Technology is a Reasonable Expense:

A Practical Legal Framework for Technology-Related Distributions from Special Needs and Pooled Trusts

Eric J. Einhart, Esq.

Stetson Special Needs Trust Conference • Pooled Trust Intensive

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CLE Written Materials

Funding and Cost-Saving Resources

A useful conference handout should give attorneys places to send clients, not merely tell them to "look for grants." The following are high-value starting points:

Resource	Statutory / Regulatory Basis	Why it matters	Primary Access Gateway & Directory
State Assistive Technology Act Programs (ACL/AT3)	29 U.S.C. §§ 3001–3007 (Assistive Tech Act)	Device demonstrations, short-term loans, reuse programs, financing, and state-specific acquisition assistance.	at3center.net
Medicare / Medicaid / Early and Periodic Screening, Diagnostic, and Treatment (EPSDT)	42 U.S.C. § 1395 et seq.; 42 U.S.C. § 1396d(r)	Potential coverage for DME, speech-generating devices, hearing-related equipment, and other medically necessary technology; rules vary by program and state. EPSDT covers broad AT for under-21s.	medicaid.gov
State Vocational Rehabilitation	29 U.S.C. § 723(a)(14) (Rehab Act / WIOA)	Potential funding when technology is necessary for employment or vocational goals.	rsa.ed.gov
IDEA / educational systems	20 U.S.C. § 1400; 34 C.F.R. § 300.105	For eligible students, technology required for a free appropriate public education may be the educational agency's responsibility rather than a trust expense.	ectacenter.org
ABLE accounts (529A)	26 U.S.C. § 529A; 26 C.F.R. § 1.529A-2	Express statutory coverage of assistive technology and related services as qualified disability expenses; may provide greater transactional flexibility.	ablenrc.org

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iCanConnect National Deaf-Blind Equipment Distribution Program (NDBEDP)	47 U.S.C. § 620 (FCC / CVAA)	Free telecommunications hardware and training for combined vision/hearing loss.	icanconnect.org
State Telecommunications Equipment Distribution Programs (TEDPs)	State Public Utility Commissions / Regulators	Free specialized landline/mobile phones, adaptive tablets, and signalers.	tedpa.org
Disability-Specific Nonprofits & Reuse	26 U.S.C. § 501(c)(3) Private Foundations	Potential grants, equipment programs, and condition-specific assistance; verify current eligibility and funding. State AT programs and nonprofits may offer gently used or refurbished equipment at reduced cost.	atia.org
Consumer Financial Protections Bureau (CFPB) Paying for Assistive Devices tool	Consumer Financial Protection Bureau	A consumer worksheet for comparing payment options and financing; useful as a client handout rather than legal authority.	consumerfinance.gov

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I. Why Technology Belongs in Special Needs Planning

A. The federal definition is functional, not product-specific

Technology can play an important role in helping a person with a disability communicate, work, learn, manage daily activities, navigate the community, live more independently, and participate in recreational and social activities. For attorneys engaged in special needs planning, the starting point may therefore be less about identifying a particular device and more about understanding the beneficiary's needs and considering whether technology could help address them.

The Assistive Technology Act provides a useful framework. It defines an assistive technology (AT) device as "any item, piece of equipment, or product system, whether acquired commercially, modified, or customized," that is used to increase, maintain, or improve the functional capabilities of a person with a disability.[1] The definition is broad enough to include both specialized equipment and commercially available technology. Depending on how it is used, a smartphone, tablet, computer, smartwatch, software application, or smart-home device may serve an assistive function even though it was not designed specifically for people with disabilities.

Federal health authorities take a similarly functional approach. National Institute of Child Health and Human Development (NICHD) describes AT as tools, equipment, and products that help people with disabilities function at home, school, work, and in the community. Its examples range from mobility devices and communication systems to cognitive aids, voice-recognition software, screen readers, mobile devices, and applications that assist with communication, memory, and other functions.[2] NICHD also recognizes that AT may promote independence and reduce the need for other support.[3]

For the practicing attorney, this suggests a useful way to approach technology in special needs planning: start with the beneficiary rather than the product. What activities are difficult? Where does

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[1] See 29 U.S.C. § 3002(4).

[2] See Eunice Kennedy Shriver Nat'l Inst. of Child Health & Human Dev., *Rehabilitative and Assistive Technology*; *What Are Some Types of Assistive Devices and How Are They Used?*. https://www.nichd.nih.gov/health/topics/factsheets/rehabtech

[3] See Eunice Kennedy Shriver Nat'l Inst. of Child Health & Human Dev., *How Does Rehabilitative Technology Benefit People with Disabilities?*. https://www.nichd.nih.gov/health/topics/rehabtech/conditioninfo/help

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the beneficiary rely on assistance from others? Are there barriers to communication, mobility, employment, education, safety, recreation, or community participation? Technology may not provide the solution in every case, but identifying those needs can help counsel, the beneficiary, the family, and other professionals determine whether there is a technology that could improve the beneficiary's functioning or quality of life.

Once a potentially useful technology is identified, the analysis can turn to how it might be acquired and paid for. Depending on the circumstances, funding may be available through Medicaid, Medicare, private insurance, vocational rehabilitation, educational programs, an ABLE account, grants, or other programs. A special needs trust or pooled trust may also be a potential source of payment, subject to the terms of the trust, the trustee's discretion, applicable public-benefit rules, and any other legal requirements discussed below.

B. Consumer Technology and Assistive Technology Increasingly Overlap

The distinction between specialized assistive technology and mainstream consumer technology is increasingly less important. A device does not necessarily have to be designed for people with disabilities to serve an assistive function. The Administration for Community Living ("ACL"), which administers the Assistive Technology Act programs, recognizes that assistive technology may include consumer electronics and mainstream products such as smartphones, tablets, smart speakers, wearable devices, and home-automation technology when those tools help a person maintain or improve functioning or independence.[4]

The same principle can be seen in practice. Princeton University's Office of Disability Services identifies commercially available technologies such as voice control and dictation, screen readers, text-to-speech, note-taking applications, noise-canceling headphones, Optical Character Recognition (OCR), Global Positioning System (GPS) and navigation applications, wearable technology, and Augmentative and Alternative Communication (AAC) applications among technologies that may assist individuals with different disabilities.[5]

Federal disability law provides additional context. Department of Justice's (DOJ) guidance under the Americans with Disabilities Act (ADA) identifies technologies such as screen readers, magnification software, optical readers, captioning, videophones, assistive listening systems, and accessible electronic information as examples of auxiliary aids and services that may be used to provide effective communication.[6] The ADA does not govern whether an SNT or pooled trust may purchase these technologies, but the guidance reinforces the broader point that technology can be an important means of improving communication and access for people with disabilities.

For counsel, the practical takeaway is to look beyond products labeled "assistive technology." A smartphone, tablet, computer, wearable device, application, or smart-home product may warrant consideration because of what it allows the particular beneficiary to do. Once a potentially useful

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[4] See Administration for Community Living, *Assistive Technology: Tools to Improve the Everyday*; Administration for Community Living, *National Assistive Technology Awareness Day* (Apr. 22, 2026). https://acl.gov/news-and-events/acl-blog/national-assistive-technology-awareness-day

[5] See Princeton Univ. Office of Disability Servs., *Assistive Technology* and related disability-specific assistive technology resources. https://ods.princeton.edu/assistive-technology

[6] See U.S. Dep't of Justice, Civil Rights Div., *ADA Requirements: Effective Communication*. https://www.ada.gov/resources/effective-communication/

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technology is identified, counsel can then consider whether the trust is an appropriate source of payment and what information may help the trustee evaluate the request.

