

# **The True Link Card Compliance Guide**

**Prepared by Stephen W. Dale, Esq., LL.M Attorney and Counselor at Law**

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## Introduction

The True Link Card offers a unique opportunity for the trustee and the beneficiary of a special needs trust. Both trustee and beneficiary need to understand how utilization of a True Link Card affects eligibility for needs-based benefits such as Supplemental Security Income (SSI) or Medicaid. This Compliance Guide and Toolkit is intended to provide guidance, but it is not a substitute for legal counseling. If you are a trustee of a special needs trust, you should seek legal counseling from an attorney familiar with administration of special needs trusts and benefits eligibility. Ask them to review this Compliance Guide and Toolkit, and to assist you in discharging your duties as trustee.

## True Link Financial

True Link Financial is a financial services firm that helps protect vulnerable individuals, including seniors and adults with disabilities, from becoming victims of fraud, exploitation, and financial abuse. The company has created tools that can be managed by a range of professionals or family members, with the dual goal of protecting an individual's financial well-being while enabling greater independence.

## What is the True Link Card?

The True Link Card is a reloadable Visa card that offers special needs trustees, guardians, representative payees, and other professionals a simple way to disburse funds to beneficiaries, manage where money can be spent, and protect beneficiaries' finances. The card can be customized to block, limit, or allow access to cash, specific merchants, or entire categories of spending - all while allowing cardholders to safely purchase what they need, when they need it.

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The True Link Card can be loaded with funds from a checking or savings account, individual trust account, pooled trust account, investment account, or by direct deposit. Beneficiaries have only limited access to the funds in these source accounts, with the limitations customized to their financial situation and benefits picture. Cardholders can only spend what the administrator allows and loads onto the card. If a purchase is attempted and there are insufficient funds on the card, or the transaction is disallowed, the attempted use will be blocked. The True Link Card cannot be overdrafted, and the cardholder does not have unlimited access even to the amount loaded onto the card.

The True Link Card is also non-transferrable – it can't be sold for cash or given to another person. The beneficiary's name is printed on the card, which bears the Visa logo.

The True Link Card combines some of the features of both traditional credit cards and debit cards, and includes controls that help protect the cardholder from financial exploitation or loss of public benefits. The trustee or card administrator can:

- Manage funds distribution through a reloadable Visa card with customizable settings
- Load funds onto the card through True Link's online dashboard
- Initiate one-time transfers or set up a recurring or needs-adjusted funding schedule
- Block access to cash, purchases at specific stores, or entire categories of spending
- Easily monitor spending habits and adjust card settings, as needed
- Receive alerts about suspicious charges or attempted transactions
- Enable beneficiaries (cardholders) to purchase what they need, when they need it

### Using A True Link Card for a Special Needs Trust Beneficiary

Trustees of special needs trusts often struggle with how to provide for beneficiaries' needs without giving beneficiaries cash, since the use of cash will almost always affect the beneficiaries' eligibility for assistance programs like SSI and Medicaid. Sometimes a trustee will arrange direct payment for services and items the SSI beneficiary is allowed to receive, but this can be burdensome for all parties involved.

Another frequently used alternative is the use of traditional gift cards, but as we will explore, there can be major limitations to this method. Alternatively, beneficiaries can secure a credit card and request that the trustee pay the credit card statement or reimburse the beneficiaries for those items that are allowed or will not cause an unexpected reduction in benefits. However, it can be very difficult for the trustee to control what purchases are made with the card, as well as the

credit limit of the card. The True Link Card combines the advantages of using a credit card with the ability to impose important limitations on spending to protect the beneficiary's eligibility for benefits and ensure the card is not misused.

## SSI Income and Resources Basics

The trustee of a special needs trust (and, for that matter, the beneficiary) must understand the basic rules concerning what is income and what is a resource. SSI is a federal program administered by the Social Security Administration. Participation is determined by documenting needs based on disability and financial necessities. The maximum federal benefit (the FBR, or Federal Benefit Rate) is \$733 for an individual in 2015. In addition, a few states supplement SSI payments, so that there can be a second component to the benefit. In California, for example, the 2015 State Supplement Payment (SSP) adds \$156.40 for a single person, for a maximum total of \$889.40.

Once a person has been determined to be eligible for SSI as a result of a disability, there are still two tests that the individual must meet to continue to receive benefits. The first test is an income test, which determines how much money the individual will receive. The second test is the resource test, which determines whether or not the individual is eligible.

### **Test 1 – Income Test**

Think of SSI as a supplement that will raise the individual's income up to the maximum SSI rate (this is not quite accurate, but it will help make the program more understandable). SSI classifies income into three categories: 1) Unearned income; 2) In-kind support and maintenance (ISM); and 3) Earned income. Through this categorization of income, the government is able to determine the amount of benefits an individual will receive. For this guide, we will focus on unearned income and in-kind support and maintenance. Earned income can create its own concerns, but use of the True Link Card should not have any effect on the earned income tests.

### ***Unearned Income***

SSI defines unearned income as any cash or gift the SSI recipient receives, or is entitled to receive, from annuities, pensions, alimony, support payments, dividends, interest, rent, litigation awards or settlements, or payments from other programs. This is to distinguish the income from earned income like wages. If an SSI recipient receives unearned income from anywhere, it will

reduce their SSI benefits amount dollar-for-dollar (after the first \$20, which is sometimes referred to as the “disregard”). A basic principle of SSI is that the benefits recipient cannot receive direct funds of more than \$20 a month without having their benefits reduced.

