseworker to get you “an accounting” of your funds. An accounting is a document that shows details about your account:

For money put into your account:	For money taken out of your account:
<ul style="list-style-type: none"> • The date that money is put in • The amount of money put in • Where the money is from 	<ul style="list-style-type: none"> • The date money is taken out • The amount of money taken out • What the money was spent on

8. What if I have a question or disagree with the information about my Master Trust account?

First see if your case manager, guardian ad litem, or attorney can help. If they cannot, then you should contact the Department or their designee. That person is responsible for taking your questions and responding to issues you raise. The contact information for your Department designee is _____. [put in name, phone number and email address]

9. Can I get more details about the Master Trust?

Yes – you can get a copy of the “trust instrument and amendments.” They are the legal documents that make up the trust. This trust was created by an order of the Circuit Court of Leon County on July 8, 1997.

You can ask the Trustee (the entity that is responsible for the Trust) for a copy.

The contact information for the Trustee is:

Office of General Counsel
 Florida Department of Children and Families
 2415 North Monroe St., Suite 400
 Tallahassee, FL 32303

Phone: 850-488-2381 Email: Agency.Clerk@myflfamilies.com

ABLE United Acknowledgement Form



**FLORIDA DEPARTMENT
OF CHILDREN AND FAMILIES**
MYFLFAMILIES.COM

Achieving a Better Life Experience (ABLE) Act

What is an ABLE Account?

An ABLE account is a tax-free savings and investment account established to support qualified disability expenses, including living expenses, for an individual with a disability. Money in an ABLE account is generally disregarded when determining eligibility for federal benefit programs such as Supplemental Security Income (SSI) and Medicaid. The ABLE United Program is the qualified ABLE program offered by the state of Florida. ABLE accounts in the ABLE United Program are referred to as ABLE United accounts. The only investment type approved by the Department is the FDIC-Insured Savings Account. This investment type is insured, and funds are not at risk of being lost.

Eligibility Criteria to open an ABLE Account

There are three eligibility criteria for opening an ABLE United account:

- **Florida Residency:** The individual must be a Florida resident at the time of application.
- **Disability Severity Criteria:** The individual must be blind or have a disability that meets the disability and severity requirements such as for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).
- **Disability Onset:** The onset of blindness or disability must have occurred before the individual's 26th birthday.

Factors to consider when making the determination of the appropriateness of an ABLE United account include age and needs of the client, Master Trust account balances, and progress towards reaching the identified permanency goal.

Accessibility of Funds

The funds are available within two to five days from the approved request. The funds are tax-free if they are used on a "qualified disability expense." The expenditure documentation is the same as currently required to utilize funds in Master Trust accounts. There is no annual fee and online banking features exist. Paper statements can be obtained for a fee. As the Authorized Legal Representative (ALR), the lead agency will designate two individuals that will be named as the primary and secondary representative on the account.

Comparison of Master Trust Accounts and ABLE Accounts

Master Trust Accounts	ABLE Accounts
<ul style="list-style-type: none"> • Has an asset limit of \$2,000 or the child becomes ineligible for SSI Medicaid which limits ability to conserve funds. 	<ul style="list-style-type: none"> • Are exempt from federal means tested benefits, up to \$100,000.
<ul style="list-style-type: none"> • Cost-of-care is deducted from the child's current needs account on a monthly basis; however, funds accumulate and must be monitored closely. 	<ul style="list-style-type: none"> • Cost-of-Care is deducted from benefits received prior to transferring funds into an ABLE Account.
<ul style="list-style-type: none"> • Once account reaches \$1,500, the lead agency completes an Expenditure Plan outlining how funds are to be spent to prevent going over the allowable asset limit. 	<ul style="list-style-type: none"> • The lead agency could allow up to \$15,000 annually to accumulate in the child's account to better plan and meet future needs.
<ul style="list-style-type: none"> • Funds can accrue interest. 	<ul style="list-style-type: none"> • Funds will accrue interest. Tax forms 5498-QA or 1099-QA may be received.
<ul style="list-style-type: none"> • Social Security funds are sent back to social security to establish a new payee once a child leaves care which can cause a delay in access to benefits. 	<ul style="list-style-type: none"> • Child can continue to benefit from account once a child leaves care and the ALR can be transferred within 30 days.
<ul style="list-style-type: none"> • Social Security Administration conducts reviews. 	<ul style="list-style-type: none"> • Social Security Administration has the authority to conduct reviews on withdraws for SSI recipients.

Acknowledgement of Receipt of Information

I confirm that I have reviewed the information within this document with the individuals listed below.			
Youth's name:			
Parent's name(s):			
Child Welfare Professional's Name:		Child Welfare Professional's Signature:	

ADDITIONAL INFORMATION

Additional information can be found by visiting the ABLE United website at <https://www.ableunited.com>