II. The Governing Legal Framework

A. The Pooled-Trust Statute Establishes the Structure, Not a List of Permitted Expenses

For a beneficiary-funded pooled trust account to qualify under 42 U.S.C. § 1396p(d)(4)(C), the trust must be established and managed by a nonprofit association, maintain a separate account for each beneficiary while permitting funds to be pooled for investment and management, establish accounts solely for the benefit of individuals with disabilities, and satisfy the statutory requirements concerning amounts remaining at the beneficiary's death.[7] Neither the statute nor the corresponding federal requirements provide a list of permitted lifetime expenditures.

Lewis v. Alexander is a helpful case on this point. In this case, the Third Circuit invalidated a Pennsylvania law requiring every pooled-trust expenditure to have a "reasonable relationship to the needs of the beneficiary," concluding that the federal Medicaid statute imposed no such restriction on the purposes for which pooled-trust funds could be spent.[8] *Lewis* does not eliminate the terms of the trust, applicable fiduciary law, the sole-benefit requirement, or the public-benefit consequences of a particular distribution. Nor does it require a pooled-trust administrator, state court, or other decision-maker to approve a particular expenditure merely because federal law does not prohibit it. The master trust and joinder agreement may impose additional requirements, the nonprofit association may have established distribution procedures consistent with those instruments, and applicable state fiduciary law or judicial supervision may impose additional constraints. Lewis instead cautions against treating restrictions that Congress did not include in § 1396p(d)(4)(C) as additional federal statutory requirements.

Other cases illustrate the broader supplemental role these trusts may serve. In *Center for Special Needs Trust Administration, Inc. v. Olson*, the Eighth Circuit described a pooled special needs trust as paying expenses not covered by Medicaid, giving clothing, phone service, vehicle maintenance, and taxes as examples.[9] The court's description is not a list of approved expenditures, but it is a useful reminder that pooled-trust distributions are not limited to medical care or specialized disability equipment.

B. The Trust Instrument and Fiduciary Law Remain Central

Whether a particular technology expense is appropriate will ordinarily require counsel to look beyond the federal pooled-trust statute. The master trust and joinder agreement may address the trustee's discretion, distribution standard, sole-benefit requirements, ownership of purchased assets,

[7] 42 U.S.C. § 1396p(d)(4)(C); see also SSA POMS SI 01120.203.D.
[8] *Lewis v. Alexander*, 685 F.3d 325, 347–49 (3d Cir. 2012).
[9] *Ctr. for Special Needs Tr. Admin., Inc. v. Olson*, 676 F.3d 688, 695 (8th Cir. 2012).

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reimbursement procedures, and other conditions affecting distributions. State trust law and the trustee's fiduciary duties may also affect the analysis.[10]

In practice, pooled-trust administrators may also have their own procedures for reviewing distribution requests. Before developing extensive documentation, counsel may want to determine what the particular trustee requires for the type and amount of expenditure being considered. A request for a modest consumer device may be handled differently from a substantial home-automation project or specialized communication system.

The practical inquiry therefore begins with the governing trust: What authority does the trustee have, what limitations apply, and what information does the trustee need to exercise that discretion?

C. For an SSI Recipient, the Distribution Must Also Be Analyzed Under SSI Income and Resource Rules

A separate question is whether the manner in which the trust pays for technology will affect the beneficiary's SSI. SSA's POMS provides particularly useful guidance on this issue, although the POMS addresses SSI administration rather than whether a trustee is authorized under the governing trust to make the expenditure.

When the trust principal is not a countable resource, cash paid directly to the beneficiary generally constitutes unearned income. By contrast, a payment to a third party that results in the beneficiary receiving a non-cash item, other than shelter, generally will not be income if the item would be an excluded non-liquid resource if retained into the following month.[11]

SSA provides a particularly relevant example: if a trust purchases a computer for the beneficiary, the computer is not income because it would be excluded as a household good in the following month.[12] The POMS separately identifies electronic equipment, including computers and televisions, as household goods excluded from resources regardless of value. It also excludes personal effects, including items required because of a physical or mental impairment. Property acquired or held because of its value or as an investment is treated differently.[13]

The exclusion of the computer as a resource should be distinguished from the SSI treatment of the funds used to acquire it. If the trust purchases the computer directly from a vendor, the beneficiary generally receives the excluded non-cash item rather than cash. If the trust instead distributes cash directly to the beneficiary to purchase the computer, the cash generally constitutes unearned income when received, even though the computer ultimately purchased with it may be an excluded household good. Any cash remaining into the following month must also be analyzed under the SSI resource rules. Similarly, loading funds onto a beneficiary-owned prepaid-card account may produce income and resource consequences that would not arise from a direct vendor payment or a properly structured trustee-controlled payment method. The analysis therefore requires counsel to consider both what the beneficiary ultimately receives and how the purchase is funded.

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[10] See *Lewis*, 685 F.3d at 348–49 (recognizing that special needs trusts remain subject to state trust law and mechanisms for enforcing trustees' fiduciary duties); SSA POMS SI 01120.203.D.1 (recognizing that pooled-trust instruments generally consist of a master trust and a beneficiary-specific joinder agreement).

[11] See SSA POMS SI 01120.201.I.1.a, c; see also SSA POMS SI 01120.200.E.1.

[12] SSA POMS SI 01120.201.I.1.c.

[13] 20 C.F.R. § 416.1216; SSA POMS SI 01130.430.B–C.

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Shelter expenses require separate attention. Effective September 30, 2024, SSA no longer includes food in its calculation of in-kind support and maintenance ("ISM"); ISM calculations now focus on shelter.[14] A trust payment of a beneficiary's shelter expense may therefore affect SSI even though the same payment may be authorized under the trust. For technology-related expenditures, counsel may want to consider the actual item or service being purchased rather than assume that all technology expenses receive the same SSI treatment.

D. The Method of Payment Can Affect the SSI Analysis

How the trust pays an expense can matter as much as what it purchases. Cash paid directly to the beneficiary generally constitutes unearned income, while payment directly to a vendor for many non-cash goods or services may not.[15]

The POMS also recognizes other payment methods. A reimbursement from the trust to a third party for funds spent on behalf of the beneficiary is not income to the beneficiary, although the underlying item received by the beneficiary must still be analyzed under the ordinary income rules.[16] That rule addresses the SSI treatment of the reimbursement; it does not eliminate the trustee's obligation to maintain adequate records showing what was purchased, for whom, and in what amount. This distinction can become particularly important with recurring technology expenses. Reimbursing a family member each month for a cellular plan, internet service, software subscription, or other expense charged to a personal account may require allocation of shared or mixed charges and sufficient documentation to establish the beneficiary's expense. Where feasible, direct vendor billing or another trustee- or administrator-controlled payment method may provide a cleaner administrative record for recurring expenses.

SSA also provides specific guidance for administrator-managed prepaid cards. Where the trustee owns and controls the account, the SSI treatment generally depends on what is purchased with the card. If the beneficiary owns the prepaid-card account, amounts loaded onto the card are treated differently and may constitute income and, if retained, a resource.[17] Gift cards and gift certificates present additional concerns because SSA may treat them as cash equivalents.[18]

For counsel, the practical point is not that every technology purchase must be paid directly to the vendor. Rather, it may be helpful to understand how the particular trust makes distributions and then consider the both the public-benefit consequences and the administrative record created by the proposed payment method before the transaction occurs.

E. ABLE Accounts Provide a Useful Comparison, but Apply a Different Legal Standard

ABLE accounts operate under a separate statutory framework, but their treatment of technology provides useful context. Congress included "assistive technology and personal support services" within the definition of qualified disability expenses.[19] Treasury regulations further provide that

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[14] See Omitting Food from In-Kind Support and Maintenance Calculations, 89 Fed. Reg. 21,508 (Mar. 29, 2024) (effective Sept. 30, 2024); SSA EM-24048, *Omitting Food from In-Kind Support and Maintenance Calculations*; see also SSA POMS SI 00835.001 et seq.

