



Understanding a Trustee's Discretion Over Trust Distributions

If you're a beneficiary of a Florida trust or a Successor Trustee yourself, you might wonder how trust funds can be used—especially when it comes to covering health, education, support, and maintenance (also called 'HEMS'). Here's a simple explanation.

What Does “Discretion” Mean?

The trustee has the power to decide when and how much money should be used to support the beneficiary. This decision must be made with good judgment and in the beneficiary's best interest.

- Examples include:
 - Health – doctor visits, therapy, prescriptions, insurance
 - Education – tuition, books, tutoring, trade school
 - Support & Maintenance – housing, food, clothing, transportation

Do Trustees Need Receipts?

If the trustee is reimbursing the beneficiary for something already paid, then yes—it's wise to ask for a receipt. This proves the expense was real and fits within the trust's guidelines.

If the trustee is paying the bill directly (like to a landlord or college), then they may just keep the invoice or bill instead.

Bottom line: A Florida trustee can use their judgment to make decisions about spending for health, education, support, and maintenance. But they must be fair, act in good faith, and keep good records.

Suggested Trust Distributions for Support and Maintenance

If you are a beneficiary of a trust and need help beyond just health or education expenses, you may be able to receive trust funds for other basic living needs. The terms 'support' and 'maintenance' are broad and can include a wide range of everyday expenses. Below are some ideas you can present to your trustee.

Examples of Support and Maintenance Expenses

- Rent or Mortgage Payments – Housing is considered a basic support need.
- Utilities and Home Expenses – Electricity, water, internet, and home repairs.
- Groceries & Household Essentials – Food, hygiene products, and cleaning supplies.
- Car Payments, Insurance & Gas – Reliable transportation for daily living or work.
- Childcare or School-Related Costs for Children – Supports the overall household.
- Basic Clothing & Personal Items – Everyday wear, seasonal clothing, and necessities.
- Mental Health & Counseling – Therapy and emotional support services.
- Modest Vacations or Respite – Occasional breaks can support mental wellness.
- Legal, Financial, or Tax Help – Assistance with managing finances or obligations.



Tips for Making a Request to the Trustee

When asking your trustee for funds under support or maintenance, keep the following in mind:

- Explain the purpose of the expense and how it supports your basic needs.
- Show how the request helps maintain your daily life or well-being.
- Offer receipts, quotes, or a short written explanation to help the trustee decide.

Trustees have a duty to use good judgment. Clear and respectful communication will help your request be considered seriously.

Additional Types of Discretion (not HEMS)

What is Discretion?

Discretion means the trustee has the power to decide if, when, and how much money to give. The decision is not automatic. Instead, the trustee uses good judgment to make choices that are best for you. Depending upon the language in the trust itself, the trustee may be able to provide additional funds outside of what is necessary.

Liberal Discretion

- **Flexible and Generous:** The trustee is open to giving extra money.
- **Helps with New Opportunities:** Funds may be approved for needs that are not urgent.
- **Future Benefits:** Extra funds can be used to improve your overall situation even if the need isn't immediate.

Conservative Discretion

- **Very Careful:** Extra funds are given only when there is a clear, pressing need.
- **Strict Approach:** The trustee may ask for proof that the expense is necessary.
- **Protecting the Trust:** They ensure that money is not spent too quickly or without a solid reason.

Bottom Line

Discretion means that the trustee decides how to use trust funds based on your overall needs and the trust guidelines. Whether the trustee uses a liberal or conservative approach can affect the amount and timing of extra distributions. If you have any questions about how decisions are made, ask for clear explanations.



Questions to Ask Your Trustee

Use these questions to help you understand how your trust funds are managed:

Questions:

- What expenses are covered from the trust? Are educational expenses, medical bills, and living expenses included?
- How do you decide on the amount for each expense? Is there a set amount allocated for each type of expense, or is it flexible based on actual needs?
- Can I review the trust's records? Will you provide detailed financial statements showing income, expenses, and distributions?
- How do you keep track of the funds? Do you use accounting software, spreadsheets, or a financial advisor to manage the trust's assets?

Your Rights as a Beneficiary

As a beneficiary, you have the right to transparency and clear communication.

Rights:

- You have the right to know how funds are spent: For example, if the trust pays for your medical expenses, you should receive a report detailing how much was spent and for what services.
- You have the right to receive regular statements: These might be quarterly or annual statements that summarize the trust's income, expenses, and remaining balance.
- You have the right to ask questions and get clear answers: Whether you want to know about a specific transaction or the overall management of the trust, you should receive prompt and understandable responses.
- You have the right to a fair review of expenses and distributions: If you believe funds are being mismanaged, you can request a review or audit to ensure everything is handled properly.



Communicating with Your Trustee

Clear communication is important when dealing with your trustee. Here are some tips:

Tips:

- Ask questions in plain language: Instead of using complex legal jargon, ask straightforward questions like "How much money is left in the trust?"
- Write down important discussions: Keep a notebook or digital record of key points from your meetings or calls with the trustee.
- Confirm agreements in writing: If you make any decisions or agreements, ensure they're documented in an email or letter.
- Keep a record of all communications: Save emails, letters, and notes from conversations to have a clear history of all interactions.

Tracking Trust Funds

Keeping track of your trust funds is simple. Use this worksheet to record expenses and money received.

Worksheet:

Date: _____

Amount: _____

Description: _____

Notes: _____

(Extra space for additional entries)