



# Trust Comparison Chart

	Individual (First Party) Private Trust 42 USC § 1396p(d)(4)(A) C.R.S. § 15-14-412.8	Pooled (First Party) Trust 42 U.S.C. §1396p(d)(4)(c) C.R.S. § 15-14-412.9	Individual (Third Party) Private Trust	Pooled (Third Party) Trust
Administration	Family member, professional fiduciary, bank	Non-Profit organization	Family member, professional fiduciary, bank	Non-Profit organization
Age	Must be under 65	No age restrictions per se, but at the age of 65 and over the Beneficiary must be reasonably able to spend down the funds in their expected lifetime.	Can Be of any age	Can be of any age
Transfer Penalty	None	Maybe under some circumstances for persons over age 65. None for persons under 65.	None	None
Annuities	Must name Medicaid as a beneficiary	Trust may be named as a beneficiary	Do not need to name Medicaid or trustee as a beneficiary	Do not need to name Medicaid or trust as a beneficiary
Definition of Disability	Must meet definition of disabled for the purposes of the SSI program	Must meet definition of disabled for the purposes of the SSI program	ADA definition is used	ADA definition is used
Distributions	Supplemental Needs for the Sole Benefit of the Beneficiary; notify CO Medicaid for those over \$5,000 in new trusts.	Supplemental Needs for the Sole Benefit of the Beneficiary	Supplemental Needs for the Sole Benefit of the Beneficiary	Supplemental Needs for the Sole Benefit of the Beneficiary

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Costs	Set up by private attorneys, cost varies.  Administration costs vary	No attorney fees. Non-profit sets fees to establish and administer	Set up by private attorneys, cost varies.  Administrative cost vary	No attorney fees. Non-profit sets fees to establish and administer
Remainder Interests (when Primary Beneficiary dies)	Medicaid must be paid first. Pro rata share among states	Will be paid back to the State Medicaid Agency to the extent it is not retained by the pooled trust.	A beneficiary can be named. (Medicaid has no claim on third-party funds)	A beneficiary can be named. (Medicaid has no claim on third-party funds)
Portability	Older trusts may need to be revised to comply with change in regulations to allow for pro rata share upon death.	Trust is for life. Can move to any state with similar law of pooled trusts or “ported” to new pooled trust.	Trust is for life. Can move to any state with similar law	Trust is for life. Can move to any state with similar law of pooled trusts or “ported” to new pooled trust.
Medicaid Approval	Must be approved by Medicaid in all non-SSI cases.	Master Trust pre-approved by Medicaid, but Medicaid must be notified.	Must be approved by Medicaid in all non-SSI cases.	Master Trust pre-approved by Medicaid, but Medicaid must be notified.
Social Security	Must approve all SSI cases.	Master Trust pre-approved by SSA, but SSA must be notified.	Must approve all SSI cases.	Master Trust pre-approved by SSA, but SSA must be notified.
Flexibility	Depends on document.	Streamlined process in place.	Depends on document.	Streamlined process in place.