Note that the unearned income rules are not the same as tax concepts, accounting principles, or common everyday language use. If a concerned parent gives an SSI beneficiary \$50 for a movie date, popcorn, and soft drinks, and the individual actually spends the money exactly as planned, the \$50 gift will be unearned income for SSI purposes and will affect the level of benefits. The same principles apply for any cash received by the SSI beneficiary, regardless of the source (except, as noted above, for wages – they follow different, more complicated, rules).

### ***In-Kind Support and Maintenance***

ISM – in-kind support and maintenance – is often considered the hardest category of income to understand. ISM is non-cash assistance to a benefits recipient, which helps the recipient secure food and/or shelter. One example of ISM is when someone other than the benefits recipient is paying rent directly. For example, if the trustee of a special needs trust pays the beneficiary’s rent directly, then the beneficiary has received ISM. Another example would be giving the recipient a week’s worth of groceries.

Let’s recap how this is calculated. As of 2015, SSI payments are set at a maximum of \$733, the FBR. Remember that some states add a supplement to that figure; the state supplement can be larger or smaller, and might or might not change each year. The federal amount generally goes up every year based on a cost of living adjustment. The SSI benefit (with the addition of any state supplement) is intended to provide the beneficiary’s basic support needs – shelter, food, and incidentals.

SSI reasons that if an individual is not paying the full amount of their rent or food from the SSI benefit, then SSI can be reduced without affecting the beneficiary’s ability to provide essential needs. When someone else – including a concerned parent, a charitable organization, or a special needs trust – provides food and/or shelter directly, the SSI benefit will be reduced dollar-for-dollar for the amount paid for food and shelter, up to a maximum of one-third of the federal contribution plus \$20. That means a maximum reduction of \$264.33 in 2015; this capped amount is referred to as the Presumed Maximum Value, or PMV.

Example 1: Sam receives \$733 in SSI benefits. He moves to an apartment that costs \$1,000 per month. The trustee of Sam’s special needs trust pays the \$1,000 rent directly

to Sam's landlord. Sam's SSI will be reduced by the 2015 maximum of \$264.33, and his federal SSI check will be \$468.67 (\$733 minus \$264.33).

Example 2: Cheryl is also receiving \$733 in SSI benefits, and she moves into the apartment next to Sam. In order to help Cheryl manage funds and exercise as much personal autonomy as possible, the trustee of her special needs trust gives her \$1,000 per month and lets her pay her own rent – which she does, like clockwork, on the same day she receives the money from the trust every month. Because she handled the cash, though, her SSI reduction is more than the amount of her benefit; she loses SSI altogether.

Example 3: Sally, also an SSI recipient, lives next door to Cheryl and pays the same rent. Her special needs trustee has arranged with the landlord to give Sally access to the communal dining room in the apartment complex, and she takes all her meals at the complex. Her trustee pays an extra \$400 per month for her meals, and so sends a total of \$1,400 to the landlord each month. How much is the reduction in Cheryl's SSI benefit? Exactly the same as Sam's: \$264.33. Payment for Cheryl's food does not increase the benefit reduction over the Presumed Maximum Value amount.

## **Test 2 – Resource Test**

For purposes of SSI eligibility, income determines how much a beneficiary receives while resources determine whether an individual is eligible at all. So what is a resource? SSI defines a resource as anything you can convert into cash or support. One simple way to make the distinction: “income” is money you receive in a given month, and “resources” include anything that is still there on the first day of the next month.

If a benefits recipient's countable resources exceed \$2,000 on the first moment of the first day of the calendar month, the individual is not eligible for benefits that month. Note that this does not mean the benefits are reduced for that month – even a small amount of excess resources will result in complete loss of the SSI benefit.

For example, if an SSI recipient has \$1,999 in their checking account on the 1st of January, and he receives \$733 from SSI on January 3rd for a total of \$2,732, he remains eligible for benefits for the month of January. If, on the other hand, he does not spend down the account below

\$2,000 by the 1st of February, eligibility for SSI (and, in most states, Medicaid) will cease for the month of February.

However, it is important to note that there are a number of exceptions to the \$2,000 resource rule – items that Social Security considers excluded from the resource calculation. These items are called “exempt resources.” Exempt resources can include the beneficiary’s residence, one automobile, household furnishings, prepaid burial amounts plus up to \$1,500 set aside for funeral expenses (or life insurance in that amount), and tools of the beneficiary’s trade. Each of those exempt resources categories is subject to its own special rules, and so it may require some special consideration to figure out the differing effect in individual cases.

### **Eligibility for Medicaid**

In most states (but not all), any SSI beneficiary who receives even a small monthly payment will automatically be eligible for Medicaid, which will provide for most of their medical needs. It is often true that Medicaid eligibility is more important for the beneficiary than the small monthly SSI payment. As a consequence, it can sometimes be true that there is no particular drawback to reducing the special needs trust beneficiary’s SSI payment – so long as it is not eliminated altogether.

