

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

Undue Hardship Provision (Continued)

Undue hardship does not exist when:

- Application of the trust provisions merely causes the individual inconvenience or when such application might restrict his or her lifestyle but would not put him or her at risk of serious deprivation.
- The resource was transferred to a person (spouse, child, or other person) who was handling the financial affairs of the client or to the spouse or children of a person handling the financial affairs of the client unless it is established that the transferred funds cannot be recovered even through exhaustive legal measures.

Each case situation must be reviewed individually to determine if undue hardship exists. Generally, this provision is limited to financially and medically needy individuals with no possible means of accessing funds placed in a trust.

304.03.06 REVIEWING TRUST DOCUMENTS

In reviewing a trust, specialists must:

- Obtain copies of trust documents, including amendments and the required number of accountings;
- Make the following determinations:
 - Type of Trust, i.e., OBRA-93 Trust, Medicaid Qualifying Trust, or Standard Trust;
 - Whether the trust is revocable or irrevocable; and
 - Income released from the trust.
- Trust documents must be referred to the central office for clearance whenever an individual applicant/recipient or their spouse or someone acting in the applicant/recipient or spouse's behalf either creates a trust or is the beneficiary of a trust. A copy of the trust and all pertinent materials related to the trust must be sent in for evaluation and clearance.