



Special Needs Trusts

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Types of Special Needs Trusts

	d(4)(A) under 65 Disability Trusts	d(4)(B) Qualified Income Trust	d(4)(c) Pooled Trust	Third Party Supplemental Needs Tr
Contains	Income or Assets	Income Only	Income or Assets	Asset Only
Established By	Parent, grandparent, legal guardian, or the court	Beneficiary, spouse (without POA), Other (with POA), the court	Parent, grandparent, legal guardian, the court, or the individual	Someone other than Beneficiary – generally parent, grandparent, or family member
Managed By	Trustee: Individual, Corporate, or Non-Profit	Trustee: Individual, Corporate, or Non-Profit	Trustee: Non-Profit	Trustee: Individual, Corporate, or Non-Profit
Used to Pay	The benefit of the disabled beneficiary	Personal needs allowance, unreimbursed medical expenses, spousal allowance (if any), patient responsibility portion	Sole benefit of: Benefits for almost anything that is not paid for by government benefits	The benefit of: Beneficiaries as stated in Trust Document for supplemental needs
AGE	Under 65	Any	Any	Any
How Much Can Go In	Unlimited	Unlimited: Income Only	Unlimited	Unlimited: Asset Only
Upon Death	Pay back Medicaid first; to heirs, or as stated in Trust Documents	Pay back Medicaid	Two Options: 1)Retained by Trust: Supports Community 2. Not Retained by Trust: Pays back Medicaid, then to heirs	No pay back to Medicaid; to heirs or as stated in Trust Documents

Federal Code, Social Security POMS and State of Florida Medicaid Guidelines as they relate to the AGED d(4)(c) Pooled Trust

Federal Code -42 USC Sec. 1396p (d)(4): (C)

A trust containing the assets of an individual who is disabled (as defined in section 1382c(a)(3) of this title) that meets the following conditions:

- i. The trust is established and managed by a non-profit association.
- ii. A separate account is maintained for each beneficiary of the trust, but for purposes of investment and management of funds, the trust pools these accounts.
- iii. Accounts in the trust are established solely for the benefit of individuals who are disabled (as defined in section 1382c(a)(3) of this title) by their parent, grandparent, or legal guardian of such individuals, by such individuals, or by a court.
- iv. TO the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust pays to the State from such remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under the State plan under this subchapter.

E. Definitions: In this section, the following definitions shall apply:

(1) The term "assets", with respect to an individual, includes *all income and resources* of the individual and of the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to but does not receive because of action

Qualified Medicaid Trust Guidelines and Forms Florida DCF A-22

The qualified Medicaid pooled trust for disabled individuals is a legal instrument which meets criteria in 42 United States Code 1396 (p)(d)(4)(c) and which allows disabled individuals to place assets and / or income into a trust to qualify for Medicaid assistance. (Refer to manual policy in Chapter 1640.)

<http://www.dcf.state.fl.us/programs/access/esspolicymanual.shtml>

Social Security –SI 01120.203 Exceptions to Counting Trusts Established on or after 1/1/00

2. Pooled Trusts Established under Section 1917 (d)(4)(C) of the Act
a. General

A pooled trust is a trust established and administered by an organization. It is sometimes called a "master trust" because it contains the assets of many different individuals, each in separate accounts established by individuals, and each with a beneficiary. By analogy, the pooled trust is like a bank that holds the assets of individual accountholders. Whenever you are evaluating the trust, it is important to distinguish between the master trust, which is established by the nonprofit association, and the individual trust accounts within the master trust, which are established by the individual or another person for the individual.

The provisions of the SSI trust statute do not apply to a trust containing **the assets of a disabled individual** which meets the following conditions:

- The pooled trust is established and maintained by a **nonprofit association**;
 - **Separate accounts** are maintained for each beneficiary, but assets are pooled for investing and management purposes;
 - Accounts **are established solely for the benefit of the disabled individual**;
 - The account in trust is **established by the individual, a parent, grandparent, legal guardian, or a court**; and
 - The trust provides that to the extent any amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, **the trust will pay to the State** the amount remaining up to an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under a State Medicaid Plan.
- Note: There is no age restriction under this exception.**

Social Security Disability



Social Security's 5 Steps of Disability

Step 1: Is the claimant engaging in substantial gainful activity now? If yes, claimant is not disabled. If no, proceed to step 2.