Even individuals not receiving SSI benefits may qualify for Medicaid coverage, though the eligibility process can sometimes be more complicated and difficult to navigate. To further complicate the picture, there are a number of different ways that a given individual might qualify for Medicaid benefits, and the rules may not even resemble one another depending on the program. Direct payment of expenses like food and shelter may have a different effect, or even no effect, depending on the particular Medicaid eligibility standards being applied. Availability of assets may or may not have an effect on direct Medicaid eligibility. For the special needs trust beneficiary receiving Medicaid benefits directly (that is, without qualifying for SSI), it is important for the trustee to consult with a qualified and knowledgeable attorney about how to manage trust benefits.

### **Guidelines around Payment Mechanisms and Disbursements**

The Social Security Administration’s “Program Operations Manual System” (POMS) is a series of instructions which function as the primary source of information used by Social Security employees and eligibility workers to process claims for benefits. A close reading of the relevant

sections in the POMS sheds light on how the True Link Card adheres to all fundamental rules regarding payment mechanisms and disbursements, and how it can be used safely by special needs trusts without interfering with benefits eligibility.

### **What Does Social Security Say About Credit Cards?**

The instructions used by the Social Security Administration to inform eligibility workers on the use of credit cards in the SSI recipient's own name is found in POMS SI 01120.201 I.1.d:

#### SI 01120.201 I.1.d. Disbursements for credit card bills

If a trust pays a credit card bill for the trust beneficiary, whether the individual receives income depends on what was on the bill. If the trust pays for food or shelter items on the bill, the individual will generally be charged with in-kind support and maintenance up to the PMV. If the bill includes non-food, non-shelter items, the individual usually does not receive income as the result of the payment unless the item received would not be a totally or partially excluded non-liquid resource the following month.

For example, if the credit card bill includes restaurant charges, payment of those charges results in ISM. If the bill also includes purchase of clothing, payment for the clothing is not income.

This section illustrates the basic concept of making distributions from trusts. If a trust pays a credit card company directly for non-food or non-shelter items, this generally does not count as income for the individual. However, if a credit card statement includes charges for food items, the trust would need to exclude those items from payment or else the beneficiary would be subject to an ISM reduction.

### **What Does Social Security Say About Gift Cards?**

POMS SI 01120.201 I.1.e states the general rule that gift cards that can be used for food or shelter – or exchanged for cash – will be counted as income the month of receipt, and a resource the following month if a balance remains.

#### SI 01120.201 I.1.e. Disbursements for gift cards and gift certificates

Gift cards and gift certificates are considered cash equivalents. If a gift card or certificate can be used to buy food or shelter (e.g., restaurant, grocery store or VISA gift card), it is



unearned income in the month of receipt. Any unspent balance on the gift card or certificate is a resource beginning the month after the month of receipt. If the store does not sell food or shelter items (e.g., bookstore or electronics store), but the card does not have a legally enforceable prohibition on the individual selling the card for cash, then it is still unearned income (see SI 00830.522).

Gift cards, gift certificates, and debit cards are discussed in more detail at POMS SI 00830.522.

#### SI 00830.522 A2 Gift Cards/Gift Certificates Not Income

The value of a gift card/gift certificate is not income in the month it is received if the gift card/certificate:

- Cannot be used to purchase food or shelter; and
- Cannot be resold.

In addition, if the individual does not have the right, authority, or power to convert or sell the gift card/certificate for cash, and it cannot be used to purchase food or shelter, then the gift card/certificate would not meet the definition of a resource in SI 01110.100.

NOTE: A gift card/certificate that is restricted on its use, and is legally prohibited from resale, must be evaluated (case by case) based on the restrictions and or prohibitions for determining income for SSI purposes.

The restriction on use of a gift card/certificate can be legal, (imposed by the card issuer), or practical, (the store where the card must be redeemed does not sell food or shelter items).

A very helpful part of these POMS is that they contain several examples to illustrate the basic concept of when a gift card is income or a resource. The first example of the store-branded card indicates that if an SSI recipient receives a gift card that has no restrictions and can be resold, it will be counted as income the month of receipt.

#### SI 00830.522 C1 Gift Card/Gift Certificates is Income

Example 1: Bernie receives an award settlement in the form of a Xmart gift card worth \$3100. (See Awards, SI 00830.515.) There is no restriction on the use of the gift card in Xmart stores, nor is there any legally enforceable prohibition on its resale. Treat the gift card at its face value as unearned income in the month it is received, subject to the rules

pertaining to income and income exclusions for SSI purposes. Any remaining value on the card is a resource beginning the month following the month the gift card was received, subject to the rules pertaining to resource and resource exclusions.

The second example that POMS provides discusses the use of a Visa-branded gift card – a pre-paid card – with prohibitions against selling the card or redeeming it for cash. However, because the card can be used for food, the entire \$200 card is treated as cash.

Example 2: Mrs. Garcia receives a \$200 Visa gift card from a friend for use at any locations where Visa debit cards are accepted, including retail stores and online merchants. The gift card includes a prohibition against the beneficiary selling the card to another individual, applying the value as a payment to a store credit card account, or redeeming the card for cash. Thus, it is restricted on its use. However, it can be used to purchase food or shelter items. We treat the Visa gift card as unearned income based on its value (\$200) in the month that it is received, subject to the rules pertaining to income and income exclusions for SSI purposes. Any unspent balance remaining on the card is a resource beginning the month following the month the gift card was received, subject to the rules pertaining to resource and resource exclusions.

