

Technology is a Reasonable Expense

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

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We Will Cover...



- Why Technology?
- Legal Framework
- Identifying the Right Tech
- Funding Sources
- Technology Requests
- Practical Strategies
- Q&A

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Why Technology

- Part of everyday life
- Communication
- Education & Employment
- Health & Safety
- Independent Living
- Recreation & Social Participation
- Community Access

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What is Assistive Technology



- Functional, not product-specific
- Specialized or commercially available
- Hardware, software & services
- Individualized to the beneficiary
- Independence & quality of life

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Consumer Tech Can be Assistive Tech



- Function matters more than the label
- Smartphones & tablets
- Computers & wearables
- Apps & software
- Smart-home technology
- AI-enabled tools

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Pooled Trust Legal Framework

- Federal pooled-trust statute
- Master Trust & Joinder Agreement
- Trustee discretion
- State fiduciary law
- Sole benefit
- Public-benefit rules
- No federal list of *approved* expenses



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Distributions to Pay for Tech

- **Can the trust make the distribution?**
  - Trust terms
  - Trustee discretion
  - Fiduciary / sole-benefit considerations
- **What happens if it does?**
  - SSI
  - Medicaid
  - Other means-tested benefits



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SSI: Payment Methods Matter

- Need to analyze the purchase carefully
- Method of payment can affect the SSI analysis
- Not all payments methods are created equal:
  - Cash
  - Vendor payment
  - Reimbursement
  - Prepaid card
  - Gift card
  - ABLE transfer

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Start with the Beneficiary

What does the beneficiary want or need to do?

- Communicate
- Remember
- Navigate
- See / Hear
- Work / Learn
- Live independently
- Participate
- Stay safe



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Finding the Right Tech



- Considerations
  - Beneficiary & family
  - Professionals
  - Assessment
  - Demonstration
  - Short-term loan
  - Vendor trial
  - State AT Programs
- ***You do/should NOT need to be the tech expert***

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Who might pay?

- Medicaid / Medicare
- Private insurance
- IDEA / School
- Vocational Rehabilitation
- Employer
- ABLE
- State AT Programs
- Grants / Charitable Programs
- Pooled Trust

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Think Beyond the Initial Purchaser

- There may be additional costs associated with the tech
- Consider
  - Device
  - Upgrade
  - Accessories
  - Installation
  - Training
  - Maintenance
  - Subscription / Service
  - Replacement



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Everyday Tech



- Smartphone & service
- Laptop / desktop
- Home internet
- Smartwatch / wearable
- Gaming system

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Assistive & Accessibility Tech



- AAC
- Screen reader
- Magnification / OCR
- Visual-assistance technology
- Sensory-regulation technology
- Smart-home environmental controls

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Emerging Technology



- AI-enabled applications
- Voice assistants
- Smart-home systems
- Wearable technology
- Remote support
- What's next?

Tech changes. The analytical framework doesn't.

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Evaluating a Tech Request

Before submitting a request ask the following:

- What is being requested?
- What does it do for the beneficiary?
- What does the trust permit?
- Sole-benefit issue?
- Public-benefit consequences?
- How will it be paid?

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Documentation Should be Proportionate

Consider the type and quantity of evidence for each request

$250 Headphones
↓
$1,500 Computer
↓
$5,000 AAC System
↓
$40,000 Smart-Home System

Cost + Complexity + Circumstances



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Build a Strong Request

- Exact item & total cost
- Beneficiary-centered purpose
- Who will use / own it?
- Payment method
- Recurring costs
- Other funding, when relevant
- Supporting information, when useful



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Practice Points

- Do not over-medicalize ordinary life
- Separate trust authority from benefit consequences
- Do not assume the trust is always payer of last resort
- Consider the method of payment
- Do not promise approval
- Use the strongest authority available



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QUESTIONS?



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