[15] See SSA POMS SI 01120.201.I.1.a, c.

[16] SSA POMS SI 01120.201.I.1.g.

[17] SSA POMS SI 01120.201.I.1.e.

[18] SSA POMS SI 01120.201.I.1.f; SI 00830.522.

[19] 26 U.S.C. § 529A(e)(5).

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qualified disability expenses may include basic living expenses and are not limited to expenses that are medically necessary or that solely benefit the individual with a disability.[20]

The regulations provide an unusually concrete technology example. They describe an individual whose impairment limits navigation and communication and conclude that the cost of buying, using, and maintaining a smartphone may constitute a qualified disability expense when the device helps the individual navigate and communicate more safely and effectively and thereby supports independence and quality of life.[21]

Those rules govern ABLE accounts, not special needs trusts, and should not be treated as authority that an SNT or pooled trust may make the same expenditure. They are nevertheless useful in demonstrating federal recognition that mainstream consumer technology can serve disability-related purposes and that the relevant expense may include not only acquisition of the device, but also its use and maintenance.

An ABLE account may also provide an additional funding option for an eligible beneficiary. SSA provides that funds transferred from a trust into the beneficiary's ABLE account are excluded from the beneficiary's income for SSI purposes.[22] Depending on the beneficiary's eligibility, the nature of the expense, contribution limits, the terms of the trust, and other circumstances, counsel may wish to consider whether payment through the trust, an ABLE account, or another available source offers the most appropriate approach.

III. Identifying the Right Technology and Potential Funding Sources

A. Start with the Beneficiary's Needs, Not the Device

When considering whether technology might benefit a client, a useful starting point is what the beneficiary wants or needs to do. Is there a difficulty with communication, memory, mobility, vision, hearing, navigation, safety, education, employment, recreation, or another aspect of daily life? Is the beneficiary relying on another person for a task that technology might allow the beneficiary to perform more independently?

NICHD describes the selection of assistive technology in similar terms, matching particular technologies to the individual's needs to help the person function more effectively or independently. Depending on the circumstances, that process may involve the beneficiary, family or caregivers, and professionals such as physicians, occupational therapists, speech-language pathologists, educators, rehabilitation engineers, or other specialists.[23]

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[20] 26 C.F.R. § 1.529A-2(h)(1).

[21] 26 C.F.R. § 1.529A-2(h)(2), Example 1.

[22] SSA POMS SI 01120.201.I.1.h; see also SSA POMS SI 01130.740.

[23] See Eunice Kennedy Shriver Nat'l Inst. of Child Health & Human Dev., *How Does Rehabilitative Technology Benefit People with Disabilities?* (explaining that assistive technology may be selected through the individual, caregivers, and professionals who match technologies to particular needs). https://acl.gov/AT

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The attorney does not need to become an assistive-technology expert. The practical role may instead be to recognize where technology could be useful, identify people or resources that can help evaluate the options, and then consider how an appropriate device or service might be acquired and paid for.

B. Consider Whether an Assessment, Demonstration, or Trial Would be Helpful

For some technology, the appropriate choice may be relatively straightforward. For a more expensive, specialized, or unfamiliar product, counsel may want to explore whether the beneficiary can try the technology before trust funds are committed.

State Assistive Technology Act Programs can be particularly useful. These programs offer device demonstrations and short-term loans that allow individuals to try equipment before purchasing it, as well as reuse programs and certain financing options.[24] The Department of Education has similarly recognized that demonstrations and short-term borrowing through State AT Programs can help determine whether a device is effective for a particular individual before it is purchased.[25]

Depending on the technology and the beneficiary's needs, input from an Occupational Therapist (OT), Physical Therapist (PT), Speech-Language Pathologist (SLP), audiologist, rehabilitation engineer, assistive-technology professional, educator, or other knowledgeable professional may also be helpful. Professional evaluation is not a universal prerequisite to a technology distribution from an SNT or pooled trust. Rather, it is one possible source of information that may help identify the right technology and, where appropriate, help the trustee understand the request.

C. Consider Other Potential Funding Sources

Once an appropriate technology has been identified, counsel may also want to consider what funding sources are available. Depending on the beneficiary, the technology, and its intended use, possible sources may include Medicare or Medicaid, private insurance, special education, vocational rehabilitation, employer-provided accommodations, an ABLE account, State AT Programs, grants, charitable programs, reuse programs, or the beneficiary's SNT or pooled trust.[26]

For example, under IDEA, if an IEP team determines that an assistive-technology device or service is required for a child to receive a free appropriate public education, the public agency is responsible for making the technology available. Federal regulations also recognize that school-purchased assistive technology may, on a case-by-case basis, need to be available for use at home or in other settings.[27] Other funding programs have their own eligibility standards, coverage rules, and limitations.

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[24] See Administration for Community Living, *Assistive Technology: Tools to Improve the Everyday* (describing State Assistive Technology Act Program device demonstrations, short-term loans, reuse programs, and financing options); see also 29 U.S.C. §§ 3003–3004.

[25] See U.S. Dep't of Educ., Office of Educ. Tech. & Office of Special Educ. Programs, *Myths and Facts Surrounding Assistive Technology Devices and Services* (Jan. 2024).

[26] See U.S. Dep't of Educ., *Myths and Facts Surrounding Assistive Technology Devices and Services* (Jan. 2024) (discussing multiple potential funding sources for AT) https://sites.ed.gov/idea/files/Myths-and-Facts-Surrounding-Assistive-Technology-Devices-01-22-2024.pdf; Administration for Community Living, *Assistive Technology: Tools to Improve the Everyday*. https://acl.gov/AT. Availability and coverage will depend on the particular program and beneficiary.

[27] See 20 U.S.C. § 1412(a)(1); 34 C.F.R. § 300.105; see also 34 C.F.R. §§ 300.5–300.6 (defining assistive technology devices and services).

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The existence of another possible funding source does not necessarily mean that the trust cannot or should not pay. Depending on the trust terms, the beneficiary's circumstances, the availability and timing of other funding, and the trustee's discretion, counsel may wish to explore the alternatives before deciding how to present the request. In some cases, another program may cover the entire expense. In others, the trust might be considered for an uncovered device, an upgrade, accessories, training, maintenance, a recurring service, or another cost that the primary program does not cover.

For attorneys unfamiliar with available technology or funding programs, the State AT Act Program can be a useful place to begin. Every state and territory receives federal AT Act funding, and the programs can assist individuals in identifying technology, trying devices, locating reuse opportunities, and exploring financing options.[28]

IV. Ten Technology Requests: What to consider

The following hypotheticals are not categorical answers or approval rules. Instead, they illustrate the questions counsel may want to consider when evaluating a technology-related request: What purpose does the technology serve for the beneficiary? What does the trust permit? Are there sole-benefit concerns? Could the purchase affect SSI or Medicaid? Is another source of payment available? How should the purchase be made? And what information would be helpful for the trustee in considering the request?

1. Smartphone and service

A beneficiary may use a smartphone for reminders, navigation, telehealth, medication management, communication with caregivers or support staff, emergency contact, or other everyday activities.

When considering a request for a smartphone and cellular service, counsel may want to identify how the beneficiary uses the device and consider the cost of the phone, service plan, accessories, and any recurring charges. The POMS identifies telephone bills as an example of third-party trust payments that may not constitute income to an SSI recipient.[29] Although the ABLE rules do not govern SNT distributions, they provide a useful comparison: the Treasury regulations specifically recognize a smartphone used for navigation and communication as a qualified disability expense.[30] Depending on the trust and the circumstances, counsel should consider the governing distribution standard and any applicable sole-benefit requirements. Counsel should also consider how recurring service charges will be paid and documented. Direct billing to the trust or another trustee-controlled payment method may be administratively preferable to repeated reimbursement of charges appearing on a family member's personal or shared cellular account, particularly where the bill includes services for multiple users.