A third example given in this section illustrates the use of a gift card that cannot be redeemed for cash and cannot be used for food or shelter.

#### SI 00830.522 C2 Gift Card/Gift Certificate is Not Income

Mr. Blacksmith receives a \$100 Office Warehouse gift certificate from a friend for use at any Office Warehouse store. The gift certificate is restricted for use to purchase only office supplies and has a legally enforceable prohibition on its resale. Since the beneficiary cannot use the gift certificate to purchase food or shelter, nor can he/she sell the gift certificate for cash, do not count the gift certificate as income and it does not meet the definition of a resource. (See SI 01110.100 Distinction Between Assets and Resources).

### **What Does Social Security Say about Debit Cards?**

The POMS do not prohibit the use of debit cards as a means of distributing funds to individuals receiving SSI. In fact, there is very little guidance around debit cards at all, save for a few minor mentions of debit cards as they relate to food support programs, direct deposit information, and

victims of Hurricane Katrina, and more substantively, as they relate to health flexible spending arrangements (FSAs). Health flexible spending arrangements (FSAs), also known as flexible spending accounts, are an employer-established benefit plan used to reimburse employees for qualified medical expenses. It is interesting for us to explore the guidelines for FSAs, as they clearly lay out a permissible use of debit cards to distribute funds. Though they are very different kinds of cards, there are several compelling analogies between how FSA funds are restricted and how funds loaded onto a True Link Card are restricted.

POMS SI 01120.230 B provides that health FSAs are not considered resources because employers restrict the use of FSA funds to pay for qualified expenses.

#### SI 01120.230 B Policy for health FSAs

For Supplemental Security Income (SSI) purposes, do not count health FSAs as resources because FSA funds are restricted to pay for qualified medical expenses. Employers ensure that health FSA funds are only used for qualified medical expenses. Individuals cannot use health FSA funds to pay for their own support and maintenance.

In POMS SI 01120.230 C2, we see that debit cards are one of three allowable ways to distribute FSA funds. Individuals are required to agree to proper use of the card and to save all receipts and documentation. Additionally, the card cannot be used to make purchases anywhere other than authorized merchants and services. If an unauthorized transaction is attempted, the card will be blocked.

#### SI 01120.230 C2 FSA distributions

For SSI purposes, health FSA distributions paid directly to the individual are not income. For more information on medical and social services, related cash and in-kind items, see SI 00815.050. For more information on cafeteria plans, see SI 00820.102. Health FSA plans reimburse individuals for qualified medical expenses in three ways.

- Debit cards, credit cards, and stored-value cards  
Most FSA plans issue debit, credit, or stored-value cards to pay for qualified medical expenses. When individuals receive a card, they certify they will use the card for eligible medical care expenses for the individual, his or her spouse, and dependents. The issued card has the certification printed on the back. The individual also agrees to acquire and retain sufficient documentation for any

expenses paid with the card, including invoices and receipts. Individuals can only use the card with merchants and service providers the employer authorizes. If the individual uses the card somewhere else or for another purpose other than a qualified medical expense, the merchant will reject the card or purchase. The card is automatically cancelled at termination of employment.

### **Applying these Guidelines to the True Link Card**

When using a True Link Card, it is essential to both the trustee and the beneficiary to understand how income and resources affect SSI eligibility. As mentioned earlier, a critical challenge for the trustee of a special needs trust is how to provide assistance to the beneficiary without giving cash. For many years, trustees have utilized credit cards and gift cards in order to make distributions. Yet the True Link Card is neither credit card nor gift card; it is more like a “prepaid Visa card,” but one which can be customized to restrict or allow any type of purchase at the vendor level or spending category level. The product is innovative – there is nothing else quite like it. Thus, in lieu of an SSA ruling on the product – which would only occur in the case of a denial of benefits, which has yet to happen with any of True Link’s customers – we can determine compliance by drawing connections to those guidelines around payment mechanisms and disbursements that are currently provided in the POMS.

The table below provides a summary of the POMS previously discussed, and how they can be reasonably applied to the True Link Card.