Step 2: Does the claimant have a non-severe (incredibly minor) medical impairment? If yes, claimant is not disabled. If no, proceed to step 3.

Step 3: Does the claimant have a medical condition so severe that it is found in the Listing of Impairments for automatic payments of benefits without further inquiry? **If yes, pay the benefits.** If no, proceed to step 4.

Step 4: Can the claimant return to any type of work that claimant has done in the past 15 years? **If yes, deny claim.** If no, proceed to step 5.

Step 5: Given the claimant's Residual Functional Capacity, and considering the claimant's age, education, prior work experience and transferable skills, is there any alternative work that the claimant can do on a full time basis? **If yes, deny claim. If no, pay the benefits.**

"To clarify SSA's standards and procedures for the adjudication of titles II and XVI of the Social Security Act (the Act) disability and blindness claims for individuals aged 65 or older. In particular, this Ruling explains that: **In general, the regulations and procedures for determining disability for adults who are under age 65 are used when determining whether an individual aged 65 or older is disabled.**

Adjudicators are required to consider any impairment(s) the individual has, including those that are often found in older individuals. If an individual aged 72 or older has a medically determinable impairment, that impairment will be considered to be "severe."

If the individual's impairment(s) prevents the performance of his or her past relevant work (PRW), or if the individual does not have PRW, the adjudicator must consider two special medical vocational profiles showing an inability to make an adjustment to other work before referring to appendix 2 to subpart P or 20 CFR part 404.

Generally, adjudicators should use the rules for individuals aged 60-64 when determining whether an individual aged 65 or older can adjust to other work. Some individuals aged 65 or older may not understand, or be able to comply with, our requests to submit evidence or attend a consultative examination (CE). Therefore, adjudicators must make special efforts in situations in which it appears that an individual aged 65 or older may not be cooperating."

What do you get with SSI (Medicaid) related Programs?

Supplemental Security Income (SSI): Trust allows over assets to accumulate and not disqualify for benefits.

MEDS-AD Program: Entitles certain aged or determine to be disabled individuals to receive **full Medicaid Coverage**

Qualified Medicare Beneficiary (QMB) at Home

Medicare B Premiums paid back in Social Security Check
Medicare D Premiums reduced or covered by Medicaid
Medication costs approximately \$3 - \$10 each
No Medicare D Gaps or Donut holes
Medicare deductibles paid by Medicaid
Medicare coinsurance within prescribed limits paid

LTC in a Skilled Nursing Facility

Patient Responsibility is Income minus \$105.00 for Room and Board
Most if not all Medication and Supplies are paid for

LTC at Home

QMB Benefits Plus:

Emergency Response System
Dental (Limited)
Care Management
Consumable Medical Supplies

Eye Glasses
Adult Day Care
Home Health Care
Delivered Meals

LTC in an Assisted Living Facility

Medicaid pays approximately \$1,000 towards ALF bill
Medicare B & D Premiums reduced or paid
Medications costs approximately \$3 – \$10 each
Care Management
Consumable Medical Supplies
And more

Eye Glasses
Dental (Limited)