2. Laptop or desktop computer

A beneficiary may use a computer for education, employment, telehealth, communication, managing benefits or finances, recreation, or other everyday activities.

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[28] See 29 U.S.C. §§ 3003–3004; Administration for Community Living, *Assistive Technology: Tools to Improve the Everyday*. https://acl.gov/AT

[29] See SSA POMS SI 01120.200.E.1.c; SI 01120.201.I.

[30] See 26 C.F.R. § 1.529A-2(h)(2) (Example 1).

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For an SSI recipient, the POMS provides a helpful example: when a trust purchases a computer for the beneficiary, the purchase is not treated as income because the computer would be excluded as a household good in the following month.[31] That result assumes that the transaction is structured so that the trust purchases the computer or otherwise makes a qualifying third-party payment. It should not be read to mean that the trustee can distribute cash to the beneficiary to purchase a computer without SSI consequences. Cash paid directly to the beneficiary generally constitutes unearned income when received, and any amount retained into the following month must be separately analyzed as a resource. The payment mechanism should therefore be considered along with the resource status of the computer itself.

Counsel may still want to consider the terms of the trust, the cost of the computer in relation to the trust's resources, and any applicable sole-benefit considerations. For a more expensive or specialized system, additional information about the beneficiary's intended use and the reason for the particular configuration may help the trustee evaluate the request.

3. Tablet used as an AAC device

A beneficiary with limited speech may use a tablet with speech-generating software, together with a protective case, mounting system, switch, or eye-gaze interface, as an augmentative and alternative communication (AAC) system. Federal law broadly defines assistive technology to include commercially available equipment used to improve functional capabilities, and NICHD specifically recognizes electronic and speech-generating devices as forms of AAC.[32]

When advising on a request, counsel should explain how the tablet and related components support the beneficiary's communication rather than simply describing the request as the purchase of an iPad or other consumer device. For a more expensive or specialized system, an SLP, OT, or assistive-technology assessment, trial results, and a vendor quote may help the trustee evaluate the request. Counsel may also wish to explore whether Medicaid, Medicare, private insurance, a school program, or another available source may cover some or all of the cost.[33]

If trust funds will be used, counsel should separately consider the method of payment. The fact that the tablet itself may qualify as an excluded household good or personal effect does not make a cash distribution to the beneficiary SSI-neutral. Direct vendor payment or another properly structured trustee-controlled payment method generally avoids giving the beneficiary cash merely to acquire an otherwise excludable device.

4. Home internet

A beneficiary may rely on home internet for telehealth, work, education, communication, social connection, or access to medical and benefit information.

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[31] See SSA POMS SI 01120.201.I.1.c; SSA POMS SI 01130.430.B–C.1.

[32] 29 U.S.C. § 3002(4); Eunice Kennedy Shriver Nat'l Inst. of Child Health & Human Dev., *Rehabilitation Medicine Activities* (identifying electronic and speech-generating devices as forms of AAC).

[33] See 29 U.S.C. § 3002(5)(A)–(C) (including evaluation, acquisition, selection, fitting, customization, adaptation, maintenance, repair, and replacement within the definition of assistive technology services); U.S. Dep't of Justice, *ADA Requirements: Effective Communication*.

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Counsel may want to consider how the beneficiary uses the service, the monthly cost and available service options, and whether the internet is shared with other household members. For SSI purposes, current POMS identifies certain trust payments to third parties, including phone bills, as examples of disbursements that generally are not income, while separately addressing payments for food and shelter.[34] Where the service is shared, counsel may also want to consider the applicable sole-benefit rules and whether payment of all or some portion of the expense is appropriate under the circumstances.[35]

The recurring nature of the expense also warrants attention to payment mechanics and recordkeeping. If the service is billed through a family member's personal account or bundled with other household services, repeated reimbursement may require the trustee to identify and document the beneficiary's appropriate share. Where available and consistent with the trust's procedures, direct vendor billing, a separately identifiable beneficiary account, or another administrator-controlled payment arrangement may simplify both the distribution analysis and later trust accounting.

5. Smart-home environmental controls

A beneficiary with limited mobility or dexterity may request voice-controlled lights, door locks, thermostats, video doorbells, or similar technology to allow greater control over the home environment. Counsel may want to explain how the technology will help the beneficiary and, particularly with a larger or more expensive system, whether there are other funding options to consider.[36]

Because smart-home technology often benefits others in the household, shared use may also be worth addressing. For trusts subject to the sole-benefit requirement, the POMS recognizes that a purchase may primarily benefit the beneficiary even when others receive some incidental benefit. More substantial installations may warrant additional consideration of cost, ownership of the home, and whether some allocation of the expense is appropriate.[37]

6. Wearable technology

A beneficiary may request a smartwatch or other wearable device for fall detection, reminders, emergency calling, location sharing, health alerts, or similar functions.

Counsel may want to consider how the beneficiary will use the device, its cost, and whether there are recurring expenses for cellular service, monitoring, or applications. Depending on the cost and intended use, a brief explanation from the beneficiary or family may be sufficient, while a more expensive device or one intended to address a particular medical or safety concern may benefit from additional support from a physician, therapist, or care manager. Counsel may also wish to explore

[34] SSA POMS SI 01120.200.E.1.b–c; SI 01120.201.I.
[35] SSA POMS SI 01120.200.E.1.b–c; SI 01120.201.I.
[36] See Princeton Univ. Office of Disability Servs., *Assistive Technology for Mobility Disabilities*. https://ods.princeton.edu/assistive-technology
[37] SSA POMS SI 01120.201.F.3.a.

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whether insurance or another program will cover a device designed for the beneficiary's particular needs.[38]

7. Screen reader, magnification, OCR, or visual-assistance technology

A beneficiary who is blind or has low vision may request technology such as screen-reading or magnification software, a refreshable braille display, an OCR application, a digital magnifier, smart glasses, a navigation tool, or a remote visual-assistance service. Many of these technologies are well-established accessibility tools. The Department of Justice identifies screen readers and similar technologies in its guidance on effective communication, and Princeton University's Office of Disability Services identifies a range of technologies used by people who are blind or have low vision, including screen readers, braille displays, OCR software, magnification tools, voice assistants, GPS applications, and wearable technology.[39]

For counsel advising a beneficiary or family, it may be helpful to begin with what the beneficiary is trying to accomplish rather than with the particular device or product being requested. The appropriate technology may depend on the beneficiary's vision, existing technology, living situation, work or educational environment, comfort with the device, and other individual circumstances. For a more expensive or specialized product, counsel may also want to explore whether an assessment, demonstration, or trial period is available before trust funds are committed.

The trust is one possible source of payment, but it may not be the only one. Depending on the beneficiary and the intended use of the technology, counsel may want to explore whether the device or service is available through another program or funding source before presenting the request to the trustee. The availability of another funding source does not necessarily mean that the trust cannot pay for the technology. Rather, it may be one of the practical considerations in determining how best to obtain the technology for the beneficiary.