**Table 1. Relevant Excerpts from the Program Operations Manual System as Applied to True Link**

	POMS	TRUE LINK APPLICATION
SI 00830.522 Gift Cards and Gift Certificates	<p><b>A. Policy</b></p> <p><b>2. Gift Cards/Gift Certificates Not Income</b> The value of a gift card/gift certificate is not income in the month it is received if the gift card/certificate:</p> <ul style="list-style-type: none"> <li>• Cannot be used to purchase food or shelter; and</li> <li>• Cannot be resold.</li> </ul> <p>In addition, if the individual does not have the right, authority, or power to convert or sell the gift card/certificate for cash, and it cannot be used to purchase food or shelter, then the gift card/certificate would not meet the definition of a resource in SI 01110.100. NOTE: A gift card/certificate that is restricted on its use, and is legally prohibited from resale, must be evaluated (case by case) based on the restrictions and or prohibitions for determining income for SSI purposes. The restriction on use of a gift card/certificate can be legal, (imposed by the card issuer), or practical, (the store where the card must be redeemed does not sell food or shelter items).</p>	<ul style="list-style-type: none"> <li>• The True Link Card can be set up so that the cardholder cannot purchase food or shelter. Card administrators can block specific merchants, as well as entire spending categories such as grocery stores, liquor stores, restaurants, and convenience stores. Administrators can also choose to block all transactions and only allow specific, authorized merchants.</li> <li>• The True Link cardholder does not have the right, authority, or power to convert or sell the card. The card is the property of Sunrise Banks, N.A., and must be returned upon demand, thereby making any attempted resale legally prohibited. To make this clearer, the True Link card bears the holder’s name and signature.</li> <li>• True Link Card administrators have access to monthly statements, which show all transactions at the merchant level. In order to evaluate specific items purchased from a store, True Link recommends that administrators request receipts – just like they would with other forms of disbursement.</li> <li>• True Link will assist administrators in customizing any desired restrictions.</li> </ul>
SI 00830.522 Gift Cards and Gift Certificates	<p><b>B. Procedure</b></p> <p><b>3. How to Count Gift Cards/Gift Certificates</b></p> <p><b>Step 1</b> Does the individual have the right, authority, or power to convert or sell the gift card/certificate for cash?</p> <p>If YES,</p> <ul style="list-style-type: none"> <li>• Count the value of the gift card/certificate as cash income in the month it is received, subject to the rules pertaining to income and income exclusions, and</li> <li>• Count any unspent balance remaining on the gift card/certificate as a resource beginning the month following the month the gift card/certificate was received, subject to the rules pertaining to resource and resource exclusions. STOP</li> </ul> <p>If NO, go to STEP 2.</p>	<ul style="list-style-type: none"> <li>• The True Link cardholder does not have the right, authority, or power to convert or sell the card.</li> <li>• The True Link Card can be set up so that the cardholder cannot purchase food or shelter. Card administrators can block specific merchants, as well as entire spending categories such as grocery stores, liquor stores, restaurants, and convenience stores. Administrators can also choose to block all transactions and only allow specific, authorized merchants.</li> <li>• The administrator can evaluate items obtained with the True Link Card by reviewing online statements and by requesting receipts from cardholders.</li> </ul>

	<p><b>Step 2</b> Can the individual purchase food or shelter with the gift card/certificate?</p> <p>If NO, Do not count the value of the gift card/certificate as income. Also, the gift card/certificate would not meet the definition of a resource (See SI 01110.100.) However, you must evaluate items obtained with the gift card/certificate based on the SSI resources policy.</p>	
<p><b>SI 00830.522</b> <b>Gift Cards and Gift Certificates</b></p>	<p><b>C. Examples</b> <b>2. Gift Card/Gift Certificate is Not Income</b></p> <p>Mr. Blacksmith receives a \$100 Office Warehouse gift certificate from a friend for use at any Office Warehouse store. The gift certificate is restricted for use to purchase only office supplies and has a legally enforceable prohibition on its resale. Since the beneficiary cannot use the gift certificate to purchase food or shelter, nor can he/she sell the gift certificate for cash, do not count the gift certificate as income and it does not meet the definition of a resource. (See SI 01110.100 Distinction Between Assets and Resources).</p>	<ul style="list-style-type: none"> <li>• The True Link cardholder does not have the right, authority, or power to convert or sell the card. The card is the property of Sunrise Banks, N.A., and must be returned upon demand, thereby making any attempted resale legally prohibited.</li> <li>• The True Link Card can be set up so that the cardholder cannot purchase food or shelter. Card administrators can block specific merchants, as well as entire spending categories such as grocery stores, liquor stores, restaurants, and convenience stores. Administrators can also choose to block all transactions and only allow specific, authorized merchants.</li> </ul>
<p><b>SI 01120.201</b> <b>Trusts established with the assets of an individual on or after 1/1/00</b></p>	<p><b>I. Policy for disbursements from trusts</b> <b>1. Trust principal is not a resource</b> <b>a. Disbursements which are income</b></p> <p>Cash paid directly from the trust to the individual is unearned income.</p>	<ul style="list-style-type: none"> <li>• The True Link Card administrator can set up the card to restrict all access to cash (at ATMs, inside banks, after a purchase). Furthermore, the administrator can load funds onto the True Link Card so there is a positive balance, but block access to those funds through card settings.</li> </ul>
<p><b>SI 01120.201</b> <b>Trusts established with the assets of an individual on or after 1/1/00</b></p>	<p><b>I. Policy for disbursements from trusts</b> <b>1. Trust principal is not a resource</b> <b>b. Disbursements which result in receipt of in-kind support and maintenance</b></p> <p>Food or shelter received as a result of disbursements from a trust by the trustee to a third party is income in the form of in-kind support (ISM) and maintenance and is valued under the presumed maximum value (PMV) rule.</p>	<ul style="list-style-type: none"> <li>• If the cardholder is authorized to make purchases of food or shelter with their True Link Card, these can be considered in-kind support and maintenance up to the PMV. The administrator can prevent this by setting up the card to block categories of spending and specific merchants that affect benefits eligibility.</li> </ul>

