

May 28, 2024

Trusts Documentation Update

This Alert is to inform Providers, Client Representatives, Hospitals, Community Based Organizations, Homecare Agencies, Advocates, and Agencies assisting Medicaid consumers of updates to the Trusts Submissions process. Effective immediately, and based on NYS GIS 19 MA/04, "Clarification of Policy for Treatment of Income Placed in Medicaid Exception Trusts," a consumer for whom a trust is being established must submit a written statement with their application or conversion request advising the program of the amount the consumer intends to deposit monthly into the trust.

A Trust is a legal instrument by which an individual gives control over their assets to another (the trustee) to disburse the assets according to the instructions of the individual for whom the trust is created. A trust can contain:

- Cash or other liquid assets; **and**
- Real or personal property that could be turned into cash.

A **Pooled Trust** is a trust that contains the assets of a certified disabled individual of any age. A Pooled Trust is established and managed by a non-profit organization/association.

A **Supplemental Needs Trust** is a trust that contains the assets of a certified disabled individual who is under the age of 65. A Supplemental Needs Trust is established by a parent, grandparent, legal guardian, or the court.

If the consumer receives assistance through an agency, that agency can submit the documentation to the surplus centralized area on behalf of the consumer.

If the consumer receives services through an MLTC or a Homecare vendor, the trust documentation can be submitted to the MLTC/Homecare unit.

For all other consumers, the consumer or their representative can submit the trust documents, joinder agreement, and proof of deposits to a local MA office.

Trust documentation should not be sent directly to the liaison or the legal department.

Once the program receives the request from a consumer with a trust, the trust documentation is sent by the program to the DSS Office of Legal Affairs.

For consumers who are not certified disabled, the documentation for disability is processed by the State Disability Review Team (SDRT). This includes individuals aged 65 years and older who are establishing a trust. Although categorically eligible for Medicaid, individuals aged 65 years and older need a disability determination to establish a trust, if not deemed disabled prior to age 65. A MAP-3177 form must be completed and submitted with either an application or with a conversation request. SDRT will review the MAP-3177 referral form and, if needed, will ask for the additional medical documentation.

Once a determination has been made by the DSS Office of Legal Affairs and/or State Disability Review Team, the area within Medicaid or Homecare that submitted the request will be notified and appropriate action will be taken to re-budget the case. The amount deposited into the trust will be disregarded. The case will be appropriately annotated.

Recertification

At the time of recertification, proof that regular monthly deposits have been made into the trust must be submitted. If proof of regular deposits is not submitted, the case will revert to a Medicaid case that is subject to the requirements of excess income or surplus eligible.

Additional Trust information can be found on the MAP-931, available on MARC.

PLEASE SHARE THIS ALERT WITH ALL APPROPRIATE STAFF