If trust funds are being considered, the attorney may want to review the terms of the trust, the trustee's distribution procedures, the cost and expected useful life of the technology, any recurring subscription or service charges, and the beneficiary's public benefits. For an SSI recipient, the method of payment may also be relevant. SSA generally provides that a third-party trust payment resulting in the beneficiary's receipt of a non-cash item, other than food or shelter, is not income if the item would be an excluded non-liquid resource if retained into the following month.[40] The POMS uses the trust's purchase of a computer as one example of this rule.[41]

For a first-party special needs trust or pooled trust subject to the sole-benefit requirement, counsel may also want to consider whether the technology is being purchased primarily for the beneficiary's

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[38] See, e.g., Shomir Chaudhuri, Hilaire Thompson & George Demiris, *Fall Detection Devices and Their Use with Older Adults: A Systematic Review*, 37 J. Geriatric Physical Therapy 178 (2014)

[39] See U.S. Dep't of Justice, Civil Rights Div., *ADA Requirements: Effective Communication*, https://www.ada.gov/resources/effective-communication/; Princeton Univ. Office of Disability Servs., *Assistive Technology for Visual Disability*, https://ods.princeton.edu/assistive-technology/visual-disability.

[40] SSA POMS SI 01120.201.I.1.a, c; see also SSA POMS SI 01120.200.E.1.c (addressing third-party trust disbursements).

[41] SSA POMS SI 01120.201.I.1.c; SSA POMS SI 01120.200.E.1.c.

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use and benefit. SSA's guidance recognizes that a purchase may primarily benefit the beneficiary even though another person receives some incidental benefit from it.[42]

The practical role of counsel is likely going to be to help develop the facts necessary for the trustee to evaluate the request: What does the beneficiary need or want to accomplish? Why was this particular technology selected? What will it cost? Are there other potential sources of payment? Are there recurring costs? And is there anything about the proposed purchase or payment method that could affect the beneficiary's public benefits? The answers will vary from one beneficiary and one technology request to another.

8. Noise-cancelling headphones and sensory-regulation technology

A beneficiary with autism, sensory sensitivities, attention challenges, or another disability may use noise-cancelling headphones, white-noise applications, or similar technology to reduce background noise, improve concentration, or manage sensory input at school, work, while traveling, or in other community settings. Princeton University's Office of Disability Services, for example, identifies noise-cancelling headphones and white-noise applications as assistive technologies that may support focus and sensory regulation.[43]

This kind of request may be relatively straightforward, but counsel may still want to consider the purpose of the technology in the context of the particular beneficiary. Rather than focusing on whether headphones are generally considered "assistive technology," it may be more useful to explain how the beneficiary intends to use them and the benefit they are expected to provide. Depending on the circumstances, that explanation may come from the beneficiary or family, or it may be supported by a teacher, therapist, physician, case manager, or other professional familiar with the beneficiary.

The amount of documentation appropriate for the request may also depend on the circumstances. A trustee considering a modest purchase of commercially available headphones may not require the same information that would be helpful when considering a more expensive or specialized sensory-regulation system. Counsel should check the trust's distribution procedures before obtaining professional documentation that may not be necessary.

For an SSI recipient, the manner in which the purchase is made should also be considered. SSA's POMS generally provides that a trust payment to a third party for a non-cash item, other than food or shelter, will not constitute income if the item would be an excluded non-liquid resource if retained into the following month.[44] For a first-party special needs trust or pooled trust subject to the sole-benefit rules, counsel may also want to consider who will use the equipment. SSA provides that goods or services purchased from a third party should be for the beneficiary's primary benefit, while

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[42] SSA POMS SI 01120.201.F.3.a (providing that goods or services purchased from a third party must be for the beneficiary's "primary benefit," while recognizing that a collateral benefit to another person does not necessarily violate the sole-benefit requirement).

[43] Princeton Univ. Office of Disability Servs., *Assistive Technology for Cognitive Disability*, https://ods.princeton.edu/assistive-technology/cognitive-disability.

[44] SSA POMS SI 01120.201.I.1.a, c. The POMS further provides that a trust's purchase of a computer for a beneficiary does not constitute income where the computer would be excluded as a household good in the following month.

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recognizing that some incidental benefit to another person does not necessarily violate the sole-benefit requirement.[45]

In many cases, the practical inquiry may be as simple as identifying: What does the beneficiary use the technology for, who will use it, what does it cost, and is the proposed method of payment consistent with the trust and the beneficiary's public benefits? More extensive documentation may be useful where the cost, proposed use, or circumstances warrant it, but the analysis should remain proportionate to the particular request.

9. Gaming system or gaming computer

A beneficiary requests a gaming system used for recreation, online friendships, adaptive gaming, and participation with peers.

Recreation and entertainment are among the examples identified in the POMS of third-party trust disbursements that may not be treated as income to the beneficiary for SSI purposes.[46]

Whether a particular expenditure is appropriate, however, will depend on the terms of the trust, the beneficiary's circumstances, and the trustee's exercise of discretion.

When discussing a recreational technology request with a client, it may be helpful to consider the cost of the item, how often it will be used, the resources available in the trust, whether others will also use or benefit from it, any applicable sole-benefit considerations, and how the technology may contribute to the beneficiary's recreation, social participation, or quality of life.

There may be circumstances where a disability-related or therapeutic purpose supports the request, but there is no reason to characterize an expenditure that way unless the facts support it. If the primary purpose is recreation or social participation, it may be more appropriate to simply explain that purpose and allow the trustee to consider the request in light of the trust terms and the beneficiary's individual circumstances.

10. AI Subscription or AI-enabled Tool

A beneficiary with cognitive, executive-functioning, communication, sensory, or other limitations may seek to use an AI-enabled application for purposes such as simplifying written material, organizing tasks, drafting or revising communications, generating reminders, or otherwise assisting with activities that the beneficiary finds difficult to perform independently.

Can trust funds be used to pay for an AI tool or subscription?

There does not appear to be a special rule under federal special needs trust law or current SSA guidance that specifically addresses generative AI or AI-based software subscriptions. Accordingly, counsel should be cautious about treating AI either as a categorically permissible trust expenditure or as a categorically impermissible one. Instead, the request should generally be evaluated under the same trust, fiduciary, and public-benefit principles applicable to other purchases of software, services, and technology.

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[45] SSA POMS SI 01120.201.F.3.a (providing that goods or services purchased by a trust from a third party must be for the beneficiary's "primary benefit," while cautioning that the rule should not be applied so strictly as to preclude incidental benefit to others).

[46] SSA POMS SI 01120.201.I.1.c; SSA POMS SI 01120.200.E.1.c.

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SSA's POMS provides useful, although not AI-specific, guidance. For SSI purposes, third-party trust payments that do not result in the beneficiary's receipt of cash, food, shelter, or a non-excluded resource generally may avoid treatment as income. SSA identifies expenditures such as educational expenses, therapy, phone bills, recreation, and entertainment as examples and expressly notes that its list is illustrative rather than exhaustive. For first-party trusts subject to the sole-benefit requirement, SSA further provides that a third-party payment for goods or services may satisfy that requirement when the goods or services are for the beneficiary's primary benefit, even if another person receives some incidental benefit.[47]

Counsel may want to approach the request through an individualized analysis rather than a categorical answer. Relevant considerations include:

1. **Purpose and benefit to the beneficiary** – What will the beneficiary use the tool to do, and how will that use benefit the beneficiary? Where the request is based on a disability-related function, counsel may explain that connection. The Assistive Technology Act's broad definition of an assistive technology device may provide useful context when a commercially available technology is being used to increase, maintain, or improve the functional capabilities of an individual with a disability, although that statute does not itself determine whether an SNT may purchase the technology.[48]
2. **Governing Trust and Trustee discretion** – Does the governing instrument permit the expenditure under its applicable distribution standard? The fact that software incorporates artificial intelligence should not substitute for the ordinary analysis of the trustee's authority and fiduciary responsibilities.
3. **Public-Benefit Consequences and Payment Method** – Counsel should consider the beneficiary's particular benefits and the manner in which the expenditure will be made. For an SSI recipient, for example, payment directly to the beneficiary generally presents different income consequences from a qualifying payment by the trust to a third party for goods or services.[49]
4. **Nature of the Subscription and Use** – Consider who will hold the account, who will use it, whether the subscription is individual or shared, what services are included, whether the expense is recurring, and whether continued payment remains appropriate over time.
5. **Cost and Supporting Documentation** – The appropriate level of documentation may depend on the amount and nature of the expenditure. A relatively modest software subscription used by the beneficiary may present a different administrative question from an expensive AI-enabled system represented as addressing a particular communication, cognitive, educational, vocational, or health-related need.
6. **Privacy, Security, and Reliability** – Depending on the beneficiary and proposed use, counsel and the trustee may also wish to consider whether the application will receive sensitive personal, financial, health, or legal information; whether the beneficiary understands the