<p><b>SI 01120.201</b>  <b>Trusts established with the assets of an individual on or after 1/1/00</b></p>	<p><b>I. Policy for disbursements from trusts</b>  <b>1. Trust principal is not a resource</b>  <b>c. Disbursements which are not income</b></p> <p>Disbursements from the trust that are not cash to the individual or are third party payments that do not result in the receipt of support and maintenance are not income. Such disbursements may take the form of educational expenses, therapy, medical services not covered by Medicaid, phone bills, recreation, entertainment, etc., (see SI 00815.400).</p>	<ul style="list-style-type: none"> <li>• The True Link Card administrator can set up the card to restrict all access to cash (at ATMs, inside banks, after a purchase), so that disbursements cannot be received in the form of cash.</li> <li>• The True Link Card can be set up to allow disbursements for any categories of spending or merchants that are authorized by the administrator (e.g., as educational expenses, therapy, medical services not covered by Medicaid, phone bills, recreation, entertainment, etc.). Similarly, the administrator can block any transactions that are not authorized.</li> </ul>
<p><b>SI 01120.201</b>  <b>Trusts established with the assets of an individual on or after 1/1/00</b></p>	<p><b>I. Policy for disbursements from trusts</b>  <b>1. Trust principal is not a resource</b>  <b>d. Disbursements for credit card bills</b></p> <p>If a trust pays a credit card bill for the trust beneficiary, whether the individual receives income depends on what was on the bill. If the trust pays for food or shelter items on the bill, the individual will generally be charged with in-kind support and maintenance up to the PMV. If the bill includes non-food, non-shelter items, the individual usually does not receive income as the result of the payment unless the item received would not be a totally or partially excluded non-liquid resource the following month.</p> <p>For example, if the credit card bill includes restaurant charges, payment of those charges results in ISM. If the bill also includes purchase of clothing, payment for the clothing is not income.</p>	<ul style="list-style-type: none"> <li>• With the True Link Card, administrators have the option of setting up the card to block or allow food and shelter purchases. If food or shelter is purchased, the beneficiary may be charged with in-kind support and maintenance up to the PMV.</li> <li>• The administrator can evaluate purchases made with True Link Card by reviewing monthly statements. The administrator can also view transactions in real-time – as they occur – through True Link’s online dashboard. Additionally, the administrator can receive text or email alert notifications for blocked or allowed transaction attempts, as they occur.</li> <li>• True Link recommends that administrators request receipts to review items purchased, just as they would with other forms of disbursement.</li> </ul>
<p><b>SI 01120.201</b>  <b>Trusts established with the assets of an individual on or after 1/1/00</b></p>	<p><b>I. Policy for disbursements from trusts</b>  <b>1. Trust principal is not a resource</b>  <b>e. Disbursements for gift cards and gift certificates</b></p> <p>Gift cards and gift certificates are considered cash equivalents. If a gift card or certificate can be used to buy food or shelter (e.g., restaurant, grocery store or Visa gift card), it is unearned income in the month of receipt. Any unspent balance on the gift card or certificate is a resource beginning the month after the month of receipt. If the store does not sell food or shelter items (e.g., bookstore or electronics store), but the card does not have a legally enforceable prohibition on the individual selling the card for cash, then it is still unearned income (see SI 00830.522).</p>	<ul style="list-style-type: none"> <li>• The True Link Card can be set up so that the cardholder cannot purchase food or shelter. Card administrators can block specific merchants, as well as entire spending categories such as grocery stores, liquor stores, restaurants, and convenience stores. Administrators can also choose to block all transactions and only allow specific, authorized merchants.</li> <li>• The True Link cardholder does not have the right, authority, or power to convert or sell the card. The card is the property of Sunrise Banks, N.A., and must be returned upon demand, thereby making any attempted resale legally prohibited.</li> </ul>

<p><b>SI 01120.230</b> <b>Health Flexible Spending Arrangements (FSAs)</b></p>	<p><b>B. Policy for health FSAs</b></p> <p>For Supplemental Security Income (SSI) purposes, do not count health FSAs as resources because FSA funds are restricted to pay for qualified medical expenses. Employers ensure that health FSA funds are only used for qualified medical expenses. Individuals cannot use health FSA funds to pay for their own support and maintenance.</p>	<ul style="list-style-type: none"> <li>• True Link Card administrators can restrict the card so it can only be used at authorized merchants and service providers.</li> <li>• The True Link Card can be set up so that the cardholder cannot purchase food or shelter. Card administrators can block specific merchants, as well as entire spending categories such as grocery stores, liquor stores, restaurants, and convenience stores. Administrators can also choose to block all transactions and only allow specific, authorized merchants.</li> </ul>
<p><b>SI 01120.230</b> <b>Health Flexible Spending Arrangements (FSAs)</b></p>	<p><b>C. How to identify health FSAs</b> <b>2. FSA distributions</b></p> <p>For SSI purposes, health FSA distributions paid directly to the individual are not income. For more information on medical and social services, related cash and in-kind items, see SI 00815.050. For more information on cafeteria plans, see SI 00820.102. Health FSA plans reimburse individuals for qualified medical expenses in three ways.</p> <ul style="list-style-type: none"> <li>• <u>Debit cards, credit cards, and stored value cards</u> Most FSA plans issue debit, credit, or stored-value cards to pay for qualified medical expenses. When individuals receive a card, they certify they will use the card for eligible medical care expenses for the individual, his or her spouse, and dependents. The issued card has the certification printed on the back. The individual also agrees to acquire and retain sufficient documentation for any expenses paid with the card, including invoices and receipts. Individuals can only use the card with merchants and service providers the employer authorizes. If the individual uses the card somewhere else or for another purpose other than a qualified medical expense, the merchant will reject the card or purchase. The card is automatically cancelled at termination of employment.</li> </ul>	<ul style="list-style-type: none"> <li>• With the True Link Card, administrators load funds onto a prepaid Visa card with the word "Debit" on the front of the card.</li> <li>• True Link Card administrators can restrict the card so it can only be used at authorized merchants and service providers.</li> <li>• The administrator can require the beneficiary to certify that they will use the card for eligible expenses. True Link can provide administrators with a sample beneficiary agreement.</li> <li>• The administrator can require the beneficiary to retain all invoices and receipts, and provide those before receiving additional disbursements.</li> <li>• If the cardholder attempts to use the True Link Card somewhere that is not authorized by the administrator, the merchant will reject the card or purchase.</li> </ul>



