

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

304.01.01 GENERAL TRUST DEFINITIONS

The following definitions apply to any/all types of trusts. Refer to the discussion of each type of trust for definitions which are specific to that trust classification.

Trust – A trust is a property interest whereby property is held by an individual (trustee) subject to a fiduciary duty to use the property for the benefit of another (the beneficiary).

Grantor – A grantor (also called a settlor or trustor) is a person who creates a trust. An individual may be a grantor if an agent, or other individual legally empowered to act on his/her behalf (e.g., a legal guardian, person acting under a power of attorney or conservator), establishes the trust with funds or property that belong to the individual.

The terms grantor, trustor, and settlor may be used interchangeably.

Trustee – A trustee is a person or entity who holds legal title to property for the use or benefit of another. In most instances, the trustee has no legal right to revoke the trust or use the property for his/her own benefit.

Trust Beneficiary – A trust beneficiary is a person for whose benefit a trust exists. A beneficiary does not hold legal title to trust property but does have an equitable ownership interest in it.

- **Primary Beneficiary** – the first person or class of persons to receive the benefits of a trust.
- **Secondary Beneficiaries** – the person or class of persons who will receive the benefits of the trust after the primary beneficiary has died.
- **Contingent Beneficiary** – a person or class of persons who will receive benefits only if a stated event occurs in the future.

Trust Principal (Corpus) – The trust principal is the property placed in trust by the grantor which the trustee holds, subject to the rights of the beneficiary plus any trust earnings paid into the trust and left to accumulate.

Trust Earnings (Income) – Trust earnings or income are amounts earned by trust principal. They may take such forms as interest, dividends, royalties, rents, etc. These amounts are unearned income to the person (if any) legally able to use them for personal support and maintenance.

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General Trust Definitions (Continued)

Totten Trust – A Totten trust is a tentative trust in which a grantor makes himself trustee of his own funds for the benefit of another. The trustee can revoke a Totten trust at any time. Should the trustee die without revoking the trust, ownership of the money passes to the beneficiary.

Grantor Trust – A grantor trust is a trust in which the grantor of the trust is also the sole beneficiary of the trust.

Mandatory Trust – A mandatory trust is a trust which requires the trustee to pay trust earnings or principal to or for the benefit of the beneficiary at certain times. The trust may require disbursement of a specified percentage or dollar amount of the trust earnings or may obligate the trustee to spend income and principal, as necessary, to provide a specified standard of care. The trustee has no discretion as to the amount of the payment or to whom it will be distributed.

Discretionary Trust – A discretionary trust is a trust in which the trustee has full discretion as to the time, purpose and amount of all distributions. The trustee may pay to or for the benefit of the beneficiary, all or none of the trust as he or she considers appropriate. The beneficiary has no control over the trust.

Testamentary Trust – A testamentary trust is a trust that is an integral part of a will and takes effect upon the death of the individual making the will.