+Summary of SSI-Related Programs – Financial Eligibility Standards: April, 2015

Program and Type of Coverage	INCOME LIMIT		ASSET LIMIT	
	Individual	Couple	Individual	Couple
PROGRAMS MANAGED BY SOCIAL SECURITY				
*Supplemental Security Income (SSI) (Cash payment of SSI from SSA, Includes Full Medicaid) Trust allows over assets to accumulate and not disqualify for benefits	\$733 (FBR)	\$1,100 (FBR)	\$2,000	\$3,000
*Low Income Subsidy (LIS) or Extra Help (helps with costs associated with Medicare Prescription Drug Plans.) Automatic with QMB	\$1,471	\$1,991	\$13,640	\$27,250
PROGRAMS FOR PEOPLE 65+ OR DISABLED (Community Medicaid Programs)				
*MEDS-AD Full Community Medicaid Entitles certain aged or determined to be disabled individuals to receive full Medicaid coverage.	\$863	\$1,168	\$5,000	\$6,000
*Medically Needy No Income Limit. Full Community Medicaid when Share of Cost is met.	Subtract \$180 from gross income	Subtract \$241 from gross income		
PROGRAMS FOR PEOPLE with MEDICARE (Medicare Part B Premium \$104.90, Part A free for most)				
*QMB Pays Medicare premium, coinsurance, & deductibles only (100% FPL) Qualified Medicare Beneficiary (QMB) at Home: Medicare B Premiums paid back in Social Security check Medicare D Premiums reduced or covered by Medicaid Medication costs approximately \$3 - \$10 each through LIS program No Medicare D Gaps / Donut Hole Medicare deductibles paid by Medicaid Medicare coinsurance within prescribed limits paid	\$981	\$1,328	\$7,280	\$10,930
PROGRAMS BASED ON INSTITUTIONAL POLICY				
Institutional Care (ICP) Pays Nursing Home room, board, & care – Individual PNA \$105 Long Term Care (LTC) in a Skilled Nursing Facility: Patient responsibility is Income minus \$105 for Room and Board. Most if not all Medication Supplies are paid for	\$2,199	\$4,398	\$2,000 (\$5,000 if MEDS-AD eligible)	\$3,000 (\$6,000 if MEDS-AD eligible)
HCBS Home and Community Based Services (Waivers) (and Pays Medicare premium, coinsurance & deductibles)			\$2,000	\$3,000
SOCIAL SECURITY DISABILITY				
<u>Social Security's 5 Steps of Disability:</u> Step 1 Can they engage in substantial gainful activity now? Step 2 Do they have a non-severe (incredibly minor) medical impairment? Step 3 Do they have a medical condition so severe that it is found in the Listing of Impairments for automatic payments of benefits without further inquiry? Step 4 Can they return to any type of work that the claimant has done in the past 15 years? Step 5 Is there any alternative work that the claimant can do on a full time basis?				
"To clarify SSA's standards and procedures for the adjudication of titles II and XVI of the Social Security Act (the Act) disability and blindness claims for individuals aged 65 or older. In particular, this Ruling explains that: In general, the regulations and procedures for determining disability for adults who are under age 65 are used when determining whether an individual aged 65 or older is disabled. Adjudicators are required to consider any impairment(s) the individual has, including those found in older individuals. If an individual aged 72 or older has a medically determinable impairment, that impairment will be considered to be severe."				

* A \$20 General Income Disregard is granted in these programs. \$20 will be subtracted from the total of all income not based on need before comparing the income to the income limit. In addition \$65 is subtracted from the total of all earned income, and ½ the remainder is subtracted before comparing the income to the income limit.