## What if a Third Party is the True Link Cardholder?

It is not uncommon for a beneficiary of a special needs trust to have a family member, caregiver, or friend who provides a great deal of assistance to the beneficiary. This is what is commonly called a third-party situation. If the third party is the one to hold the True Link Card, instead of the beneficiary, a special needs trustee will have no problem making a reimbursement to that individual for authorized purchases.

### **SI 01120.201 I.1.f. Reimbursements to a third party**

Reimbursements made from the trust to a third party for funds expended on behalf of the trust beneficiary are not income. In addition, reimbursements from the trust to pay a credit card belonging to a third party for purchases made for the trust beneficiary are not income. Existing income and resource rules apply to items a trust beneficiary receives from a third party. If a trust beneficiary receives a non-cash item (other than food or shelter), it is in-kind income if the item would not be a partially or totally excluded non-liquid resource if retained into the month after the month of receipt. If a trust beneficiary receives food or shelter, it is income in the form of in-kind support and maintenance (ISM).

The True Link card is even more convenient, since it does not require the family member, caregiver or friend to use their own credit card (or their own credit) to make purchases for the trust beneficiary. It also allows the trustee to more directly manage or limit the use of the card, and to review card uses in real time.

## True Link Compared to Other Options

As mentioned above, the trustee of a special needs trust often needs to facilitate payments to third parties, and the primary benefit of the trust may be to allow provision of those items not covered by the beneficiary's own resources or available public benefits. How does the True Link Card stack up against some of the common mechanisms used by trustees?

- *Direct payment from the trust to third parties* – A trustee might issue a check to a vendor and mail it out, and that might work well in some cases, particularly when the payment is consistently the same amount and paid the same day each month. Payments for personal supplies (diapers, medical devices, clothing, etc.) might not be as easy to handle by this method. The True Link card can be a good way to give the purchaser the ability to make

approved purchases on their schedule – even after hours or electronically – and without real-time actions by the trustee.

- *Use of the trust's or the trustee's credit card* – Many trustees use a corporate or trust-specific credit card to pay vendors. In such cases, though, it is important not to let the trust beneficiary handle the credit card directly; that may mean that a trustee or employee must physically go to – or at least deal directly with – a vendor for each transaction. The True Link Card gives another option: the beneficiary, caretaker, or family member may be able to make approved purchases directly without hands-on involvement by the trustee.
- *Prepaid gift cards, or pre-loaded debit cards* – This method is used by too many trustees without any recognition of the dangers. The very existence of prepaid cards in the possession of the SSI recipient creates an income and a resource problem – even though the beneficiary in a particular case may not yet have gotten into trouble with the arrangement. The True Link Card, on the other hand, avoids the problems associated with prepaid debit or gift cards, since the prepaid amounts in the True Link card are not available to the cardholder except for the limited, approved (and appropriately restricted) uses established by the trustee / card administrator.
- *Reimbursement of a beneficiary's credit card* – A trust beneficiary who qualifies for an individual credit card (not a debit card) may have much greater autonomy and personal freedom. The trustee can pay the portion of the credit card bill for approved expenditures, though there may be serious time constraints in getting appropriate documentation and even credit card statements in time to make the payments. But most special needs trust beneficiaries will not qualify for a personal credit card in any case, making the True Link Card an attractive alternative to maximize personal autonomy and appropriate trust accountability.
- *Reimbursement of a family member's or caretaker's credit card* – Many trustees rely on family members to charge purchases on their own credit card and ask for reimbursement – and this arrangement can work well. However, some family members or caretakers may have trouble qualifying for a credit card, or may have credit limits that make administration of this system more challenging. The True Link Card can provide an easier way to manage beneficiary-specific purchases, and to help enforce requirements for receipts and monitoring of expenditures.

## Conclusion

A trustee of a special needs trust should feel confident that a True Link Card should not be counted as a resource for purposes of SSI and Medi-Cal eligibility, as long as appropriate card settings and practices are in place.

### **Basic Features of the True Link Card that Support the Work of Special Needs Trustees**

- The True Link Card can be set up so that the cardholder cannot purchase food or shelter.
- The True Link Card can be set up so that the cardholder cannot access cash in any way, including ATM withdrawals, withdrawals inside a bank, or cash back after a purchase.
- The True Link cardholder does not have the right, authority, or power to convert or sell the card.
- The True Link cardholder does not have unfettered access to the funds in any account connected to the True Link Card.