[47] SSA POMS SI 01120.201.F.3.a, I.1; see also SSA POMS SI 01120.200.E.1.c. SSA describes the relevant sole-benefit inquiry as whether third-party goods or services are for the beneficiary's "primary benefit" and cautions against applying the rule so strictly as to prohibit incidental benefit to others.
[48] 29 U.S.C. § 3002(4) (defining an assistive technology device broadly as a commercially acquired, modified, or customized item, equipment, or product system used to increase, maintain, or improve functional capabilities)
[49] SSA POMS SI 01120.201.I.1.a–d

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limitations of the technology; and whether human oversight is appropriate for consequential uses.

V. A Practical Technology Distribution Checklist

When a beneficiary or family asks whether the trust can pay for technology, counsel can work through the following checklist before contacting the trustee:

- ✓ **Identify the item precisely.** Hardware, software, accessories, installation, warranty, subscription, data plan, training, repairs, and replacement are separate cost components.
- ✓ **Identify the functional problem.** What task, barrier, safety issue, communication need, educational goal, employment goal, or quality-of-life objective does the technology address?
- ✓ **Read the governing instrument.** What distribution standard applies? Who has discretion? Are there special procedures, ownership rules, or restrictions?
- ✓ **Apply the sole-benefit rule where applicable.** Who will own and use the item? Will others receive more than incidental benefit? Does shared use require allocation or additional explanation?
- ✓ **Analyze SSI consequences.** Is the proposed distribution cash, a vendor payment, third-party reimbursement, credit-card payment, restricted prepaid card, gift card, or ABLE transfer? What item will the beneficiary actually receive?
- ✓ **Analyze Medicaid and other benefits separately.** Do not assume that an SSI-safe transaction resolves every Medicaid, waiver, housing, SNAP, or state-law issue.
- ✓ **Identify other potential funding sources or resources.** Medicare, Medicaid, private insurance, school, vocational rehabilitation, employer accommodation, state AT program, ABLE, grant, reuse program, or financing?
- ✓ **Determine the appropriate level of documentation.** Ordinary consumer purchase, specialized AT, high-cost system, home modification, or shared household technology?
- ✓ **Test before buying when feasible.** Use State AT Act demonstrations, short-term loans, vendor trials, or professional assessments.
- ✓ **Document the request.** Provide the functional justification, quote/invoice, payment method, supporting evaluation if appropriate, recurring costs, and confirmation of who will use/own the item.
- ✓ **Plan for the life cycle.** Training, software updates, connectivity, repairs, batteries, replacement, data security, account credentials, and eventual disposal can matter as much as the initial purchase.

VI. Model Anatomy of a Strong Distribution Request

A good request should be short enough to be processed but complete enough to answer the trustee's predictable questions. It should generally contain:

- Beneficiary and subaccount identification.
- Exact item, vendor, total price, accessories, taxes, installation, and recurring charges.
- Functional purpose stated in beneficiary-centered terms.
- Connection to the trust's distribution standard and, where applicable, the sole-benefit requirement.
- Public-benefit treatment and proposed payment method.

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- Other payer analysis when relevant.
- Professional recommendation or assessment when proportionate to the cost or complexity.
- Quote, invoice, product link, or other documentation required by the pooled trust.

Illustrative Request – AAC Tablet

The beneficiary seeks a tablet, protective case, AAC software, and mounting system for use as an augmentative communication device. The request must detail the beneficiary's expressive-communication limitations, specify the AAC application and access method, and explain how the device will be used with caregivers, medical providers, school or employment personnel, and family. Any recommendations from a Speech-Language Pathologist (SLP), Occupational Therapist (OT), or Assistive Technology Professional (ATP) must be attached. Additionally, the submission must confirm whether Medicaid, private insurance, or the school system was explored, noting that counsel should not assert Medicaid non-coverage without prior investigation. Finally, the request should identify the vendor and total cost, requesting payment through the pooled trust's approved vendor-payment or reimbursement procedure. Counsel should not assert that Medicaid never covers the device unless coverage has actually been investigated.

Illustrative Request – Smart-Home Accessibility

The beneficiary seeks voice-controlled lighting, locks, and environmental controls because limited mobility prevents safe, independent operation of conventional controls. The request must identify each component and explain the specific task it enables the beneficiary to perform. Additionally, it should address system installation and ownership, detail any incidental benefit to other household members, and justify why the expenditure remains primarily for the beneficiary's sole benefit. A formal vendor quote must be attached. If the installation materially improves real property owned by someone other than the beneficiary or the trust, counsel must separately analyze potential fiduciary and transfer-of-resource concerns.

VIII. Practice Points and Cautions

Do not over-medicalize ordinary life. A technology expense does not necessarily need to be medically necessary or therapeutic to warrant consideration. For SSI purposes, the POMS identifies phone bills, education, recreation, and entertainment among examples of third-party trust payments that may not constitute income.[50] That does not determine whether a trustee should approve a particular expenditure, but it is an important reminder that the SSI rules are not limited to medical expenses. Depending on the trust terms and the beneficiary's circumstances, counsel may wish to explain the actual purpose of the technology rather than create a medical justification that the facts do not support.

Separate trustee authority from public-benefit consequences. A distribution that does not count as income or a resource for SSI purposes is not automatically authorized by the trust. Counsel should separately consider the governing instrument, applicable fiduciary law, and, for first-party SNTs and pooled trusts, any applicable sole-benefit requirements.[51] The reverse is also important: an

[50] See SSA POMS SI 01120.200.E.1.c; SI 01120.201.I.1.c.
[51] See 42 U.S.C. § 1396p(d)(4)(A), (C); SSA POMS SI 01120.201.F; SI 01120.203.

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expenditure that the trustee is willing and authorized to make may still affect SSI or another means-tested benefit depending on what is purchased and how the payment is made.[52]

Do not assume the trust is always the payer of last resort. Other funding sources may be worth exploring, particularly where another program may cover the technology or provide an assessment, demonstration, or trial. But there is no single federal rule requiring every available funding source to be exhausted before an SNT or pooled trust may make a distribution. Whether another payer should be pursued first may depend on the governing trust, the particular benefit program, the availability and timing of other funding, and the beneficiary's circumstances.

Consider the method of payment. Direct payment to a vendor is often straightforward, but it is not the only payment method addressed by SSA. The POMS also provides rules for third-party reimbursements and administrator-managed prepaid cards.[53] Before advising a beneficiary or family, counsel may want to understand the trustee's distribution procedures and consider how the proposed payment method will be treated under the beneficiary's applicable benefit programs.

Do not promise approval. Even a well-supported request remains subject to the governing trust and the trustee's exercise of discretion. Pooled trusts may also have different distribution procedures and documentation requirements. Counsel can help identify the beneficiary's need, analyze the legal and public-benefit issues, and present the information that may assist the trustee in evaluating the request, while making clear to the client that the ultimate decision rests with the trustee.