SSI-Related Programs - Financial Eligibility Standards: April 2015

		INCOME LIMIT		ASSET LIMIT		DIVERSION/MAINTENANCE NEED STANDARD			
Program and Type of Coverage		Individual	Couple	Individual	Couple	Child Allocation: \$367 (difference between Couple and Single FBR)			
PROGRAMS MANAGED BY SOCIAL SECURITY						SGA for DMRT: \$1,090			
*Supplemental Security Income (SSI) (Cash payment of SSI from SSA; Includes Full Medicaid)		\$733 (FBR)	\$1,100 (FBR)	\$2,000	\$3,000	Student Earned Income Disregard: \$1,780 per month; \$7,180 annual cap			
+ *Low Income Subsidy (LIS) or Extra Help (helps with costs associated with Medicare Prescription Drug Plans. 150% FPL) Automatic with full Medicaid or Medicare Savings Programs (QMB, SLMB, QI1) Income limits change yearly.		\$1,471	\$1,991	\$13,640	\$27,250	ICP, ICP/Hospice, HCBS, SMMC-LTC, and PACE			
PROGRAMS FOR PEOPLE 65+ OR DISABLED (Community Medicaid Programs)						Community Spouse Allowances: Maximum Income Allowance: \$2,981 MMMNA: \$1,966 Excess Shelter: \$590			
*MEDS-AD Full Community Medicaid (88% FPL)		\$863	\$1,168	\$5,000	\$6,000	Family Members Allowance: (MMMNA minus income) divided by 3 Other Dependents: Use CNS chart			
*Medically Needy No Income Limit. Full Community Medicaid when Share of Cost is met.		Subtract \$180 from gross income	Subtract \$241 from gross income						
PROGRAMS FOR PEOPLE with MEDICARE (Medicare Part B Premium \$104.90, Part A free for most)						Maximum Resource Allowance: Community Spouse: \$119,220			
*QMB Pays Medicare premium, coinsurance & deductibles only (100% FPL)		\$981	\$1,328	\$7,280	\$10,930	Community Hospice Spouse Allowance Spouse only: use FBR With Dependents (or dependents only): use CNS			
*SLMB Pays Medicare Part B premium only (120% FPL)		\$1,177	\$1,593						
*QI1 Pays Medicare Part B premium only (135% FPL)		\$1,324	\$1,792						
*WD (QDWI) Working Disabled Program; only Pays Medicare Part A premium; Must have lost SSDI due to employment (200% FPL)		\$1,962	\$2,655	\$4,000	\$6,000				
PROGRAMS BASED ON INSTITUTIONAL POLICY- Possible Patient Responsibility and Income Trust						Individual PNA+	Couple PNA+		
Institutional Care (ICP) Pays Nursing Home room, board & care (and Pays Medicare premium, coinsurance & deductibles)		\$2,199	\$4,398	\$2,000 (\$5,000 if MEDS-AD eligible)	\$3,000 (\$6,000 if MEDS-AD eligible)	\$105	\$210		
Hospice Pays for Hospice services related to terminal illness (and Pays Medicare premium, coinsurance & deductibles)		\$2,199	\$4,398			FPL- \$981 (ICP = \$105)	FPL-\$1,328 (ICP = \$210)		
HCBS Home and Community Based Services (Waivers) (and Pays Medicare premium, coinsurance & deductibles)		\$2,199	\$4,398	\$2,000	\$3,000	PACE/SMMC-LTC in ALF:R&B+ \$196 PACE/SMMC-LTC at home: \$2,199 Cystic Fibrosis: \$2,199	PACE/SMMC-LTC in ALF:R&B + \$392 PACE/SMMC-LTC at home: \$4,398 Cystic Fibrosis: \$4,398		
STATE FUNDED PROGRAMS						Individual PNA+	Couple PNA+		
OSS Redesign (Optional State Supplementation) Assists with paying room & board at Adult Living Facilities (ALF) State rate = \$745.40 single / \$1490.80 couple Maximum payment = \$78.40 single / \$156.80 couple		\$811.40	\$1,622.80	\$2,000	\$3,000	\$54	\$108		
OSS Protected (Optional State Supplementation) Assists with paying room & board at Adult Living Facilities (ALF) State rate = \$906 single / \$1812 couple Maximum payment = \$239 single / \$478 couple		\$918	\$1,836						
HCDA (Home Care For Disabled Adults) Pays small stipend to caregivers of disabled		\$2,199	\$4,398						
						+ PNA = Personal Need Allowance			

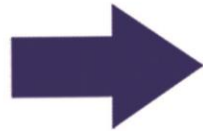
* A \$20 General Income Disregard is granted in these programs. \$20 will be subtracted from the total of all income not based on need before comparing the income to the income limit. In addition \$65 is subtracted from the total of all earned income, and ½ the remainder is subtracted before comparing the income to the income limit.



Under Income
or Asset



Your Bank



Over Income
or Asset



Trust



Use the Trust to Pay:



Rent, Mortgage, or
Facility Payment



Utility Bills




Other Bills as Needed

Payments to Third Parties for the Sole Benefit of

- Long Term Care Insurance premiums
- Rehabilitation
- Out of pocket Medical and Dental expenses not covered by government benefits
- Transportation (including purchase of a vehicle)
- Personal care attendant for needs or escort to appointments or events
- Maintenance of items used to support the Beneficiary (house, vehicle, etc....)
- Legal, Guardianship and Care Management services
- Private Health Insurance
- Trips/visits to family
- Purchase of goods and services that add quality of life (furniture, television, entertainment, pet needs...)
- Essential dietary needs (vitamins, supplements, etc...)
- Food and shelter (rent, mortgage, water, sewage, electric, cable...)*

**Special requirements for d4(a) trusts and SSI recipients.*

Requirement: Funds should not go directly to the Beneficiary and must be for the Beneficiary's support and needs.