### **The True Link Card Adheres to Rules Regarding Other Forms of Disbursement**

- The True Link Card is a prepaid Visa card with customizable controls that enable the card administrator to decide where and how the card can be used. Due to these controls, it is distinct from gift cards, credit cards, and standard debit cards; it is an innovative mechanism for disbursing funds that affords the user an even greater level of oversight and protection.
- If set up properly, the True Link Card adheres to the guidelines set forth in the POMS with regards to other forms of disbursement.
  - *Gift cards* – Gift cards can be used for disbursement without affecting benefits, as long as they cannot be used to purchase food or shelter, and they cannot be resold. The True Link Card can be set up so that the cardholder cannot purchase food or shelter, or access cash. Additionally, the cardholder does not have the right, authority, or power to convert or sell the card.
  - *Credit cards* – Credit cards can be used for disbursement without affecting benefits, as long as a trust does not pay for items on the monthly bill that would be considered in-kind support and maintenance. The True Link Card can be set up so that the cardholder cannot purchase food or shelter, or access cash.

- *Debit cards* – The POMS do not prohibit the use of debit cards for disbursement. By contrast, the one section that details debit card use in detail – regarding FSAs – indicates that debit cards are one of three permissible mechanisms for distributing funds. Furthermore, the True Link Card has many features that distinguish it from the traditional debit card, including the ability to block cash withdrawals, specific merchants, or specific categories of spending. At any time, the card administrator can prevent the cardholder from accessing funds on the card, even if there is a positive balance.

### **Practices Recommended by True Link**

- True Link administrators have access to monthly statements, as well as transaction history in real-time. Nevertheless, True Link recommends that administrators collect receipts from their beneficiaries, even if they have set up the card to restrict merchants where food or shelter can be purchased, or categories of spending that may affect benefits eligibility. This is in keeping with practices stipulated in the POMS for all mechanisms of disbursement.
- True Link recommends that administrators require their beneficiaries to sign an agreement that certifies they will use the card for permissible expenses only, or that they will report any non-permissible expenses to be counted against their benefits.

## **Toolkit Materials**

The True Link Card Toolkit provides you with worksheets and sample documents to assist in your use of the True Link Card. Each document below is available as a separate attachment.

### **1. Benefits Worksheet**

The first step for any special needs trustee is to verify what benefits your beneficiaries are receiving. As basic as this seems, it is very common that a beneficiary of a special needs trust believes they are on one program, and in fact may be on another program. This is critical because the rules for SSI are very different from Social Security Disability. In many cases, maintaining eligibility for Medi-Cal is essential, but eligibility can be based on maintaining at least one dollar of SSI, and in other cases it can be maintained under other programs.

### **2. Distribution Plan**

The next step is to create a Distribution Plan with the card user. This can save a great deal of stress both for the beneficiary and the trustee. This will help the trustee identify problems before expenditures are made, and determine how best to manage settings for the card.

### **3. Distribution Approval Worksheet**

Record keeping for an individual is incredibly important for all needs-based benefits. The beneficiary could be required to account for all use of the True Link Card. While trustees are able to access True Link statements via an online dashboard, it is also important to consider whether individual receipts are needed as well.

### **4. True Link Spending Categories**

This is a list of all spending categories and sub-categories that can be used when customizing a True Link Card. Each of these categories can be blocked or allowed, thereby offering the administrator a great level of flexibility in customization.

### **5. Sample Card Settings for Special Needs Trusts**

This document provides sample card settings for beneficiaries of special needs trusts. Administrators can use these samples when thinking about how best to customize their cards in order to preserve benefits eligibility.

### **6. Sample Letters to Beneficiaries – Administrator Provides Card**

These letters can be provided to beneficiaries to inform them of the switch to True Link. These

should be used if the *trust* wants to provide the cards to beneficiaries (either in-person or by mail).

### **7. Sample Letter to Beneficiaries – True Link Provides Card**

This letter can be provided to beneficiaries to inform them of the switch to True Link. This should be used if the trust wants *True Link* to mail the cards directly to beneficiaries.

### **8. Balance Check Handout**

A handout provided to beneficiaries with information on how to check their account balance.

### **9. Beneficiary True Link Agreement**

This sample agreement lays out basic terms of usage for the True Link Card, as well as a clear list of permissible and impermissible expenditures. It is recommended that all beneficiaries sign this agreement – or some modified version of it – before funds are provided.

### **10. True Link Distribution Request Form**

This sample form can be used when beneficiaries request disbursements outside of their regular funding schedules.

### **11. Acknowledgement of Receipt of ISM Letter**

This letter is provided for situations where the trustee authorizes the True Link Card for purchases of food and shelter. The beneficiary must acknowledge that if the True Link Card is used to purchase food and shelter items, they are responsible to report the receipt of ISM to the Social Security Administration. It is important to keep in mind that if a given beneficiary is not receiving SSI but instead is receiving Medi-Cal under another program, receipt of food and shelter items may not cause a reduction in benefits. Thus, verifying which benefits are being received is essential.

### **12. Letter to the Social Security Administration**

This letter addressed to SSA and signed by True Link's CEO, Kai Stinchcombe, indicates how the True Link Card is compliant with the guidelines set forth in the POMS regarding disbursements from trusts.

### **13. Sample Audit of Account for the Social Security Administration**

This letter addressed to SSA and signed by True Link's CEO, Kai Stinchcombe, provides a sample audit of a given beneficiary's account. True Link can prepare one for you, upon request.