Use the strongest authority available. Secondary sources can be useful for identifying issues, technology, and potential funding programs. When analyzing the legal consequences of a distribution, however, counsel should look first to the governing trust and applicable primary authority, including statutes, regulations, controlling case law, and relevant state law. SSA's POMS, while not itself a statute or regulation, is particularly useful for understanding how SSA administers the SSI income, resource, trust, and sole-benefit rules.[54]

IX. Conclusion

Technology is not inherently a reasonable trust expense, but neither should it be viewed as outside the ordinary scope of special needs planning simply because it is new, commercially available, or used by people without disabilities. Federal law recognizes assistive technology in functional terms, and SSA's rules provide a framework for determining how particular trust distributions will be treated for SSI purposes.[55] The ultimate analysis, however, remains individualized and depends on the

[52] See SSA POMS SI 01120.200.E; SI 01120.201.I.
[53] See SSA POMS SI 01120.200.E.1.e, g; SI 01120.201.I.1.e, g.

[54] See, e.g., SSA POMS SI 01120.200–.203. The POMS provides SSA's operating instructions and should be distinguished from statutes, regulations, and controlling judicial authority.
[55] See 29 U.S.C. § 3002(4) (defining an assistive technology device functionally as an item, equipment, or product system used to increase, maintain, or improve the functional capabilities of individuals with disabilities); SSA POMS SI 01120.200.E; SI 01120.201.I (addressing the SSI treatment of trust disbursements, including cash payments and third-party payments for goods and services). See also 26 C.F.R. § 1.529A-2(h)(2), Example 1 (recognizing, in the separate ABLE context, the purchase, use, and maintenance of a smartphone as a qualified disability expense under the facts presented).

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beneficiary, the technology, the governing trust, applicable fiduciary and public-benefit rules, and the manner in which the expense will be paid.

For practitioners, most technology requests can be approached through a few practical questions:

1. **What does the beneficiary want or need to do, and could technology help?**
2. **What technology is appropriate, and what funding options are available?**
3. **Does the governing trust permit the expenditure, and what fiduciary, sole-benefit, or public-benefit issues should be considered?**
4. **How should the request be presented and, if approved, how should the transaction be structured?**

That framework does not depend on a particular device. It can be applied to a computer, smartphone, AAC device, wearable, smart-home system, subscription service, or technology that has not yet reached the market. The products will continue to change. The attorney's task remains largely the same: identify what may help the beneficiary, understand the available funding options, analyze the governing legal framework, and help present a well-supported request to the trustee.

X. Selected Authorities and Practice Resources

The following authorities and resources provide useful starting points when evaluating a technology-related distribution from a special needs trust or pooled trust. They are organized by the question counsel is trying to answer rather than by source type. Their relevance will depend on the type of trust, the beneficiary's public benefits, applicable state law, and the particular technology or expense under consideration.

A. Can the Trust Make the Distribution?

42 U.S.C. § 1396p(d)(4)(A), (C) — First-Party Special Needs and Pooled Trusts
Starting point for the federal statutory requirements applicable to first-party special needs trusts and pooled trusts. Section 1396p(d)(4)(C) establishes the requirements for a qualifying pooled trust, including nonprofit management, separate beneficiary accounts, pooling for investment and management, sole benefit, and post-death retention or Medicaid reimbursement. It does not provide a list of permitted lifetime expenditures.

SSA POMS SI 01120.203 — Exceptions to Counting Trusts Established on or After January 1, 2000
SSA's principal operating guidance concerning the statutory exceptions for first-party special needs trusts and pooled trusts. Particularly useful when determining whether a trust satisfies the requirements for exclusion under the SSI trust rules.

SSA POMS SI 01120.201.F — Sole-Benefit Requirement
Important for first-party trusts subject to the sole-benefit requirement. Counsel should consult this provision when a technology purchase will be shared, will benefit other household members, involves services provided by family members, or otherwise raises a question about whether the expenditure is primarily for the beneficiary.

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Lewis v. Alexander, 685 F.3d 325 (3d Cir. 2012)
Useful authority concerning the limits of additional state restrictions on pooled trusts. The Third Circuit rejected Pennsylvania's requirement that pooled-trust expenditures bear a "reasonable relationship" to the beneficiary's needs. The case is useful for understanding what § 1396p(d)(4)(C) itself requires, but it should not be read as displacing the governing trust, state fiduciary law, or public-benefit rules.

Center for Special Needs Trust Administration, Inc. v. Olson, 676 F.3d 688 (8th Cir. 2012)
Provides useful background on the supplemental role of pooled trusts. In describing pooled-trust expenditures, the court referenced expenses such as clothing, phone service, vehicle maintenance, and taxes. The examples are descriptive rather than a judicial list of approved expenditures.

The Governing Trust, Joinder Agreement, and Applicable State Trust Law
These remain essential authorities for any actual distribution request. Counsel should identify the applicable distribution standard, trustee discretion, ownership provisions, reimbursement procedures, administrative requirements, and any limitations imposed by the governing instrument or applicable state law.

B. How Will the Distribution Affect SSI?

SSA POMS SI 01120.200 — Information on Trusts
A principal starting point for determining the SSI treatment of third-party trusts and trust disbursements. The POMS identifies examples of third-party trust payments that may not constitute income, including education, therapy, uncovered medical services, phone bills, recreation, and entertainment. The examples are illustrative rather than exhaustive.

SSA POMS SI 01120.201.I — Disbursements from Trusts Established with an Individual's Assets
One of the most useful provisions for technology-related requests. It addresses cash distributions, third-party payments, credit-card payments, prepaid cards, gift cards, reimbursements, and transfers to ABLE accounts.

Of particular practical value, SSA expressly provides that when a trust purchases a computer for the beneficiary, the computer is not income because it would be an excluded household good in the following month.

SSA POMS SI 01130.430; 20 C.F.R. § 416.1216 — Household Goods and Personal Effects
Useful when determining whether technology received by the beneficiary will be an excluded resource. SSA specifically identifies electronic equipment, including computers and televisions, as household goods and excludes household goods and personal effects regardless of value, subject to the rules concerning property held for investment.

SSA POMS SI 00835.000 et seq. — In-Kind Support and Maintenance
Consult when a proposed distribution involves shelter. Effective September 30, 2024, food is no longer included in SSA's ISM calculations. Technology expenses should therefore be analyzed

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according to what is actually being purchased or paid rather than under a generalized rule about "technology."

SSA POMS SI 00830.522 — Gift Cards and Gift Certificates
Useful when a trustee, beneficiary, or family proposes using gift cards or similar payment mechanisms. Some cards may be treated as cash equivalents and can create income or resource consequences.

C. Could an ABLE Account Be Used?

26 U.S.C. § 529A — ABLE Accounts
The federal statutory framework for ABLE accounts. The definition of qualified disability expenses expressly includes "assistive technology and personal support services," together with education, housing, transportation, employment support, health, financial management, and other categories.

26 C.F.R. § 1.529A-2(h) — Qualified Disability Expenses
Particularly useful for technology planning. The regulation explains that qualified disability expenses are not limited to medically necessary expenses and includes an example in which the purchase, use, and maintenance of a smartphone qualify because the device assists an individual with navigation and communication and supports independence and quality of life.

The ABLE standard does not govern SNT distributions, but it can provide useful context and may identify an alternative payment vehicle.

SSA POMS SI 01130.740 — Achieving a Better Life Experience (ABLE) Accounts
SSA guidance concerning the treatment of ABLE accounts for SSI purposes.

SSA POMS SI 01120.201.I — Trust-to-ABLE Transfers
Consult when considering whether trust funds may be transferred to the beneficiary's ABLE account. SSA provides specific guidance concerning the SSI treatment of these transfers.