Final Distribution Options in an AGED pooled trust

100% Retained by AGED as surplus trust property for the following uses:

- For the direct or indirect benefit of other Beneficiaries as defined in 42 U.S.C. §1382c(a)(3)
- Add disabled persons to the Trust as Beneficiaries;
- To provide disabled persons with equipment, medication or such other services deemed suitable for such persons by the Trustee;
- To provide disabled persons with professional guardianship services.

OR


10% Retained by AGED as surplus trust property

Pays back Medicaid, then

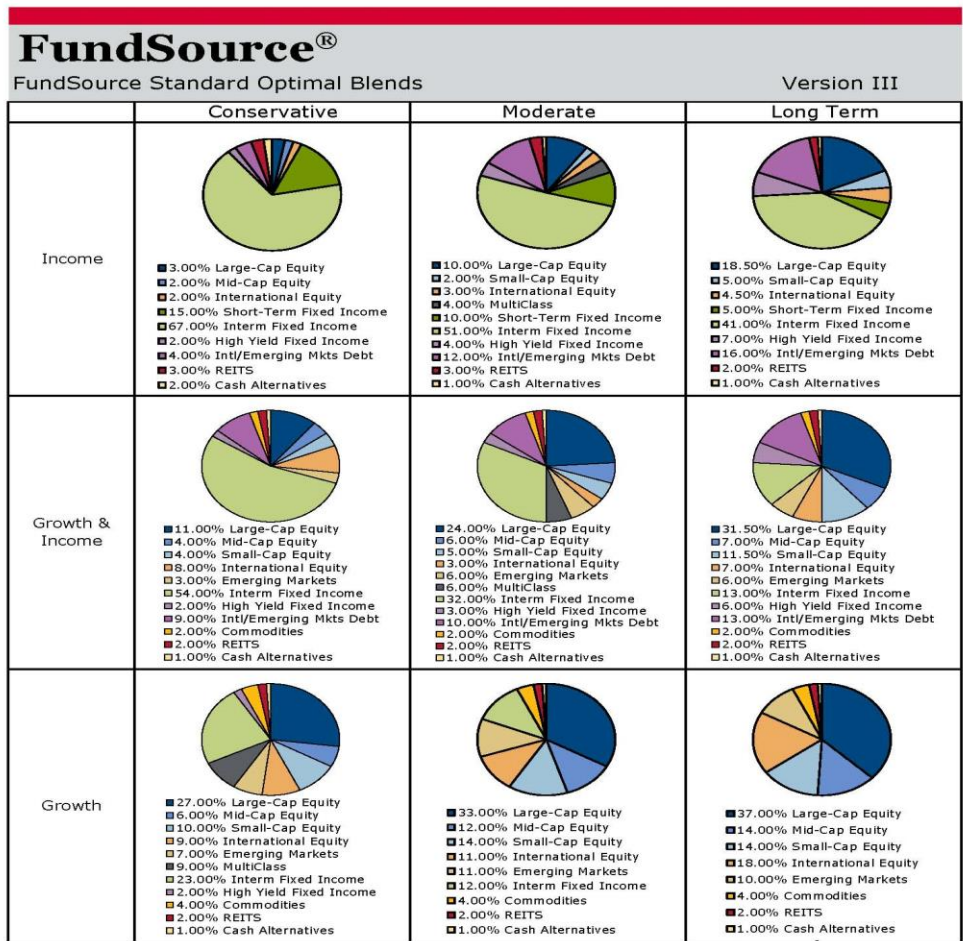
To heirs or as stated in the Trust documents



How simple is it to join the AGED Pooled Trust?


1. Complete the Joinder and Fee Agreements, have documents notarized, and then send to AGED. Documents can be found on our website.
 2. Provide a copy of Proof of Identification.
 3. Fund the Trust. (Court order required if guardian of the property).
 4. AGED will sign and notarize the Joinder and Fee Agreements, and will send copies back to you for your records.
 5. Provide a copy of all of the above, and the Master Trust (available on our website) to Medicaid.
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Examples of asset allocation models



The funds in the FundSource program are sold by prospectus. The prospectus contains information on the investment objectives, risks, charges and expenses, as well as other important information on the investment company. The prospectus can be obtained from your Financial Advisor and should be read and considered carefully before investing.

