

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

304.03.03 PAYMENTS MADE FROM REVOCABLE OR IRREVOCABLE TRUSTS

Payments are considered to be made to the individual when any amount from the trust, including an amount from the corpus or income produced by the corpus, is paid directly to the individual or to someone acting on his/her behalf, e.g., a guardian or legal representative. Payments made for the benefit of the individual are payments of any sort, including an amount from the corpus or income produced by the corpus, paid to another person or entity such that the individual derives some benefit from the payment.

For example, such payments could include purchase of clothing or other items, such as a radio or television, for the individual. Also, such payments could include payment for services the individual may require, or care, whether medical or personal, that the individual may need. Payments to maintain a home are also payments for the benefit of the individual.

Note: A payment to or for the benefit of the individual is counted under this provision only if such a payment is ordinarily counted as income under the SSI program. For example, payments made on behalf of an individual for medical care are not counted in determining income eligibility under the SSI program. Thus, such payments are not counted as income under the trust provision.

Circumstances Under Which Payments Can/Cannot Be Made

In determining whether payments can or cannot be made from a trust to or for an individual, take into account any restrictions on payments, such as use restrictions, exculpatory clauses, or limits on trustee discretion that may be included in the trust. For example, if an irrevocable trust provides that the trustee can disburse only \$1,000 to or for the individual out of a \$20,000 trust, only the \$1,000 is treated as a payment that could be made. The remaining \$19,000 is treated as an amount which cannot, under any circumstances, be paid to or for the benefit of the individual.

On the other hand, if a trust contains \$50,000 that the trustee can pay to the grantor only in the event that the grantor needs, for example, a heart transplant, this full amount is considered as payment that could be made under some circumstances, even though the likelihood of payment is remote. Similarly, if a payment cannot be made until some point in the distant future, it is still payment that can be made under some circumstances.