D. Is the Technology Assistive Technology?

29 U.S.C. § 3002(4) — Assistive Technology Device
A useful starting definition. Federal law defines an assistive technology device functionally as an item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that increases, maintains, or improves the functional capabilities of an individual with a disability.

The definition is particularly helpful when commercially available technology, rather than specialized disability equipment, is being considered.

29 U.S.C. § 3002(5) — Assistive Technology Service
Defines AT services broadly to include assistance with evaluating AT needs and selecting,

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acquiring, designing, fitting, adapting, maintaining, repairing, replacing, and using AT devices, as well as training and technical assistance.

Administration for Community Living — Assistive Technology: Tools to Improve the Everyday
A practical federal resource for understanding assistive technology and locating State Assistive Technology Act Programs. Particularly useful when counsel or the family does not yet know which device is appropriate.

NICHD — Rehabilitative and Assistive Technology
Useful federal health resource for identifying ways technology may assist with communication, mobility, cognition, daily activities, education, employment, and community participation. It can also help counsel identify the types of professionals who may be useful in evaluating specialized technology.

U.S. Department of Justice — ADA Requirements: Effective Communication
Useful background concerning established communication technologies, including screen readers, accessible electronic information, captioning, assistive listening systems, and other auxiliary aids and services. The ADA does not determine whether an SNT may purchase these technologies, but the guidance can help identify recognized accessibility tools.

E. Can the Beneficiary Try the Technology Before Purchasing It?

State Assistive Technology Act Programs
For many practitioners, this is one of the most useful resources in this bank. Federally funded State AT Programs provide services that may include:

- device demonstrations;
- short-term equipment loans;
- device reuse;
- information and referral; and
- financing resources.

These programs can be particularly valuable before a trust purchases an expensive or unfamiliar device.

Administration for Community Living — State AT Program Gateway
Federal starting point for locating State AT Programs and learning about available demonstration, loan, reuse, and financing services.

AT3 Center — State Assistive Technology Program Directory
Practical national directory for locating the applicable State AT Program and related resources.

F. Could Another Program Pay for the Technology?

Medicaid and State HCBS Programs
Medicaid coverage of assistive and supportive technology varies significantly by state, eligibility

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category, state plan, waiver, and particular service definition. Counsel should review the beneficiary's actual Medicaid program rather than assume national coverage or noncoverage.

CMS materials concerning HCBS recognize assistive technology and technology-enabled supports in various Medicaid contexts, but the beneficiary's particular state program controls whether a specific device or service is covered.

Medicare
Consider Medicare when the requested technology may qualify as covered durable medical equipment, a speech-generating device, or another covered item or service. Coverage requirements, including medical-necessity and supplier requirements, should be evaluated under the particular Medicare benefit involved.

IDEA — 20 U.S.C. § 1400 et seq.; 34 C.F.R. §§ 300.5, 300.6, 300.105
Important when the beneficiary is an eligible student. If an IEP team determines that an AT device or service is required as part of special education, related services, or supplementary aids and services, the public agency must make it available. School-purchased AT may also be required for use at home or in another setting when necessary for FAPE.

State Vocational Rehabilitation Programs — Rehabilitation Act / WIOA
Worth investigating when technology relates to employment, vocational training, or an employment goal. State vocational rehabilitation agencies may provide assistive technology and related services when the applicable program requirements are met.

Employer Accommodation Obligations — ADA Title I
Potentially relevant when technology is needed to enable an employee or applicant with a disability to perform a job or participate in the employment process. Whether an employer is responsible for a particular technology requires an individualized ADA analysis.

iCanConnect — National Deaf-Blind Equipment Distribution Program
FCC-supported program providing communications equipment and related services to qualifying individuals with combined significant vision and hearing loss. Particularly useful before a trust purchases communications technology for an eligible beneficiary.

State Telecommunications Equipment Distribution Programs
State programs may provide specialized telecommunications equipment to qualifying residents with hearing, speech, vision, mobility, or other disabilities. Eligibility and available equipment vary by state.

G. Practical Technology and Funding Research

Consumer Financial Protection Bureau — Paying for Assistive Devices
A useful client-facing worksheet for identifying an assistive device, estimating costs, exploring insurance or other funding, and comparing financing options. Useful as a planning tool rather than legal authority.

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Princeton University Office of Disability Services — Assistive Technology Resources
A useful practical source for identifying currently available mainstream and specialized technologies, including screen readers, dictation, text-to-speech, OCR, navigation applications, noise-cancelling technology, AAC applications, and other accessibility tools. Useful for issue spotting rather than as authority governing trust distributions.

Disability-Specific Organizations
National and local organizations serving people with particular disabilities may maintain equipment programs, grants, lending libraries, technology demonstrations, or product information. Because programs and eligibility change, counsel should verify current availability before relying on a particular resource.

H. A Research Sequence for an Actual Technology Request

When a technology request reaches counsel's desk, the following research sequence can help keep the analysis focused:

1. **Start with the beneficiary.** What does the beneficiary want or need to accomplish, and what technology is being considered?
2. **Read the trust.** Identify the distribution standard, trustee discretion, sole-benefit requirements, ownership provisions, and distribution procedures.

3. **Identify the beneficiary's benefits.** Determine whether SSI, Medicaid, a Medicaid waiver, housing assistance, SNAP, or another means-tested program requires separate analysis.
4. **For SSI, start with the POMS.** Review SI 01120.200, SI 01120.201, SI 01120.203, and any resource or ISM provision applicable to the particular transaction.
5. **Check other potential funding sources.** Depending on the beneficiary, consider Medicaid, Medicare, IDEA, vocational rehabilitation, employer accommodations, ABLE, State AT Programs, and disability-specific programs.
6. **Investigate the technology.** For an unfamiliar or substantial purchase, consider a State AT Program demonstration or loan, professional evaluation, vendor trial, or other individualized assessment when appropriate.
7. **Analyze the payment method.** Determine whether the trustee proposes vendor payment, reimbursement, credit-card payment, prepaid card, ABLE transfer, or another method and analyze the public-benefit consequences of that method.
8. **Build the request.** Explain what the beneficiary seeks to accomplish, why the selected technology is appropriate, its total and recurring cost, who will use and own it, other funding investigated when relevant, and any supporting information proportionate to the request.

Core Research Set

For a practitioner who wants a shorter desk reference, these are the authorities and resources most likely to be useful repeatedly:

Trust and Distribution Law
- 42 U.S.C. § 1396p(d)(4)(A), (C)

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- Governing trust and joinder agreement
- Applicable state trust and fiduciary law
- *Lewis v. Alexander*, 685 F.3d 325 (3d Cir. 2012)
- *Center for Special Needs Trust Administration, Inc. v. Olson*, 676 F.3d 688 (8th Cir. 2012)

SSI
- SSA POMS SI 01120.200 — Trusts and trust disbursements
- SSA POMS SI 01120.201 — First-party trusts, sole benefit, and disbursements
- SSA POMS SI 01120.203 — SNT and pooled-trust exceptions
- SSA POMS SI 01130.430 — Household goods and personal effects
- SSA POMS SI 00835.000 et seq. — In-kind support and maintenance

ABLE
- 26 U.S.C. § 529A
- 26 C.F.R. § 1.529A-2(h)
- SSA POMS SI 01130.740

Assistive Technology
- 29 U.S.C. § 3002(4), (5)
- Administration for Community Living — Assistive Technology
- State Assistive Technology Act Programs
- NICHD — Rehabilitative and Assistive Technology

Potential Alternative Funding
- Medicaid / beneficiary's specific HCBS waiver or State Plan benefit
- Medicare
- IDEA, including 34 C.F.R. § 300.105
- State Vocational Rehabilitation
- Employer accommodation obligations where applicable
- iCanConnect and state telecommunications-equipment programs

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