Veterans Benefits – Aid and Attendance

- For veteran, widowed spouse, and dependent of disabled child
 - Ninety days active duty with one day during wartime
(different timeframe if enlisted after Sept 7, 1980)
 - Limited household assets (no set cap – approx. 50K to 80K)
 - Medical expenses close to gross income
 - Requires help with activities of daily living
 - 2015 Maximum Pension Rates for Pension plus Aid and Attendance:
 - -Single Veteran \$1788 / month
 - -Married Veteran \$2120 / month
 - -Surviving Spouse \$1149 / month
- 

Veteran's Benefits – Periods of War

- **World War I.** April 6, 1917, through November 11, 1918, inclusive. If the veteran served with the United States military forces in Russia, the ending date is April 1, 1920. Service after November 11, 1918 and before July 2, 1921 is considered World War I service if the veteran served in the active military, naval, or air service after April 5, 1917 and before November 12, 1918.


World War II. December 7, 1941, through December 31, 1946, inclusive. If the veteran was in service on December 31, 1946, continuous service before July 26, 1947, is considered World War II service.

Korean conflict. June 27, 1950, through January 31, 1955, inclusive.

Vietnam era. The period beginning on February 28, 1961, and ending on May 7, 1975, inclusive, in the case of a veteran who served in the Republic of Vietnam during that period. The period beginning on August 5, 1964, and ending on May 7, 1975, inclusive, in all other cases. (Authority: 38 U.S.C. 101(29))

Future dates. The period beginning on the date of any future declaration of war by the Congress and ending on a date prescribed by Presidential proclamation or concurrent resolution of the Congress. (Authority: 38 U.S.C. 101)

Persian Gulf War. August 2, 1990, through date to be prescribed by Presidential proclamation or law. (Authority: 38 U.S.C. 101(33))



Helpful Websites for Special Needs Trusts and Medicaid

Access Florida (DCF)

<http://www.dcf.state.fl.us/programs/access/esspolicymanual.shtml>

Statewide Medicaid Managed Care Program

http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#SMMC_Home

SSI Related Programs Fact Sheet

<http://www.dcf.state.fl.us/programs/access/docs/ssifactsheet.pdf>

SSI Related Programs – Financial Eligibility Standards

http://www.dcf.state.fl.us/programs/access/docs/ssi_fin_elig_chart.pdf

Social Security Disability Help

<http://www.socialsecurity.gov/disability/professionals/bluebook/AdultListings.htm>

Directory of Pooled Trusts

http://www.specialneedsanswers.com/resources/directory_of_pooled_trusts.asp

The Academy of Florida Elder Law Attorneys

<http://www.afela.org/>

AGED's Rapid Resource Directory for Orange, Osceola, and Seminole Counties

http://www.trustedaged.org/wp-content/uploads/2014/06/AGED-Directory_Final_SemOrangeOsc_Updated.pdf



AGED, Inc. is a non-profit trust company founded in 2002 to assist elderly and disabled individuals who, because of income and/or asset limits, normally would not qualify for federal, state, and local benefits such as Medicaid & Veterans benefits.

Located in Central Florida, AGED, Inc. serves as trustee for the following types of Special Needs Trusts:

D(4)(A) under 65 (disability trusts)

D(4)(C) pooled trusts

Third Party trusts

AGED, Inc. also serves as trustee for Irrevocable Trusts which are not Special Needs Trust.

Accounts of any size are accepted – no minimum or maximum. (Minimum fees of \$100/mo apply).

Executive Director – Nick Barton

Sr. Trust Advisor – Sharon Reich

Client Services – Clara Wells, Marlyn Pandora, Cathy Marshall, Peter Marti

Reception – Christa Miller

Administrative Support – Julie Strier

Legal Advisors – Hoyt & Bryan, LLC

Accounting/Tax Services – HMS CPA's, PA

Investment Advisors – Wells Fargo Advisors

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